

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

SPECIAL MEETING

**WEDNESDAY, DECEMBER 8, 2010; 6:00 P.M.
209 SURF STREET, MORRO BAY, CA**

- I. ESTABLISH QUORUM AND CALL TO ORDER**
- II. MOMENT OF SILENCE**
- III. PLEDGE OF ALLEGIANCE**
- IV. PUBLIC COMMENT:**
Members of the audience may address the Council only on items described in the Special Meeting Agenda. (Government Code § 54954.3(a).)
- V. APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF NOVEMBER 8, 2010**
- VI. ADOPTION OF RESOLUTION RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 2, 2010, AND DECLARING THE RESULTS THEREOF**
- VII. ADOPTION OF RESOLUTION ESTABLISHING A TEMPORARY MORATORIUM ON THE INSTALLATION OF SMARTMETERS BY PG&E**
- VIII. COMMENTS BY CURRENT MAYOR AND COUNCILMEMBERS**
- IX. PRESENTATION OF PLAQUES TO MAYOR JANICE PETERS, COUNCILMEMBER RICK GRANTHAM AND COUNCILMEMBER BETTY WINHOLTZ**

- X. OATH OF OFFICE AND PRESENTATION OF CERTIFICATES OF ELECTION TO MAYOR WILLIAM YATES AND COUNCILMEMBER NANCY JOHNSON AND COUNCILMEMBER GEORGE LEAGE**
- XI. COMMENTS BY NEW MAYOR AND COUNCILMEMBERS**
- XII. ADJOURNMENT**

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 24 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6200 FOR FURTHER INFORMATION.

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IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

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

AGENDA NO: V.
MEETING DATE: 12/08/10

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 Grantham 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 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees 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 as to one (1) parcel.

- Property: Water Rights
Negotiating Parties: Roandoak and City of Morro Bay.
Negotiations: Voluntary termination of Water Service

CS-3 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.
Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:55 p.m.

MOTION: Councilmember Winholtz 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.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – NOVEMBER 8, 2010
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 Kessling	City Clerk
	Janeen Burlingame	Management Analyst
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	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 noted Item CS-1 (Conference With Labor Negotiator) will be discussed under Consent Calendar Item A-3 (Approval Of The Side Letter With The Morro Bay Firefighters IAFF Local 3725); Item CS-2 (Real Property Transactions) will be discussed under Public Hearing Item B-3 (Approval Of Agreement Between Roandoak And The City Of Morro Bay For The Installation Of A Well System And Termination Of City Water Services); and Item CS-3 (Personnel Issues) - no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Father Ed Holterhoff stated St. Timothy's Church has approved a renovation project using a local contractor. He also announced a concert will be held at the church on Friday, November 12th to help support this renovation project.

MINUTES - MORRO BAY CITY COUNCIL
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D'Onna Kennedy stated she will be forming a veterans' support group starting in mid-December at the Community Center. She also noted Morro Bay Beautiful will be holding a membership drive. Ms. Kennedy thanked those who voted for her in the November 2nd election.

Colleen Stansbury, past President of the Morro Bay Senior Citizens Center, reviewed the benefits of being a member of the Senior Citizens Center.

Michelle Jacquez addressed Item D-1 (Discussion of the Visitors Center Including the 2009/10 Financial Review, Percentage of Funding from the Morro Bay Tourism Business Improvement District and Representation on the Board) reviewing action taken by the Tourism Business Improvement District Advisory Board on June 24, 2010. She said the motion made was to request not to increase the City's transient occupancy tax by 1%; return the Tourism Business Improvement District to 3%, and in return they would fund the Visitors Center no more than 33% effective when the Tourism Business Improvement District received the increase (11/1/10); that they have financial oversight of the Chamber of Commerce Board who holds the contract with the Visitors Center; they would fund the San Luis Obispo Visitors and Conference Bureau \$24,477; and, they would pay AGP Video \$6,000. Ms. Jacquez stated the Advisory Board also encouraged the City to consider including other retailers and restaurant owners' to possibly adopt a business improvement district to incorporate with the hotel business improvement district.

Stewart McElhinney, President of the Morro Bay Chamber of Commerce, also addressed Item D-1 stating the Chamber Board is in the process of hiring a new CEO, and requested Council postpone making a decision on the Tourism Business Improvement District until this position has been filled. Mr. McElhinney stated there should be some discussion in respect to a City representative being on the Chamber board.

Ken Vesterfelt stated the Thanksgiving dinners can be delivered to those who are house bound. He also congratulated those who participated in the recent General Municipal Election on November 2nd. Mr. Vesterfelt referred to the pianist who will be performing at the church for the remodel benefit stating he is a world renowned pianist. He also stated a tentative date of April 16, 2011 has been set to hold an Emergency Vehicle/Antique Car Show.

Linda Winters thanked the City Council for endorsing Proposition 21 although it did not pass in the past election. She referred to an article regarding an endowment going towards the state parks.

George Leage thanked the voters who had confidence in electing him to the City Council and thanked those Councilmembers who have served the City.

MINUTES - MORRO BAY CITY COUNCIL
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Linda Hill stated the SLO Chapter for Americans for Safe Access thanked those who voted against Measure B-10 (Prohibiting Marijuana Dispensaries in Morro Bay). She said SLOASA requests the City Council proceed without delay to schedule the next sub-committee meeting to continue developing an ordinance and guidelines on storefront operations.

Rich Donaldson, Chairman for SLOASA, thanked the City Council for their support and participation in the sub-committee meetings.

Bill Yates thanked those who voted for him at the November 2nd election.

Joan Solu addressed Item D-1 and shared a Power Point presentation on the City's Tourism Business Improvement District.

Taylor Newton stated he has been working on the landscaping at St. Timothy's Church getting ready for the renovation project. He said the City Tree Vote will be published in the *Bay News* October 21st – November 17th. Mr. Newton also acknowledged Morro Bay Beautiful and their funding assistance with the accomplishments of the Tree Committee.

Tom Laurie addressed Item D-1 stating the Tourism Business Improvement District was created by the lodging industry for the lodging industry to promote Morro Bay in general and lodging in particular. He suggested before considering the funding of the Visitor Center, the City should consider how it would create and configure a new Visitor Center organization.

Richard Morgeson stated there will be a fundraiser for the Maxine Lewis Memorial Shelter on December 11th at the Los Osos Community Center.

Gerry Walsh also discussed all of the events that will be happening at the fundraiser for the Maxine Lewis Memorial Shelter; she also noted donations are welcome.

John Barta thanked the Mayor and Council Members for their service to the City. He referred to Item D-1 suggesting the City should hold a seat on the executive committee of the Chamber Board. Mr. Barta referred to Item D-4 (Discussion on the Status of the Currently Acknowledged Tree Committee and Whether to make it Official) stating there should be no changes made to the Tree Committee.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:19 p.m.; the meeting resumed at 7:27 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – NOVEMBER 8, 2010

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 OCTOBER 25, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 AUTHORIZATION TO REPLACE A WATER SYSTEM OPERATOR II WITH A WATER SYSTEM OPERATOR I; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Authorize the hiring of a Water System Operator I for the Water Division and approve the provided job description.

A-3 APPROVAL OF THE SIDE LETTER WITH THE MORRO BAY FIREFIGHTERS, IAFF LOCAL 3725; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt the terms and conditions of the side letter with the Morro Bay Firefighters, IAFF Local 3725.

A-4 RESOLUTION APPROVING ADJUSTMENT TO LEASE SITE MAPS FOR LEASE SITES 113W AND 122W-129W: GREAT AMERICAN FISH COMPANY/VIRG'S LANDING/HARBOR HUT; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 60-10.

A-5 RESOLUTION NO. 59-10 ACCEPTING \$100,000 GRANT FROM THE STATE OF CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM; (POLICE)

This item was moved out of order and heard as Public Hearing Item B-4.

A-6 ADOPTION OF ORDINANCE NO. 564: REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE CITY OF MORRO BAY MUNICIPAL CODE - BUILDINGS AND CONSTRUCTION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Ordinance No. 564.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – NOVEMBER 8, 2010

A-7 APPROVAL OF SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT REQUEST FOR CITY PUBLIC, EDUCATION AND GOVERNMENT ACCESS FUNDS; (PUBLIC SERVICES)

RECOMMENDATION: Approve the San Luis Coastal Unified School District's request for \$2,000 in Public, Education and Government Access Funds.

A-8 PROCLAMATION DECLARING NOVEMBER 2010 AS "NATIONAL FAMILY CAREGIVERS MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-2 and A-4 from the Consent Calendar; Councilmember Smukler pulled Item A-3.

MOTION: Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-2, A-3 and A-4. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-2 AUTHORIZATION TO REPLACE A WATER SYSTEM OPERATOR II WITH A WATER SYSTEM OPERATOR I; (ADMINISTRATIVE SERVICES)

Councilmember Winholtz stated in order to be consistent she is not in support of hiring a replacement position not knowing what the budget will look like next year.

MOTION: Councilmember Borchard moved the City Council approve Item A-2 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

A-3 APPROVAL OF THE SIDE LETTER WITH THE MORRO BAY FIREFIGHTERS, IAFF LOCAL 3725; (ADMINISTRATIVE SERVICES)

Councilmember Smukler recognized the first step in the two-tiered benefit package in the negotiation process.

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

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – NOVEMBER 8, 2010

A-4 RESOLUTION APPROVING ADJUSTMENT TO LEASE SITE MAPS FOR
LEASE SITES 113W AND 122W-129W: GREAT AMERICAN FISH
COMPANY/VIRG'S LANDING/HARBOR HUT; (PUBLIC SERVICES)

Councilmember Winholtz expressed concern with extending these lease sites so far into the channel and beyond the t-pier.

Harbor Business Manager Sue Lichtenbaum reviewed the adjustment to the lease site maps for Council clarification and information.

Public Services Director Rob Livick clarified the adjustment to the lease sites extends 10 feet beyond the t-pier and 100 feet into the channel.

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 61-10 AUTHORIZING SUBMISSION OF RURAL
TRANSIT FUND GRANT APPLICATION; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated on December 5, 2002, the San Luis Obispo Council of Governments (SLOCOG) adopted Resolution No. 02-16 to create a Rural Transit Fund (RTF) program. The creation of the program was designed to streamline the lengthy federal process of applying for, receiving and using Federal Transportation Administration Section 5311 funds for rural transit agency projects by programming the region's share of Section 5311 funds to the Regional Transit Authority (RTA) for operations and exchanging it with a like amount of State Transportation Development Act (TDA) funds, programmed through SLOCOG, to create the RTF. SLOCOG, RTA and City staff worked on developing program policies and procedures that would govern the RTF program for SLOCOG Board approval that would preserve the intent of the Section 5311 program in terms of who and what projects would be eligible for funds. The SLOCOG Board adopted the policies and procedures in October 2003, and the City of Morro Bay is an eligible recipient to apply for these funds. Approximately \$520,000 is available for competitive distribution for the FY 2011/2012 cycle. Applications are due December 3, 2010 and applicants are requested to rank multiple project applications in case all requests cannot be funded. The City of Morro Bay intends to submit an application for the FY 2011/20012 cycle for: 1) operating assistance for Morro Bay Transit; and, 2) a bus stop information display case project. Ms. Burlingame recommended the City Council adopt Resolution No. 61-10 authorizing submission of the RTF grant applications for operating assistance and the purchase of various materials, supplies and equipment needed for operation of the Morro Bay Transit and Trolley services.

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

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Councilmember Smukler stated he was disappointed that there was no reference to the community bus concept, which Council made a motion directing staff to investigate and develop that concept as much as possible.

Councilmember Grantham stated he is supportive; however, he would encourage using parking in-lieu funds but not Measure Q funds.

Councilmember Winholtz stated the biggest concern she has received was the cost of the dial-up program, and she was surprised at the small amount that was being requested in this application. She agreed that there were ample funds in the Accumulation Fund and to not use Measure Q funds.

Mayor Peters stated she is supportive; however, she does not support using Measure Q funds.

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 61-10 authorizing submission of the RTF grant applications for operating assistance and the purchase of various materials, supplies and equipment needed for operation of the Morro Bay Transit and Trolley services from the Accumulation Fund. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

B-2 CONSIDERATION OF AWARD OF REQUEST FOR PROPOSALS [NO. MB 10-T1] FOR OPERATION AND MANAGEMENT OF MORRO BAY TRANSIT AND TROLLEY SERVICES; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated the current six month extension agreement awarded by Council in May 2010 with MV Transportation for operation and management of the Morro Bay Transit and Trolley services expires December 31, 2010. Staff developed a Request for Proposals (RFP) and draft agreement for dissemination on September 10, 2010 with proposals due October 8, 2010. A notice was placed in the Tribune, Los Angeles Times, the California Association for Coordinated Transportation website, and City website advertising the RFP. A copy of the RFP specifications and notice was sent to eight (8) transportation providers. A pre-proposal conference was held on September 22, 2010 and representatives from five transportations providers were in attendance. Two proposals were received by the October 8, 2010 due date and reviewed by an evaluation committee who made a recommendation to the Public Works Advisory Board and Council regarding award of the RFP. Proposals were received from MV Transportation and the San Luis Obispo Regional Transit Authority (RTA). The new contract commencing on January 1, 2010 will be for three years with the possibility of five one-year extensions. The Public Works Advisory Board considered the RFP proposals at its October 27, 2010 meeting and concurred with the evaluation committee's recommendation to award the RFP to MV Transportation. Ms. Burlingame recommended the City Council award RFP No. MB 10-T1 to MV Transportation.

Mayor Peters opened the hearing for public comment.

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Dan McKee, Regional Vice President MV Transportation, stated they are looking forward to continuing as the City's service provider. He said MV Transportation has been running the City's service since 2001 and in the past several years has developed a true partnership with the City.

Susan Brown, General Manager for MV Transportation, stated transit is a public service business that she enjoys, and working with MV Transportation has been a pleasure to work with who treats their employees well.

Mayor Peters closed the public comment hearing.

Councilmember Grantham thanked MV Transportation for their service to the citizens of Morro Bay.

Councilmember Winholtz stated she would hope that future Council will make transportation a high priority otherwise she is supportive of MV Transportation.

Councilmember Smukler stated this proposal is very competitive and he is supportive of MV Transportation. He said he would like staff to work with alternative groups such as the Senior Center to encourage and promote programs such as "friendly ride".

Councilmember Borchard stated she is disappointed in the process based on the action Council took in April and the lack of information regarding alternative sources of transportation.

Mayor Peters stated the Senior Center is considering a community bus service, and noted the City does not have the funding to provide alternative sources of transportation.

MOTION: Councilmember Smukler moved the City Council: 1) award RFP No. MB 10-T1 to MV Transportation with a three-year contract and one year option; 2) direct staff continue engagement in the Transit Efficiencies Group evaluating and developing the concept of the Estero Sub-Regional Transit Plan; 3) Council further develop support and partnership of alternative community transit opportunities such as the "friendly ride" program and the potential to share a calling support center with the Senior Citizens Center. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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B-3 APPROVAL OF AGREEMENT BETWEEN ROANDOAK AND THE CITY OF MORRO BAY FOR THE INSTALLATION OF A WELL SYSTEM AND TERMINATION OF CITY WATER SERVICES; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City entered into an Agreement with Roandoak of God in 1982. The 1982 Agreement granted the City of Morro Bay the right to extract water from Well No. 9A in exchange for the City providing free water service to Roandoak. In January 2010, the City Council authorized the termination of the 1982 Agreement. With the termination of this Agreement, the City no longer has the use of Well No. 9A and Roandoak has been paying for City water. Because of the degradation to the water quality and the changes in regulations, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal standards to customers in the Chorro Valley basin. In December of 2008, the California Department of Public Health inactivated all of the wells in the Ashurst well field including Well No. 9A. Until a method of providing treatment for nitrate removal or blending is in place, the City is unable to use these wells as a supply source. The degradation of water quality in the Chorro Valley, coupled with the connection of water services to the pumping line, and further complicated by more stringent regulations, will continue to strain the City's water resources until resolved. Pursuant to City Council direction, Staff has negotiated the terms for the removal of water services to the Roandoak property. Mr. Schultz recommended the City Council review the Agreement between Roandoak and the City of Morro Bay and approves the Agreement.

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

MOTION: Councilmember Borchard moved the City Council approve the Agreement between Roandoak and the City of Morro Bay for the installation of a well system and termination of City water services. The motion was seconded by Councilmember Grantham.

Councilmember Winholtz stated she would be voting in opposition to this motion because she disagrees with the nebulous term "historical water use" in the last "Whereas" in the Recitals of the Resolution, noting it is leaving it opened too wide.

VOTE: The motion carried with Councilmember Winholtz voting no. (4-1)

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B-4 RESOLUTION NO. 59-10 ACCEPTING \$100,000 GRANT FROM THE STATE OF CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM; (POLICE)

Police Chief Tim Olivas stated since 1996 the Citizen's Option for Public Safety (COPS) established by AB 1913 and codified as Government Code Section 30061, has been distributing State grant funds to local law enforcement agencies to supplement "front line law enforcement services." These funds are also known as Supplemental Law Enforcement Services Funding (SLESF). The legislation requires a report in September to the City Council on how the funds are proposed for use by the Police Department and annual reporting to the County Oversight Committee on the proposed use and actual expenditures of COPS funds. This report requirement was delayed this year due to the delay in the State budget adoption. Since the recent passage of the State budget, law enforcement agencies are now preparing the required resolutions. The State Legislature has indicated that local law enforcement agencies are scheduled to receive a minimum of \$100,000 in COPS grant funds. These funds will be tracked separately by the Finance Department in a separate account with any interest earned credited to the account. To comply with the COPS program, each City Council is requested to act upon the written request from the Police Chief. This report is presented to Council in compliance with annual hearing/reporting requirements and to adopt the proposed expenditure plan by the Police Department. Chief Olivas stated it is appropriate to use these grant funds for the Property Evidence Technician position and equipment as it enhances front line law enforcement, and recommended the City Council adopt Resolution No. 59-10 authorizing the proposed spending plan for the Citizens Option for Public Safety (COPS) grant program.

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

MOTION: Councilmember Winholtz moved the City Council adopt Resolution No. 59-10 authorizing the proposed spending plan for the Citizens Option for Public Safety (COPS) grant program. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 8:43 p.m.; the meeting resumed at 8:50 p.m.

C. UNFINISHED BUSINESS

C-1 REVIEW OF ANNUAL REPORT AND APPROVAL OF THE BUSINESS LICENSE RENEWAL FOR THE "FAMILY FUN ZONE" ARCADE LOCATED AT 725 EMBARCADERO SUITE 105; (POLICE)

This item was continued to the December 13, 2010 City Council meeting.

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D. NEW BUSINESS

D-1 DISCUSSION OF THE VISITORS CENTER INCLUDING THE 2009/10 FINANCIAL REVIEW, PERCENTAGE OF FUNDING FROM THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT AND REPRESENTATION ON THE BOARD; (ADMINISTRATION)

City Manager Andrea Lueker stated on June 28, 2010 during the annual review of the Visitors Center Agreement, the City Council amended the Agreement to include language regarding a financial review of the Visitors Center operations at the end of the 2009/10 fiscal year. In September 2010, the Chamber of Commerce provided this information to the City Administrative Services Director, and she performed a financial review. Also during that same City Council meeting, the Council discussed placing a measure on the November 2010 ballot, approving an increase in the City's Transient Occupancy Tax (TOT). The City Council discussed the "give and take" between placing this item on the ballot or changing the Tourism Business Improvement District (TBID) assessment from 2% (which went into effect in June 2010) back to 3% (which had been collected from June 2009 through May 2010). During that discussion, the City Council was presented with the recommendation from the TBID Board that was passed on June 24, 2011. The TBID Board's recommendation was that the City forgoes efforts to increase the TOT, but agree to move forward with increasing the TBID assessment from 2% to 3%. The TBID Board's motion also included funding the Visitors Center at 33%, as soon as the TBID assessment rate was changed from 2 to 3%, and proceeds were realized from that change. A third topic, which has been raised several times during past City Council discussions of the Visitors Center, was representation from City staff on the Chamber Board for oversight of the Visitors Center operations. Ms. Lueker recommended the City Council provide direction on three issues with regard to the Visitors Center: 1) financial review of the 2009/2010 fiscal year; 2) funding of the Visitors Center from the TBID Assessment; and 3) representation on the Chamber Board for Visitors Center oversight.

Councilmember Winholtz stated she would support using some of the City's promotions money and hiring someone in-house to manage promotions. She does not feel this should be placed as a primary responsibility of the City Manager but be designated to another City staff person.

Councilmember Smukler stated this is a time to take a look at what would best serve the stakeholders for the money and what is going to create the most efficient and inviting Visitor Center and what is going to give the City the best value. He said he would like to have a roundtable discussion with the Tourism Business Improvement District Advisory Board, Community Promotions Committee and members from the Chamber before reporting to Council.

Councilmember Grantham stated he would support waiting until February when the new Chamber board members are installed.

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Councilmember Borchard stated there is a need for oversight from a City representative, and since the City Manager already has been the representative on the Community Promotions Committee and Tourism Business Improvement District Advisory Board she should meet with the stakeholders.

Mayor Peters stated an oversight committee is needed right away, and someone from the City has to be on the executive board.

MOTION: Councilmember Borchard moved the City Council: 1) direct staff, due to the change in Executive Directors and Board members, to meet with the new Chamber Executive, review the past Visitor Center profit and loss statement with the new Chamber Executive Director, discuss further plans based on the new Executive Director's plan, and report back to City Council in 60 days; 2) approve 33% of funding (not to exceed \$50,000) from the Tourism Business Improvement District, beginning with the month of November; and 3) recommend to the Chamber of Commerce that the City of Morro Bay have a designated "voting" position on the executive board held by the City Manager or his/her designee, and to include a seat on the board by a Tourism Business Improvement District Advisory Board Member as long as they have funding for the Visitors Center. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-2 CREATION/FUNDING OF A FACILITY REPAIR FUND [FUNDS FROM THE SALE OF 714 MARKET STREET]; (RECREATION & PARKS)

This item was continued to the December 13, 2010 City Council meeting.

D-3 REQUEST TO ACCESS PARK FEE FUNDS TO UPGRADE CITY PARK IRRIGATION SYSTEMS; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated the proposed irrigation upgrades to City Park would allow for the centralized control of all turf irrigated properties incorporating smart technology that could extend, decrease, or eliminate programmed irrigation events based on current weather conditions. Additional benefits of this automation include data logging and the ability to identify and alert staff immediately about irregularities such as leaks and no flow events, and the ability to automatically shut down entire systems in the event of line breaks. The Recreation and Parks Commission (RPC) reviewed staff's request at their regular meeting on October 26, 2010. The RPC agreed the proposed project would be beneficial and appropriate use of Park Fee funds and it was motioned and unanimously carried to recommend approval by the City Council. Mr. Woods recommended the City Council approve the proposed use of Park Fee funds allowing staff to enhance and improve City Park irrigation systems.

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MOTION: Councilmember Smukler moved the City Council approve the use of \$35,000 of Park Fee Funds for the upgrade to City Park irrigation systems. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

D-4 DISCUSSION ON THE STATUS OF THE CURRENTLY ACKNOWLEDGED TREE COMMITTEE AND WHETHER TO MAKE IT OFFICIAL; (COUNCIL)

Councilmember Winholtz stated over the last two years, an unofficial, meaning not City Council appointed, group of residents known as the tree committee has been recognized by City Council and used by staff. Their influence has brought changes to the City's public appearance and visual resources by changing the public physical environment. Councilmember Winholtz stated due to their increasing influence, a discussion on the membership and status of this group would be appropriate.

MOTION: Councilmember Borchard moved the City Council make no changes to the Tree Committee at this time. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

E. DECLARATION OF FUTURE AGENDA ITEMS

ADJOURNMENT

The meeting adjourned at 10:01 p.m.

Recorded by:

Bridgett Kessling
City Clerk

AGENDA NO: VI.

MEETING DATE: 12/08/10

RESOLUTION NO. 62-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION
HELD IN THE CITY OF MORRO BAY ON THE 2nd DAY OF
NOVEMBER, 2010; DECLARING THE RESULTS THEREOF,
AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, a regular General Municipal Election was held and conducted in the City of Morro Bay, County of San Luis Obispo, State of California, on Tuesday, November 2, 2010 as required by law; and

WHEREAS, notice of said election was duly and regularly given in time, for and manner as provided by law; that voting precincts were properly established; that election was held and conducted and the votes cast thereat, received and canvassed and the returns made and declared in time, form, and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, the Board of Supervisors of San Luis Obispo County has duly canvassed or caused to be canvassed the votes cast in the City of Morro Bay by the voters of the City at the General Municipal Election consolidated with the Statewide General Election held on November 2, 2010 and the County Clerk has duly certified to this City Council the result of the votes cast at said election which said certification is attached hereto and by reference made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, as follows:

1. That there were six voting precincts established for the purpose of holding said election consisting of consolidations of the regular election precincts in the City of Morro Bay as established for the holding of state and county elections.
2. That said General Municipal Election was held for the purpose of electing the following officers of said City as required by the laws relating to the cities in the State of California, to wit:
 - A Mayor of said City for the full term of two years;
 - Two members of the City Council of said City for the full terms of four years.

3. That said General Municipal Election was also held for the purpose of voting on the following measure as submitted to the electors of said City:

MEASURE "B-10"

Shall an ordinance be adopted to prohibit Medical Marijuana Dispensaries in the City of Morro Bay?

4. That the names of the persons voted for at said election for the Mayor are as follows:

William Yates
Betty Winholtz

5. That the names of the persons voted for at said election for Council Member of said City are as follows:

D'Onna Kennedy
Nancy Johnson
George Leage
Jack Smith

6. The City Council does declare and determine that:

WILLIAM YATES was elected as Mayor of said City for the full term of two years.

NANCY JOHNSON was elected as Council Member of said City for a full term of four years.

GEORGE LEAGE was elected as Council Member of said City for a full term of four years.

The required number of qualified voters voting on MEASURE "B-10" relating to prohibiting Medical Marijuana Dispensaries in the City of Morro Bay did not vote in favor thereof, and said measure did not carry.

6. At said election the names of the persons voted for and the numbers of votes given each person are as set forth in the attached certification.
7. The total number of votes cast in the City at said election and the total number of votes given in each precinct and by vote-by-mail voters of the City was and is set forth in the attached certification.
8. The City Clerk shall immediately make and deliver to each of such persons so elected a Certificate of Election signed by the City Clerk and duly authenticated; the City Clerk shall also cause to be administered to each person elected, the Oath of Office prescribed in the State Constitution of the State of California and shall have them subscribe thereto and file the same in the office of the City Clerk. Whereupon, each and all of said persons so elected should be inducted into the respective office to which they have been elected.
10. That the City Clerk shall certify to the passage and adoption of this resolution; shall enter the same in the book of original resolutions of the City; and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City, in the minutes of the meeting at which the same was passed and adopted.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a special meeting thereof held on the 8th day of December 2010 on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: VII

MEETING DATE: December 8, 2010

Staff Report

TO: Honorable Mayor and City Council

DATE: December 1, 2010

FROM: Rob Schultz, City Attorney

SUBJECT: Approval of Resolution 63-10 Declaring Concerns Regarding the Installation of PG&E “Smart Meters” In Morro Bay

RECOMMENDATION:

Staff recommends approval of Resolution 63-10 declaring concerns regarding the installation of PG&E “Smart Meters” in Morro Bay

BACKGROUND:

The California Public Utilities Commission (CPUC) is the agency charged with regulating utility companies in California including the activities of PG&E; local governments do not have any direct regulatory control over utility companies. Much interest has been expressed in recent weeks regarding an undertaking by PG&E to install “Smart Meters” at their residential customer’s homes. A number of residents have urged the City Council to take action to suspend the installation of these devices. This agenda item is intended to provide background and information regarding this matter.

State and Federal Mandates for Smart Grid Improvements

In 2002 the CPUC opened a “Rulemaking” as a policymaking forum to develop demand response as a resource to enhance electric system reliability, reduce power purchase and individual consumer costs, and to protect the environment. As a result of this Rulemaking, in 2003, the CPUC adopted a policy that all electric customers in California should have advanced meters.

In 2003, the CPUC, along with the California Energy Commission and the California Power Authority, adopted an “Energy Action Plan” that listed joint goals for California’s energy future. Some of these goals included increasing energy efficiency and transforming the electric utility distribution network from a system using 1960s era technology to an intelligent, integrated network supported by modern information and control system technologies. Some of the key actions in the plan included installing advanced metering infrastructure for all small commercial and residential customers, educating Californians about the time sensitivity of energy use, and providing customers access to their energy use information.

Prepared By: _____ **Dept Review:** _____

City Manager Review: _____

City Attorney Review: _____

In 2007, the Energy Security Independence Act of 2007 was passed by House and Senate and signed into law by President Bush. The law identifies a “Smart Grid” as a key provision to move the United States toward greater energy independence and security. Section 1301 establishes policy to modernize the electric utility transmission and distribution system to maintain reliability and infrastructure protection. According to the act, the term “Smart Grid” refers to a distribution system that allows for the flow of information from a customer’s meter in two directions: both inside the house to thermostats, appliances, and other devices, and from the house back to the utility. “Smart Grid” is defined to include a variety of operational and energy measures – including smart meters, smart appliances, renewable energy resources, and energy efficiency resources.

In 2009, California Senate Bill 17 – Electricity: Smart Grid Systems (Padilla) was signed into law as Chapter 4 of California’s Public Utilities Code. This law requires utility regulators plus every major utility in the state with over 100,000 customers to develop a Smart Grid deployment plan by July 1, 2011. The law requires that the Smart Grid “improve overall efficiency, reliability and cost-effectiveness of electrical system operations, planning and maintenance.” According to the bill, a Smart Grid includes the “deployment of cost-effective smart technologies, including real time, automated, interactive technologies that optimize the physical operation of appliances and consumer devices for metering, communications concerning grid operations and status, and distribution automation.”

PG&E Response

In July, 2006, PG&E submitted a proposal to the CPUC for full deployment of an advanced metering infrastructure. The CPUC approved the proposal, which included a plan to install “SmartMeters” throughout PG&E’s territory and to upgrade all of its approximately 5 million electric meters and 4 million gas meters over a 5-year period. In late 2006, PG&E began installing the advanced meters statewide and in 2010 the company began installations in San Luis Obispo County.

The purpose of the meters, according to PG&E, is to collect electric and natural gas usage data from homes or businesses and to transmit the data to PG&E via a secure wireless communication network. PG&E asserts that the meters will give customers access to information and greater control over their energy use and bills. In response to public concerns about SmartMeters, PG&E held public forums in Santa Maria, to provide customers an opportunity to ask questions, express their concerns, and learn more about the devices

Smart Meter Installations Elsewhere

Digital meters similar to SmartMeters are currently installed or being installed in 38 states in the United States and in several countries, including Italy, Japan, Canada, the United Kingdom and Australia. According to published research papers it is expected that by 2015 there will be 250 million smart meters throughout the world using various communication networks, and radio frequency microwave radiation (RF) based solutions are expected to grow about 45% by 2015 in Europe driven generally by the higher quality performance required for more advanced smart meter deployments.

DISCUSSION:

Opposition to SmartMeters

Opponents to SmartMeters cite the following concerns:

1. **Accuracy** – In the fall of 2009, hundreds of complaints were received by PG&E and the CPUC in the Bakersfield service area regarding billing inaccuracies. PG&E reported some of its digital meters failed to transmit data, resulting in customers receiving estimated bills. According to a report in the San Jose Mercury News, PG&E acknowledged that 23,000 gas meters were installed improperly, 11,376 electric meters failed to retain consumer usage information, and 9,000 electric meters had trouble connecting with the wireless network.

In response to the allegations of inaccurate billing, the CPUC commissioned an independent study by the Structure Consulting Group, LLC to investigate complaints in the San Joaquin Valley area and to evaluate the overall SmartMeter system, including sample testing of SmartMeters from other parts of PG&E's service territory. The study was initiated in July of this year and released on September 2, 2010. The entire report can be found at: www.cpuc.ca.gov/PUC/energy/Demand+Response/solicit.htm. The executive summary of that report states: "Overall, Structure found at the AMI [Advanced Meter Infrastructure] technology deployed by PG&E appears to be 1) consistent with industry standards, based upon the goals of the AMI implementation and upgrades approved by the CPUC, and 2) accurate from a metering and billing perspective. Structure identified gaps in Customer services and processes related to high bill complaints, and determined certain PG&E practices to be partially noncompliant relative to industry best practices."

2. **Health Issues** – SmartMeters send a radiofrequency microwave radiation (RF) signal from both electric and gas meters from a home or business to a neighborhood data collector. Residents concerned about RF radiation claim that they trigger health problems and have requested to opt out of the program

In 2008, PG&E contracted an independent review of exposure levels. The study found that in the area immediately adjacent to a power meter, the RF field power density was less than 10 microwatts per square centimeter ($\mu\text{W}/\text{cm}^2$). According to the study, "In comparison to the RF fields that many workaday devices produce in the everyday environment – for example, cellular telephones, microwave ovens, and wireless Internet services – SmartMeter devices generally produce far weaker RF." The study asserts that SmartMeter technology complies with all Federal Communications Commission (FCC) standards and regulations for RF-exposure.

Critics claim, however, that FCC standards are not sufficiently protective of public health and do not take into account the cumulative effect of radiation exposure from a growing number of sources and devices. They claim that PG&E has not provided consistent information about how often the meters transmit RF, and question PG&E's assertion that meters transmit RF six times a day, with a total daily transmission time of 45 seconds per day. Critics claim that independent RF experts have measured SmartMeter RF transmissions at a rate of every 45 seconds throughout a 24-hour period. Opponents also assert that PG&E has not provided clear information about what the instantaneous peak power of the RF signal is at certain distances and have questions about RF exposure levels for a home or apartment with multiple digital meters.

3. **Privacy** – SmartMeter devices collect and store detailed energy use data of a home or business in hourly increments, with the capacity of monitoring specific electrical outlets. Privacy advocates claim that this level of detailed information allows for the reconstruction of activities within a household or business, such as when people come and go, use appliances, or other private information. Privacy groups have filed complaints with the CPUC, asking for stringent rules to protect the privacy and security of customers’ energy-use information. Without strong protections, they say, this information could be used by third parties for marketing or other purposes.

PG&E maintains that they treat all customer information and data as confidential and use standards consistent with all regulatory requirements, including those established by the CPUC. PG&E asserts that it does not release personal customer information to any other person or business entity without a customer’s prior written consent, and that they do not sell or provide personal customer information to third parties for commercial benefit. PG&E states that they take extensive measures to ensure the integrity of their systems and to secure and protect customers and customer data.

Local Government Response

There are two instances of public utility commissions denying the rollout of similar “smart” meter programs in Maryland and Hawaii. In both instances, the utility commissions cited concerns about the product’s validity and the company’s plan to charge ratepayers for the majority of program costs.

In California, local governmental and legislative responses to the PG&E SmartMeter program have varied. San Rafael Assemblyman Jared Huffman issued a request to the California Council on Science and Technology to determine whether FCC standards for SmartMeters are sufficiently protective of public health. The City and County of San Francisco filed a petition with the CPUC for a moratorium on the installation of SmartMeters until more information is available on the devices. The CPUC held a prehearing conference regarding the petition, but it was decided that no action would be taken until the release of the study by the California Council on Science and Technology. The Marin County Board of Supervisors also authorized sending a letter to the CPUC, asking for an immediate suspension of the SmartMeter program in unincorporated Marin County.

Many Northern Cities have approved resolutions, letters or ordinances against SmartMeter installation. The Fairfax Town Council passed an urgency ordinance that places a one-year moratorium on the deployment of SmartMeters in Fairfax. The Town Clerk of Fairfax reported that since the adoption of the urgency ordinance, PG&E has halted installations of SmartMeters until the utility company has the opportunity to conduct more consumer education in the area. Elected officials in Novato, Belvedere, Ross and Sausalito have sent letters to the CPUC asking the commission to halt SmartMeter installation until potential adverse impacts can be studied. The Tiburon Town Council voted to request information from PG&E about SmartMeters, noting that local governments have no regulatory authority to prevent the utility from installing the digital meters.

CONCLUSION:

Staff recommends approval of Resolution 63-10 declaring concerns regarding the installation of PG&E “Smart Meters” in Morro Bay.

RESOLUTION NO. 63-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA DECLARING
CONCERNS REGARDING THE INSTALLATION OF
PG&E "SMART METERS" IN MORRO BAY**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, on July 20, 2006, the California Public Utilities Commission approved the request of Pacific Gas & Electric (PG&E) to install advanced metering infrastructure (AMI), which includes replacing existing electric meters with so-called "Smart Meters"; and

WHEREAS, the City Council understands that PG&E has begun installing the Smart Meters in the San Luis Obispo area; and

WHEREAS, citizens of Morro Bay have expressed concerns about the installation of Smart Meters relating to health concerns and privacy; and

WHEREAS, the City Council understands the Public Utilities Commission, in approving the Smart Meters program, did not consider possible health impacts or give adequate consideration to privacy concerns; and

WHEREAS, the meters will be installed on private property and many homeowners and businesses have no knowledge of the planned installation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that

1. The City of Morro Bay urges PG&E not to install, for a period not less than one hundred eighty (180) days, any Smart Meters, repeaters, antennas and any related wireless equipment in Morro Bay until PG&E has provided local residents additional information on the planned installation.
2. The City of Morro Bay urges PG&E and the California Public Utilities Commission to provide an appropriate mechanism and forum for local residents to voice their positions for or against Smart Meters before any Smart Meters are installed in Morro Bay.
3. The City Council of Morro Bay urges PG&E to modify its Smart Meters program to provide that individuals may choose not to have wireless Smart Meters installed on their properties or use hard wire types.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of December, 2010 on the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

JANICE PETERS, Mayor

BRIDGETT KESSLING, City Clerk