



AGENDA NO: A-2

MEETING DATE: May 22, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: Marla Jo Bruton [REDACTED]
Sent: Monday, May 21, 2018 11:44 PM
To: Dana Swanson
Cc: John Heading; Joe Pannone; Scott Collins; Matt Makowetski; Marlys McPherson; Jamie Irons; Robert Davis
Subject: 5-22-18 Public Correspondence MBCC Meeting- Citizens' Right to Know 4-25-18 Minutes on consent

Re: 5-22- 2018 MBCC Agenda Item on consent: the Approval of Minutes from the April 25, 2018 MBCC Special Meeting-WRF Forum

Morro Bay Mayor and City Councilmembers,

Below is a copy of my May 3, 2018 Public Records Act Request asking to view the written questions submitted by the public to be asked of the WRF panel during the April 25, 2018 MBCC Special Meeting-WRF Forum.

The members of the WRF panel consisted of: Four members of the city staff (The city manager, the city attorney, the public works director, the utilities facilities manager); the WRF project manager (a consultant from Carollo Engineers); and the Central Coast Regional Water Board Enforcement Officer.

Due to the fact that the written question cards/slips (the public records) had been released to a third party - San Luis Obispo League of Women Voters - this request includes that the city retrieve and maintain the custody of those documents for the benefit of the Public Record of the April 25, 2018 MBCC special Meeting.

I believe that the city has attempted to evade the California Public Record Act (CPRA) by acting in a manner such as to loose direct custody of the public records to an independent third party.

It is my opinion that the city knowingly authorized the SLO LWV to collect the written question cards/slips (the public records) and censor them during a duly noticed public meeting. Next the city knowingly released those public records into the secured custody of the SLO LWV after the meeting adjourned.

Thereby turning what legally should have been a simple CPRA request into a month long ordeal on behalf of the public to petition the city to retrieve those public records and put them back into city's custody for safe keeping. My intent is to make those records available to the public upon request.

The reason I am suggesting the city knowingly authorized the SLO LWV to act in such a manner is because the SLO LWV moderator explained what the LWV moderator panel intended to do with the public records. The SLO LWV moderator explained the way the written questions would be collected, censored, and read into the record to become the official questions asked of the WRF-Panel members. It was also explained that the questions would be kept in safe keeping by the SLO LWV .

Thus the SLO LWV moderator process and procedure was divulged in the initial comments by the SLO LWV spokesperson.

The members of the public, the members of the MBCC (who were dispersed in the audience amidst the members of the public attendees), the city attorney and the city manager (who were seated as members on the WRF panel)

ALL had the opportunity to hear and know how the SLO LWV intended to proceed and process the written question cards/slips they received from the public attendees.

However the members of the public were denied the right to make an objection to the process and procedures that were explained. Had I been given the right to object I would have made an objection.

No representative of the MBCC or the city staff objected to the process or the procedure the SLO LWV spokesperson outlined at the onset of the WRF Forum Q&A with the WRF panel. To the contrary they were complicit by allowing the meeting to proceed outside of the statutes that govern how public meetings and public records are to be handled.

In conclusion, I have copied the text of the CPRA Request that was submitted to the city. It is asking the municipality to regain custody of the public records that were in the custody of the SLO LWV after the 4-25-18 MBCC Special Meeting.

This request was made to assert my right to view the questions from other community members who participated in the invitation to submit written questions to the WRF panel through the SLO LWV during the 4-25-18 MBCC Special Meeting WRF-Forum.

Marla Jo Bruton
To: Dana Swanson
Cc: Scott Collins
May 3 at 12:20 PM

Hi Dana,

This is a PRA request to view the question slips that were submitted to the City for response at the April 25, 2018 WRF Public Forum. I believe that the question slips are still in the physical custody of the League of Women Voters (LWV).

I asked the LWV to allow me to view the question slips several days ago, but they declined to allow me to see them. I assume that is because the question slips were submitted to the City, in response to the City's invitation, for the purpose of discussion in a public City meeting and are, therefore, City of Morro Bay public record and City property regardless the fact that they are in LWV custody.

It seems likely that the LWV is aware of California Supreme Court decision S218006, which was filed in March, 2017. Even though that case was about information on personal cell phones being subject to PRA's, the ruling included the statement that, "*the City argues that public records are only those an agency is able to access "directly."* But *this strained interpretation sets legislative intent on its head. The statute's clear purpose is to prevent an agency from evading its disclosure duty by transferring custody of a record to a private holder and then arguing the record falls outside CPRA because it is no longer in the agency's possession.*"

I can see why that would make the LWV feel uncomfortable about releasing the documents (since they are City public record) without having the requester go through the formal PRA process with the City. I ask that you get the question slips back from the LWV and into City of Morro Bay custody, so that I can view them at City Hall. I would request the written questions be scanned and included in the minutes of the 4-25-18 MBCC Special Meeting. Presumably, the City intended to do that anyway (and maybe already has) since leaving public records in the physical custody of the LWV does not seem appropriate.

Thank you for your assistance,
Marla jo Bruton Sadowski

In closing, I request that the Morro Bay City Council insist on the retrieval of the Public Records that have been wrongfully lost by the City of Morro Bay, Those written questions are part of the Public Record of the 4-25-18 Special Meeting and belong in the custody of the City of Morro Bay. Residents would like to be able to review all the written questions submitted in the MBCC Special Meeting-WRF Forum. In addition I am asking that the written questions be scanned into the minutes of the 4-25-18 meeting.

Your cooperation in remedying these egregious violations of Public Trust is needed

Marla jo Bruton Sadowski

Dana Swanson

From: Marla Jo Bruton [REDACTED]
Sent: Tuesday, May 22, 2018 1:18 AM
To: Dana Swanson
Cc: Jamie Irons; John Heading; Marlys McPherson; Matt Makowetski; Robert Davis; Scott Collins
Subject: 4-25-18 MBCC Special Meeting-WRF Forum Minutes for consideration of Approval on 5-22-18

Re: Consent Agenda Item for consideration of the approval of the Minutes of the 4-25-18 Special Meeting

AN OPEN LETTER FOR YOUR CONSIDERATION

Dear residents of Morro Bay and the Morro Bay City Council:

"On April 25, the City conducted a one-sided "WRF public forum" that illegally denied residents the chance to speak about project concerns.

One of the most basic rights of California residents is the right, under the California Brown Act, to speak at public meetings. This includes not only regular City Council meetings, but "special" Council meetings as well. California Brown Act section 54954.3(a) includes this statement: "Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item."

At the April 25, 2018 "Special City Council Meeting – WRF Public Forum", the City refused to allow public comment. When a resident told a Council member, the City Manager, and the City attorney that this was illegal under the Brown Act, she was ignored.

Instead of allowing the public to speak, the City required meeting attendees to submit written questions that were read aloud by an outside moderator from the League of Women Voters. Questions were addressed after the presentations were complete. It should be clear to everyone that submitting written questions that might, or might not be read aloud by someone else is NOT the same thing as speaking.

Adding insult to injury the moderator, under a time limit set by the City, ignored some questions and edited others, making the Brown Act violation even more egregious. Some residents are attempting to obtain copies of the questions to determine the number and the specific subject areas of the questions that were edited and ignored, but the City left these public records in the custody of the League of Women Voters. The League refused to allow access, and we are now petitioning the City to take back custody of these public records and make them available for review.

The City's serious and blatant violation of the Brown Act at the April 25, 2018 special City Council meeting illegally denied members of the public their right to speak and participate. By doing that, the City: 1. Prevented those attending and remotely viewing the meeting from seeing the true nature, scope and depth of residents' opposition to the WRF project approach favored by the City. 2. Presented a one-sided view that left out critical information such as the fact that a viable project proposal that would save taxpayers over \$60 million is on the table, but has been quietly ignored by the City. 3. Took advantage of one more opportunity to attempt to intimidate residents who are considering sending in Proposition 218 protest votes.

In summary, the manner in which the City violated the Brown Act turned the meeting into what is essentially a City "propaganda tool" that, like the recent mailer, was created and used against the interests of taxpayers - at taxpayer expense."

MARLA JO SADOWSKI
MORRO BAY, CA.

Dana Swanson

From: Marla Jo Bruton [REDACTED]
Sent: Tuesday, May 22, 2018 3:02 AM
To: Dana Swanson
Cc: Jamie Irons; John Heading; Robert Davis; Marlys McPherson; Matt Makowetski; Scott Collins; Joe Pannone
Subject: Public Correspondence with regard to pulling the 4-25-18 Minute consideration from the consent item

Mayor Irons and Morro Bay City Council Persons,

May 22, 2018

I am requesting that you pull the 4-25-18 consideration of the approval of the Minutes off of the consent calendar and open the item up for public comment. Read the following description below into the public record on the discussion of the 4-25-18 MBCC Special Meeting-WRF Forum.

It is my opinion that the Minutes prepared for the 4-25-18 Special Meeting-WRF Forum cannot give an accurate record of what happened at that meeting without the inclusion of a commentary from a member of the public who tried to intercede on behalf of the Rights of Citizens to Know and the Rights of Citizens To Participate in Open Government during the meeting. I made an objection off the record at that meeting that should have been made in Public Comment; however, the opportunity for Public Comment was omitted from and denied at the 4-25-18 meeting.

I am asserting my right to make a record of my OBJECTION made during the meeting THAT IS NOT CURRENTLY ON THE RECORD OR IN THE MINUTES OF THE MEETING. The Public Comment section of the agenda notice was wrongfully omitted from the required public notice and agenda.

In addition I am attempting to make a public record that shows I tried to secure the right to directly address the MBCC and petition them to add the Public Comment back into the meeting agenda. I HAD PROCEDURAL COMMENTS TO MAKE AND I WAS NOT ALLOWED TO ADDRESS THE LEGISLATIVE BODY.

Please assist in making the description below part of the Minutes of the 4-25-18 meeting.

It is the only way I can see to keep a congruent record of the meeting with its full procedural record of the ACTIONS or in this case the IN-ACTIONS of the MBCC with regard to omission of the rules of civil procedure. Also the city attorney who was busy sitting on the WRF panel and participating in the presentations and the controlled Q&A was asked by me during a panel break to allow public comment. He exercised his jurisprudence duties by advocating for the SLO LWV as being in charge of Public comment for the meeting. THE CITY ATTORNEY TOLD ME I COULD WRITE MY QUESTION DOWN AND GIVE IT TO THE MODERATOR. I DID WRITE MY QUESTION DOWN AND SUBMITTED IT. MY QUESTION WAS NOT ASKED BY THE MODERATOR. THE MBCC WAS NOT AVAILABLE AS A SEATED BODY. SO HOW WOULD THE MODERATOR BE EXPECTED TO ADDRESS THE MBCC WITH A QUESTION OF PROCEDURE WHEN THE MBCC WAS NOT SEATED AS A BODY?

I am asking you to read the statement made today into the record of your public discussion on the Minutes that I have asked be pulled from consent by opening the meeting to allow public comment to be part of your deliberation.

What I am REQUESTING is for you to publicly remedy your omission of Public Comment during the 4-25-18 meeting by reading my Brown Act Violation Complaint into the record, having an open discussion and incorporate public comment on the 4-25-18 Minutes. Then add the statement below to the official record of the minutes.

The 4-25-18 Minutes are incomplete minutes without the addition of what is not seen and heard on the U-tube video. Please make an attempt to remedy this predicament.

I am also requesting that the scanned written question cards/slips be attached to the 4-25-18 Minutes.

TO BE READ INTO THE RECORD:

Description of the 4-25-18 Special Meeting California Brown Act section 54954.3(a) violation.

"On the City's Web site, the April 25, 2018 special City Council meeting is identified as follows: "4/25/18 Special City Council Meeting – WRF Public Forum" (see attachment 1)

The meeting had one agenda item which was,

"Water Reclamation Facility (WRF) Public Forum

- *Review Project History*
- *Project Status and Next Steps*
- *Invited Regulatory Agency Presentations*
- *Question and Answer Period Facilitated by League of Women Voters"*

In violation of the Brown Act, the agenda did not provide the legally-required opportunity for the public to speak on this item. California Brown Act section 54954.3(a) says,

*"Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. **Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.**" (emphasis added)*

At the April 25, 2018 special Council meeting, the public was not allowed to speak. Instead, the City required meeting attendees to submit written questions that were read aloud by an outside facilitator after the presentations were complete. I personally brought this Brown Act violation to the attention of a Council member, the City Manager, and the City Attorney. They ignored the information and allowed the meeting to proceed without any opportunity for public comment.

I am confident that we all understand that submitting written questions before a meeting and to be (possibly) read at the meeting by someone else is NOT the same thing as speaking. To add insult to injury, at the April 25 meeting, many of the written questions (including mine and those of several other residents I have spoken to) were not read and addressed, and some questions were edited by the moderator, making this Brown Act

violation even more egregious. Questions received and censored by the League of Women Voters cannot substitute for the public's right to "directly address" the Mayor and City Council.

The City's serious and blatant violation of the Brown Act at the April 25, 2018 special City Council meeting not only illegally denied members of the public their right to speak and participate; it prevented those attending and remotely viewing the meeting from seeing the true nature, scope and depth of residents' opposition to the WRF project approach favored by the City. In doing so, it turned the meeting into what is essentially a City "propaganda tool" that many of us believe has been very purposefully aimed at defeating the Proposition 218 protest vote.

I demand that the City cease and desist the illegal practice of denying members of the public their legal right to speak at City of Morro Bay public meetings."

Sincerely,
Marla Jo Bruton-Sadowski

Dana Swanson

From: Marla Jo Bruton [REDACTED]
Sent: Tuesday, May 22, 2018 8:34 AM
To: Dana Swanson
Cc: John Heading; Matt Makowetski; Marlys McPherson; Robert Davis; Jamie Irons; Scott Collins; Joe Pannone
Subject: Public Correspondence pertaining to the 4-25-18 Minutes on the 5-22-18 Agenda -consent Item

54950.

Mayor and city council, The following is the preamble to the CA. Ralph M. Brown Act. I am reminding you that you are serving the public.

The public has the right to know and participate in an open government process.

54950.

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Added by Stats. 1953, Ch. 1588.)

*Marla Jo Bruton Sadowski
North Morro Bay*



AGENDA NO: C-1

MEETING DATE: May 22, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: Jeffery Heller
Sent: Friday, May 18, 2018 4:44 PM
To: Scott Collins
Cc: Jennifer Callaway; Council
Subject: Correspondence for Item C-1 for MBCC Mtg scheduled for 5/22/18

Hi Scott,

As you know---I've asked for clarification for at least 6 months now of how the money generated from the 2015 rate increases has been saved (spent). A simple one page document that any resident can understand. How much has been brought in by the three increases, how much has been spent, how much as been saved. Hopefully you have put this information together already.

The basis for the rate increases as described in the Public Notice dated 5/26/15 were:

1. \$6.5M of water system capital improvements needed in the next 5 years;
2. \$75M wastewater treatment plant" (MB + Cayucos);
3. \$7.6M high priority sewer infrastructure improvement needs; and \$2M of deferred maintenance and rehabilitation of the existing plant.
4. Also mentioned was the State's \$25B Bay-Delta Conservation plan (which was recently reduced to \$17B and will be paid for primarily by southern California water districts).

I have not be able to locate this information as a single page document as yet. Has the City compiled it? If so --please refer me to the link where I can find the information. As you know--one of CAL's major objections to the now \$150M WRF project, has been the City's history of not being able to provide this information in an easily digestible format.

Item C-1 for the council meeting next week is part of the issue. The description states that the work done by Carollo as part of their "OneWater" consulting agreement details "costs in water and collection systems CIPs which will be incorporated into the rate study analysis that is currently being developed for the WRF", and that these costs will be applied to "future operational and capital budgets".

So--how much remains(has been spent) over the past three years of the \$14.1M CIPs and the \$75M wastewater treatment plant that were the basis of the 2015 rate increases?

Again---if this information exists and has been issued in a format understandable by the average resident---please point me to it. If the information does not exist---the council should direct staff to stop all Carollo work until the information is presented clearly and simply to the residents of Morro Bay.

Regards

Jeff Heller