

AMENDED MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 22, 2013  
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Eric Endersby	Harbor Director
	Rob Livick	Public Services Director
	Kathleen Wold	Planning Manager
	Katie Mineo	Assistant Planner/Administrative Technician

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

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE  
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – City Attorney Robert Schultz reported that City Council met in a Special Closed Session on October 22, 2013 on the following items: Government Code Section 54956.8: 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 parcel: Lease Site 30W-33W, Bay Front Marina (Water Lease adjacent to 201 Main Street); and, 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 following employee organization and giving instructions to the Designated Representative: Management Employees; no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS - None

## PUBLIC COMMENT

Debra Garcia, owner of Golden Anchor Financial Services, located at 645 Main Street gave the Morro Bay Business Report. Ms. Garcia has been in the mortgage business for over 20 years. She is excited to be here and be part of the Chamber. She is available 24/7 and very much appreciates all the open arms in Morro Bay.

Jane Heath spoke with a message for her Morro Bay neighbors being asked to sign the recall petition – seek the truth. She urged the public to look carefully at the reasons offered and compare them to Mayor Irons' response. She would hope the public would allow the new Council more than 9 months to demonstrate their vision for the City. There are 5 reasons offered for the recall but there is really only one, the recall arose from the intent to terminate the contracts of the City Manager and City Attorney. Longevity and continuity can be a benefit; it can also be a detriment if all they have known is that which you are trying to change.

Garry Johnson announced the 1<sup>st</sup> Annual Vet's Day Celebration being held at the Veteran's Hall on Sunday, November 10<sup>th</sup>. The event is open to Veterans, their families as well as the community. Sy will be there with his boxes to mail to our active military overseas.

Susan McElhinney spoke about the fence permit that profoundly affected her client, Mr. Goodwin. She claimed that they were allowed to make outrageous allegations about Mr. Goodwin which can't be substantiated because they contained only tiny portions of the truth. She stated it behooves Council to exclude unproven claims or allow the person in which the claims were made to controvert them as it appeared that the board made their decisions based on these allegations.

Joan Solu spoke on behalf of the Morro Bay Community Foundation announcing their Annual fundraiser coming up on Saturday, November 9<sup>th</sup> at the Morro Bay Community Center. Their organization provides supplemental scholarships for kids who otherwise wouldn't be able to participate in youth sports or youth programs. Show tickets are \$20, dinner tickets are \$10.

Phil Kispersky spoke on the petition to recall. He hoped to clear up some grossly inaccurate information that is being communicated. By signing, you are only placing it on the ballot; if signing, your name will be kept confidential; the recall will be on the June Primary ballot and should cost no more than \$1000; it is being done in June because Mayor Irons' term runs through December and having a lame duck Mayor is not good business; and if successful, the interim Mayor will be selected through the same election process in June.

Marlene Owens stated that she has served on many committees and nothing like this has ever happened. She doesn't like what is happening, she knows you have the right but your harassment is wrong. Saying we are going to fire you once we get all our ducks in a row is harassment.

Rick Grantham announced that the Veteran's Day Celebration is not just for veterans but for anyone who wants to support veterans, the general public is welcome. He also announced the Annual Thanksgiving Day Dinner being sponsored by the Police Officer Association as well as

the Rotary Club of Morro Bay. The dinner is being held on Thanksgiving Day from 1-3pm; the boy scouts will be serving and the girl scouts decorating the day before.

Hunter Kilpatrick stated that on September 12<sup>th</sup>, Mr. Schultz, Ms. Lueker and several citizens asked Council if there were causes for the dismissal. Mayor Irons stated on record there was no cause. Last night, Mayor Irons stated that statement was made for the purpose of that meeting only. It appears cause is indeed in play, and as such, you have violated the rights of Mr. Schultz and Ms. Lueker as they both have stated publicly they wanted it heard in open session. You have stated you need legal counsel to approve the minutes. Minutes are factual recordings of events and shouldn't need counsel review. He asked that all Council email and phone records, personal and public, be made available to the public to review for Brown Act violations. He indicated that 5 past Mayors and decades of previous councilmembers adamantly disagreed with your actions. Save the City millions of dollars and resign tonight.

Jim Pauley lent his support to the Mayor and City Council. He feels the action and process they are using in regards to the potential dismissals are fair and follow the Brown Act. You have his full support.

Bob Keller hoped we can start focusing on City's business issues instead of wasting time and money on a recall. It's okay to agree to disagree, we are all neighbors. No recall is needed as elections are coming in June. He supports the present Mayor and present City Council.

John Diodati presented statistics from prior June elections showing the numbers of voters who voted for the prior elected Mayors and Councilmembers in June 2008, 2010 and 2012. He stated that the most recently elected officials, Mayor Irons and Councilmembers Christine Johnson and Noah Smukler were elected by an overwhelming majority of the community and collected many more votes than those in 2010 and 2008. He urged the public to educate themselves about the recall petition and if you are unsure, don't sign it.

John Barba stated that Mr. Diodati's numbers are misleading.

Homer Alexander stated that the slide used by Mr. Diodati was complete spin. Figures can lie and liars can figure. He stated that those tactics are typical of the way that your supporters try and deceive the citizens of this community.

Rosalie Valvo stated that there were 4 candidates for Mayor in the 2012 election and Mayor Irons won outright. She doesn't see any contradictions and supports the Mayor 100%.

John Gajdos stated that the 2089 number of votes that Mayor Irons received that was on the slide only represents 1/3 of the registered voters. Also, people have been told not to sign the recall petition and he wanted to reiterate that you are not doing anything more than putting it on the June ballot; if you sign, your name will not be made public, the recall won't be expensive and they don't want to have the Mayor up on the dais making poor decisions for the next 6 months.

Tim Croley stated that Mayor Irons won; he got more votes than all other candidates combined. The face of Morro Bay is changing.

Carla Wixom stated that this City Council majority continues to talk about past City Council policy violations. You've yet to disclose the money spent on evaluations of the City Manager and City Attorney and yet you continue to reference the actions taken at the meeting in November 2012. It's too bad that no one ever talks about what these employees have forfeited, 5 years ago they gave up pay raises, and they led way in pension reform and have never been recognized for it.

Bill Peirce stated that the recall petition is both legal and certified and the public shouldn't be afraid to sign it. The petition is upfront and it gives the people a chance to decide whether or not they are happy about the job you are doing.

John Heading spoke on people's health. It is flu season and we are a melting pot for a flu virus to come to Morro Bay. Get your flu shot!!

The Public Comment period was closed.

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON OCTOBER 8, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON OCTOBER 8, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 AWARD OF CONTRACT FOR THE PROJECT NO. MB-2013-S4: 2013 STREET REHABILITATION PROGRAM: 3-LAYER CAPE AND MICROSURFACING PROJECT; (PUBLIC SERVICES)

**RECOMMENDATION: Award the project contract to the lowest responsible bidder.**

A-4 AWARD OF CONTRACT TO SOUZA CONSTRUCTION, INC. OF SAN LUIS OBISPO, CA FOR THE PROJECT NO. MB-2013-S1: 2013 STREET REHABILITATION PROGRAM- DIG-OUT AND PAVEMENT REPLACEMENT PROJECT; (PUBLIC SERVICES)

**RECOMMENDATION: Award the Project contract to Sousa Construction, Inc. in the amount of \$402,585.**

A-5 RESOLUTION DETERMINING ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL PERMIT FOR AN OFF-SALE BEER AND WINE CONVENIENCE MARKET LOCATED AT 845 EMBARCADERO SUITE D; (POLICE)

**RECOMMENDATION: Approve Resolution 50-13.**

A-6 RESOLUTION NO. 51-13 ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU), LOCAL 620, MISCELLANEOUS AND HARBOR SAFETY EMPLOYEES, AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 51-13, approving the Memorandum of Understanding with SEIU, Local 620.**

A-7 ADOPTION OF RESOLUTION NO. 52 -13 APPROVING THE REAL ESTATE AGREEMENT FOR THE SALE OF CITY-OWNED VACANT LOT PROPERTY ON THE CORNER OF CORAL AVENUE AND SAN JACINTO STREET WITH A STREET ADDRESS OF 2783 CORAL AVENUE IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution 52-13 approving the Real Estate Agreement for the sale of City-owned property at on the corner of Coral Avenue and San Jacinto Street with a street address of 2783 Coral Avenue in Morro Bay, California.**

Mayor Irons opened up the public comment period for items on the Consent Calendar; seeing none, the public comment period was closed.

Councilmember George Leage pulled Item A-5; Councilmember Nancy Johnson pulled Item A-7; Councilmember Smukler pulled Items A-3 and A-4; and Mayor Irons pulled Item A-2 from the Consent Calendar.

MOTION: Councilmember Smukler moved the City Council approve Items A-1 and A-6 of the Consent Calendar as presented. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON OCTOBER 8, 2013; (ADMINISTRATION)

Amended minutes were previously sent to Council for their review.

MOTION: Mayor Irons moved for approval of the October 8, 2013 minutes as amended. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

A-3 AWARD OF CONTRACT FOR THE PROJECT NO. MB-2013-S4: 2013 STREET REHABILITATION PROGRAM: 3-LAYER CAPE AND MICROSURFACING PROJECT; (PUBLIC SERVICES)

Councilmember Smukler pulled Item A-3 to give Public Services Director Rob Livick the opportunity to announce the item needed to be continued to the next Council meeting.

A-4 AWARD OF CONTRACT TO SOUZA CONSTRUCTION, INC. OF SAN LUIS OBISPO, CA FOR THE PROJECT NO. MB-2013-S1: 2013 STREET REHABILITATION PROGRAM- DIG-OUT AND PAVEMENT REPLACEMENT PROJECT; (PUBLIC SERVICES)

Councilmember Smukler pulled this item to give Public Services Director Rob Livick the opportunity to speak on the contract and work being done.

MOTION: Councilmember Smukler moved the City Council approve Item A-4 and continue Item A-3 for further review of bids. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

A-5 RESOLUTION DETERMINING ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL PERMIT FOR AN OFF-SALE BEER AND WINE CONVENIENCE MARKET LOCATED AT 845 EMBARCADERO SUITE D; (POLICE)

Councilmember George Leage pulled Item A-5 so that he could recuse himself as his property is within 500 feet of the proposed location.

Councilmember Nancy Johnson is not totally opposed but wonders if it's necessary as it is located between 2 businesses that already sell alcohol. It also bothers her that this business rents out boats to the public.

Councilmember Christine Johnson stated that the Police Chief said that its beer and wine only. There are no crime statistics in the area and doesn't feel there are any reasons not to support it at this time.

Councilmember Smukler stated the memo speaks to Councilmember Nancy Johnson's concerns as the permit can be challenged and changes made if issues arise. He feels this helps facilitates the applicant's tour boat business.

MOTION: Councilmember Smukler moved to approve Item A-5, approving a Resolution allowing the issuance of an alcoholic beverage control permit for an off-sale beer and wine convenience market located at 845 Embarcadero, Ste. D. The motion was seconded by Councilmember Christine Johnson and carried unanimously 3-1-1 with

Councilmember Nancy Johnson voting no and Councilmember Leage having recused himself.

A-7 ADOPTION OF RESOLUTION NO. 52 -13 APPROVING THE REAL ESTATE AGREEMENT FOR THE SALE OF CITY-OWNED VACANT LOT PROPERTY ON THE CORNER OF CORAL AVENUE AND SAN JACINTO STREET WITH A STREET ADDRESS OF 2783 CORAL AVENUE IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

Councilmember Nancy Johnson pulled this item as she has some concerns. She feels this is being rushed and if you look at the number of lots on that property, we are only getting \$150,000 for each lot which she feels is not enough. She feels that with the current real estate market, we need to go back and look at it again.

Councilmember Smukler stated that this item has been in front of Council multiple times trying to get it sold and feels that there is also a price to retain the property. Realistically there are a lot of questions about the current real estate market. He took time to talk to other real estate agents to get their range of prices for the lot and we are well above what they have said. He also sees a benefit to it being a cash deal.

City Attorney Rob Schultz stated that there were 3 adjustments that needed to be made to the report as well as there are 3 contingencies in the agreement that must be met. The contingencies are that the appraised value has to meet the offer; there is a right of refusal with the original developer; and, anytime you sell property of this size, you have to offer it to the County for affordable housing. The minor adjustments to the agreement are: page 6 – 6a at end of first paragraph put in ( ) “due diligence materials”, on page 7 – paragraph 3d needs to read 35 days after the delivery to buyer of due diligence materials; and on page 16, paragraph d – strike out the last sentence.

Councilmember Leage pointed out that several years ago we were offered 2.4 million dollars for this property. We weren't able to close the deal because of a Council member not wanting to cut down trees.

Councilmember Nancy Johnson continues to think we can do better and it behooves all of Council to increase the amount we can sell this for.

Mayor Irons is supportive of this. It still has to have an appraisal to qualify for the sale.

MOTION: Mayor Irons moved approval of Item A-7 with the amendments stated by Mr. Schultz. The motion was seconded by Councilmember Smukler and carried 4-1 with Councilmember Nancy Johnson voting no.

B. PUBLIC HEARINGS

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 583; REPEALING, AMENDING, AND REENACTING CHAPTERS 14.01-14.12 AND 14.52 OF THE

CITY OF MORRO BAY MUNICIPAL CODE (BUILDINGS AND CONSTRUCTION);  
(PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Mayor Irons opened up the public comment period for Item B-1; seeing none, the public comment period was closed.

MOTION: Councilmember Christine Johnson moved approval of B-1. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

City Manager Andrea Lueker read the Ordinance by title and number only.

B-2 ZONING TEXT AMENDMENT A00-015 DRAFT SIGN ORDINANCE (MUNICIPAL CODE SECTION 17.68); (PUBLIC SERVICES)

Planning Manager Kathleen Wold presented the staff report.

Mayor Irons opened up the public comment period for Item B-2.

John Barta wanted to thank the Public Services Department for their work on this. He felt that sandwich board signs are useful at times if well regulated; they are an important part of signage needs. He suggested doing a field test; ie: go to a number of businesses and see what they have, then see if what you are proposing will be better.

Amber Badertscher stated that this proposed ordinance is saying that a business can't use brand names for advertising but she is aware of others who use brand names on their outside umbrellas. She still feels rights are being taken away from some businesses while at the same time; staff is finding a way to only include the Embarcadero in the new sign program. If you want to test if a program works, try it in an area that has never been promoted. She feels the document has many loopholes, for example it doesn't allow a stack of tires but you can stack wine barrels. She asked that the Council send this back to the Planning Commission to help all businesses succeed.

John Headding realizes the importance of presenting the right façade to those coming into your community. A lot of time and effort has been put into this document and no document will satisfy everybody. He feels this is a fair document and is consistent with other like documents he's seen. There are 2 changes he'd suggest – when making reference to terms, include a visual right next to the example; and make the process for approval simple and fast.

The public comment period for Item B-2 was closed.

Councilmember Smukler liked the idea raised by the Chamber of Commerce to help facilitate district to district presentations on the proposed sign ordinance, specific to each district, each area's regulations and offer those businesses the opportunity to focus and comment on what's there.

Councilmember Nancy Johnson addressed a couple of issues; she thanked staff for getting to different districts as each have different needs; she wants it to be easy and affordable; she has advocated for feather flags in specific areas, especially on Quintana and North Main; she wants to talk more about flashing or neon signs; she wants us talk about windows completely covered in painted advertising; and, as far as sandwich board signs, while she doesn't like them, maybe instead they could be "one legged signs" or decorative signs.

Councilmember Leage would hate to see sandwich board signs come back as he feels they are hazardous.

Councilmember Christine Johnson agrees with Councilmember Nancy Johnson that feather flags in certain areas are a good idea. It may be important to follow up with the Coastal Commission on feather flags in the No. Main and Quintana districts. If they are allowed by Coastal Commission, she is in support of them with a permit. She also supports sidewalk signs in areas outside of the Embarcadero as long as they are permitted.

Mayor Irons feels we either need to set up additional meetings to get through this or work with the Chamber to do district by district meetings. He has talked to many business owners who use sandwich board signs and they say that their businesses haven't necessarily done better based on their utilization. He also agrees that making it simple and inexpensive is important and possibly set up a dry run application process during the Chamber district informational meetings.

Councilmember Smukler said he is looking at this as fairly close to a working document with the most important thing now is to talk to the businesses and make sure we are hearing from them. Before we schedule special meetings, he would also like to take the Chamber up on going to districts for presentations and then move to a more in depth Council meeting.

Councilmember Nancy Johnson stated that is our chance to get this right. She also likes the idea of district meetings with the Chamber and wanted to hear from them.

Mayor Irons reopened up the public comment period for Item B-2.

Craig Schmidt, Chamber of Commerce CEO stated that the Chamber is happy to do this. He would hold focused district meetings which would be an opportunity for additional public comment before being sent back to Council.

John Barta wanted to add a comment, if staff looked at AGP video, a sign inventory was done and they should have the video for review.

Greta Shucker a local business owner loves the idea of going district to district as it would help her business.

Linda Donnelly stated that there is a business on Main Street that at night time is really bright with neon lights. She is hoping that this ordinance would change that.

The public comment period for Item B-2 was closed.

There is Council consensus for staff to get together with Craig Schmidt at the Chamber to set up district meetings. The City can advertise these through the Notify Me program.

C. UNFINISHED BUSINESS

C-1 AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSAL (RFP) FOR A RATE STUDY FOR WATER & SEWER RATES WITH ADDITIONAL BACKGROUND INFORMATION; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Councilmember Nancy Johnson thinks we also need to address the cost of the reclamation process into the study. Mr. Livick wasn't sure we could get that information as we aren't far enough along in the process.

The public comment period for Item C-1 was opened.

John Barta stated the Coastal Commission asked us to provide them reports on the water master plan. The State then said that everyone has to do it, we haven't neglected our duty to the Coastal Commission but it was folded it into the State reporting. He looked at his water bill today; there is a water fee and a sewer fee. There is another component, the cost of reclamation. In order to be transparent, we need to delineate that cost out. There is also inflation of costs, but most of what goes into our water cost are bonds with a fixed payment plus a separate payment for the desalination plant which has been paid off. Those bonds one day will be paid off which should create a high cash flow benefit.

Betty Winholtz agrees with what Mr. Barta said about the fixed costs of our water. We have over time, bought 2.5 allotments of State water. In 2004 the sewer rates first went up as they weren't matching maintenance costs. In 2008 we raised rates on an inflationary basis which goes up each year. One of the reasons you need to look at increases is that you have increasing costs. You have the choice as to what you spend the money on - do we need a multi-million dollar, million gallon tank on Nutmeg, she understands the need for the fire issue but to what extent is that in balance. She hopes you won't be ready to go out and look at fees yet.

The public comment period for Item C-1 was closed.

Rob Livick answered questions from public comment: the inflationary rate was passed in 2008, since then State law has changed and those types of increases are only good for 5 years so now have to revisit that cost again; the Nutmeg Tank is all about fire flow requirements; with regards to the debt ratio, this process isn't about the setting of rates, this is the gathering of information to see what the rates should be to support our needs.

Councilmember Nancy Johnson appreciates the information on water reclamation; we need to take a serious look at that as part of this proposal.

Councilmember Smukler stated we need to look at all of our costs, not hide any or single any out. He agrees it's too early to know what those reclamation costs may be. He wants to make sure the community has the opportunity to hear more and know where these costs have come from and where they can go in the future. While it's uncomfortable to talk about raising rates, we have to; it's also important to set policy so this doesn't happen again. This has been punted long enough; we need to move forward so the public can make good decisions.

Mayor Irons talked about having a revenue rate review program and look at what a policy would look like within this study. It sounds like water reclamation would be talked about when we had more information.

Councilmember Christine Johnson thanked staff for all the historical information; it will be interesting as we move forward, to be able to refer residents back to the staff report. She is comfortable based on discussions tonight in moving forward with a rate study with the expectation that the first stop will be at PWAB to allow opportunities for the public to provide input.

Councilmember Smukler stated that the scope for the RFP is important to make sure we get what we need. He likes the idea of stopping at PWAB with the scope of the RFP for their review before going out. Mr. Livick stated he could take the draft to PWAB but it would delay getting out the RFP. Or we could appoint a couple of PWAB members to serve in helping select a consultant as we did with the WRF.

**MOTION:** Councilmember Smukler moved to authorize staff to issue an RFP for a rate study for water and sewer rates with additional background information including rate review policy and the expectation that a subcommittee from PWAB will be involved in the review of the scope and selection of consultant and that the study will include a review of costs and information regarding the entire water portfolio including reclamation costs. The motion was seconded by Councilmember Christine Johnson and carried 5-0.

## C-2 REVIEW AND CONFIRM THE MASTER PLANNING PROCESS FOR THE NORTHERN WATERFRONT IMPROVEMENT PLAN; (RECREATION & PARKS)

Recreation & Parks Director presented the staff report.

The public comment period for Item C-2 was opened.

Betty Winholtz is disappointed there was no information or visuals in the report to inform the public about what you are referring to with Alternative C. The idea that we would use all of the parking-in-lieu funds on one project when there are other needs within the park system isn't advisable. Personally for those that don't want to see this become an urban park as currently it is a natural area. Please give us more information and consider the fact it may not be the financial time to do this.

Linda Donnelly asked if the project for the Fishermen's Family Sculpture alters that area. How much of that area would be built up or changed.

Mr. Woods stated that the location is out at Goodbye Point. There is a lack of visuals as he wasn't trying to sell the project itself, just trying to move forward to master planning. Have had multiple concept and planning meetings over the years but didn't think it was relevant to this staff report.

Councilmember Nancy Johnson is very much in favor of moving forward with this. She thinks we can always spend more money upgrading the parks that we have; we need to designate this money to move forward with this master plan. If we don't get a master plan and get community input we won't go any further with this.

Councilmember Smukler stated he is looking around at our parks and see a lot of maintenance needs that we have to keep up with what is currently there. There are also lots of question marks at Coleman Park; ie: boat haul out, USCG, bike path/trail, etc. He feels like we are getting ahead of ourselves without having information on what the future holds there. He wondered how this money could be used elsewhere on needs that we know exist.

Mr. Woods stated that the Fisherman's Family Sculpture can still be moved along. There are needs in our park system such as the continual development of the master plan at the Teen Center, restroom replacement, failing play structures, turf eliminations, parking lots that need serious work, etc. If we didn't use these funds in the Coleman/Target Rock Master Planning Process then they would look to other projects to enhance and improve the parklands.

Councilmember Smukler stated that looking at that list, there are great needs which doesn't diminish the need for a master plan but we can do that after, when we have more information.

Councilmember Leage stated that we are missing a chance to develop this area which would be a great attraction for tourists. This is a project that we could use to leverage off to do the things we need to do in this town. Not doing this now is a big mistake; a lot of people have been talking about this. We need to develop the master plan now.

Councilmember Christine Johnson thinks that we could use a Parks Maintenance Plan. These funds enhance what you are already doing with your work program. A compromise would be that when the Fisherman's Family Sculpture was ready, then maybe we can revisit this then.

Mayor Irons stated that in the summary of the report, Concept C was adopted by Council in 2008 so any master plan that we'd go forward with would be those shown in the outline. Based on that, he feels we can still maintain this concept and delay it until we find out what happens with the USCG project and/or other significant projects in the area.

Councilmember Nancy Johnson said this has gone on too long. There will always be park projects and things needing to be replaced or improved. If this doesn't happen now, it never will.

Councilmember Smukler stated we are premature doing this right now because of all the questions we have about the future there. We aren't risking moving forward with the Fishermen's Family Sculpture by not moving forward with this master plan.

Councilmember Christine Johnson asked what would happen if we revisit this in 6 months; that would give the USCG time; see where the Fishermen's Family Sculpture is; and will have had the Recreation & Parks work plan which is due in January.

Councilmember Nancy Johnson stated this is a separate item from the sculpture and the USCG.

Councilmember Leage stated that with the uncertainties, maybe we should delay the bike path because how do we know it will fit in with the master plan.

MOTION: Councilmember Smukler moved to direct Mr. Woods to work with the Recreation & Parks Commission and evaluate the work program and what could be accomplished with the existing funds in the parks fund and revisit the master plan at a later date as more information becomes available. The motion was seconded by Mayor Irons.

Mayor Irons would like to see a date certain to come back with the master plan in the motion; he leans towards 6 months.

Councilmember Nancy Johnson stated it doesn't matter to have a date certain, as you will have already spent the money so even if the master plan comes back, the money will be gone.

Councilmember Christine Johnson suggested 4 months for a revisit and asked if Recreation & Parks would be ready for that.

Councilmember Nancy Johnson called the question.

The motion was voted on and failed 1-4 with Mayor Irons and Councilmembers Christine Johnson, Nancy Johnson and Leage voting no.

MOTION: Councilmember Smukler moved to direct Mr. Woods to return to the Recreation & Parks Commission with a request to review the work program along with the Master Coleman Northern Waterfront Improvement Plan and evaluate options to accomplish as much as possible with the existing parks fund and additional matching funds as available. The motion was seconded by Councilmember Christine Johnson and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

D. NEW BUSINESS

D-1 MULTI-HAZARD EMERGENCY RESPONSE PLAN AND EMERGENCY OPERATIONS CENTER REVIEW; (FIRE)

MOTION: Mayor Irons moved to continue this item to a date uncertain. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-2 AUTHORIZATION TO ENTER INTO RENEGOTIATION OF LEASE TERMS AND CONDITIONS FOR LEASE SITE 53-56/53W-56W LOCATED AT 501 EMBARCADERO (ESTERO LANDING INC., KEN SCOTT); (HARBOR)

Harbor Director Eric Endersby presented the staff report.

The public comment period for Item D-2 was opened; seeing none, the public comment period was closed.

MOTION: Councilmember Smukler moved to approve Alternative A, authorizing staff to enter into renegotiations of certain lease terms and conditions for Lease Site 53-56/53-56W with Ken Scott. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-3 REPORT ON RESULTS OF OBTAINING OUTSIDE INDEPENDENT LEGAL COUNSEL; (MAYOR)

Mayor Irons presented the staff report.

Mayor Irons opened up the public comment period for Item D-3.

Hunter Kilpatrick is disturbed that this item is so late in the agenda. He would like to ask Mayor Irons why the RFP isn't on City letterhead and not dated. Also, why is the cap of \$12,500 not listed. He asked who drew up the contract. He stated that the Mr. Simas may have a conflict of interest as he went to college with Mr. Irons' campaign manager. This firm is the most expensive firm and has no staff in San Luis Obispo. He feels the contract should have included a no travel clause. He feels it is transparent that you never intended to hire anyone else. He urges the Council not to approve this contract.

Linda Donnelly stated that the contract has no end date and is for 12 months with an option to renew for an additional 12 months. The primary contact in the contract is Mayor Irons only. Nowhere in the contract is it stated "not to exceed \$12,500." She feels that if Simas and Associates did the work previously done by Mr. Schultz, based on the rates, it would cost between \$350-450,000 for the year. Last night there was a 3.5 hour debate and the contract hadn't even been signed yet.

Betty Winholtz stated she needed clarification. She understood the contract approval had already been given and this item was a status report only.

The public comment period for Item D-3 was closed.

Mayor Irons stated that Mr. Simas and Mr. Heath do not know each other and there is no conflict. Mr. Simas is required to adhere to the \$12,500 limit.

Councilmember Nancy Johnson objects to the fact that the copy she received wasn't signed. Per 3.08.170 of the Municipal Code, only the City Manager or their designee is authorized to award contracts. She went through City contracts and there were only 2 contracts signed by Mayors and both of those also included the signature of the City Manager or City Clerk. Per the GAO standards they have a page called "examples of abuse" and one of these is making procurement or vendor selections contrary to existing policies or are unnecessarily expensive. This is expensive. Looking back at the motion, it doesn't mirror the contract in any way; and the not to exceed \$12,500 is not there. Also not found in the contract – the contract commences on October 7<sup>th</sup>, 2013 and terminates Oct 6<sup>th</sup>, 2014 unless renewed by the City Council. She asked what counsel was doing from October 7<sup>th</sup> to yesterday when they were allowed to meet with Mr. Simas and how much did that cost. She reiterated that the Mayor is only 1 of 5 votes whose only special authority is to set the agenda. She doesn't feel this is a legal contract. She said that to date, Mr. Simas hasn't chosen to speak to any of us.

MOTION: Mayor Irons moved to continue the meeting past 11:00pm. The motion was seconded by Councilmember Christine Johnson and carried unanimously, 5-0.

Mayor Irons stated that as far as he knew, Mr. Simas has made contact with each Councilmember via email and has said he is reachable by telephone. Insurance has been submitted to Risk Management. He was assured that he was in compliance with the GOA and municipal code. He stated that the Council will review the status of his bill and at the \$12,500 rate, we will be able to authorize more if need be. He asked for and was granted authorization by the Council to pursue the attorney. He pulled the contract off of the County website from a Supervisor's meeting.

Councilmember Smukler stated that the cap is in place as Council authorized it thru a motion; it and anything beyond that would have to come back to Council for discussion and action.

Councilmember Nancy Johnson accepts no responsibility for this contract or any of its parts.

Councilmember Leage doesn't accept the contract either.

Councilmember Christine Johnson asked if there was any interest in adding an addendum to the contract to add the cap language as well as to adjust the date for a period of time less than a year.

Mayor Irons stated that we can terminate the contract at any time.

Councilmember Smukler stated that an addendum regarding the \$12,500 sounded like a good idea.

Councilmember Nancy Johnson said that the contract commences on October 7<sup>th</sup> and we didn't meet until October 8<sup>th</sup>. Have you been talking to Mr. Simas and if so, how much has it cost so far?

Mayor Irons stated that when we get the monthly itemized report, everybody will know.

This item was received and filed.

#### D-4 DISCUSSION REGARDING PARKING IN-LIEU FEES IN THE DOWNTOWN AREA; (CITY ATTORNEY)

Mayor Irons recused himself as his property lies within 500 feet of the downtown area.

City Attorney Rob Schultz presented the staff report.

Councilmember Leage opened the public comment period for Item D-4.

Betty Winholtz stated that she was on the Council at the time that fees were raised, we were in trouble and at the time in comparison to others in the County, way low. Ours weren't realistic to keep at \$4,000. \$15,000 seemed reasonable at that time and she encourages Council to maintain it for equity so all are charged the same amount in the City.

The public comment period for this item was closed.

Councilmember Nancy Johnson stated that as a compromise, she would recommend going back to the \$4,000 as we have already taken away some of the business incentives for downtown.

Councilmember Smukler feels like this is arbitrary. It would be interesting to hear more context about what the Parking Management Plan has to say about this and what projects may be coming forward that this affects. He feels we need to take more time, wants to hear from more businesses/property owners.

Councilmember Christine Johnson said this is her first time going through a parking in lieu discussion. She wondered what the neighboring cities charged for their in-lieu fees. Before deciding, she would like to see a survey done. She also wants direct feedback from the business community. She also wants to know what the impact of raising or lowering the fees is – what is the plan? She would want to stay with the \$15,000 for now, until these discussions can take place.

Councilmember Leage stated that studying other cities really doesn't work. All cities have their own unique problems with parking. He doesn't even think if we didn't charge anything, we still wouldn't get any more development down there. We have put out incentives but nothing seems to work.

Councilmember Christine Johnson stated that the Economic Development Committee has been talking about possibly comparing Old Town Arroyo Grande with our Old Town area.

Councilmember Nancy Johnson said we have tried a couple of times to get property to build a parking lot in downtown and haven't been successful.

There was no motion or action necessary as it was Council's consensus to leave the in-lieu fee where it is, at \$15,000.

D-5 DISCUSSION OF ITEMS TO PLACE ON THE JOINT CITY COUNCIL/PLANNING COMMISSION MEETING; (PUBLIC SERVICES)

Rob Livick presented the staff report.

The public comment period for Item D-5 was opened; seeing none, the public comment period was closed.

There was discussion about items to place on the agenda. The consensus was to agendize the following: City Specific and Master Plans to include Beach Street Specific Plan, North Main Street Specific Plan and the Waterfront Master Plan; an update on the GP/LCP status to include status on grant applications; and, and update on the West Atascadero Road rezone. The meeting is to start at 6:00pm and go for no more than 90 minutes.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Nancy Johnson requested a report of the \$3500 spent by this Council in April 2013 to include what it was spent on and the reasons for it as well as a discussion and report regarding the expenditures and use of current outside counsel in an open session public hearing format; Councilmembers Leage, Smukler and Christine Johnson concurred.

ADJOURNMENT

The meeting adjourned at 11:49pm.

Recorded by:

Jamie Boucher  
City Clerk