



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

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## Regular Meeting Tuesday, April 26, 2022 – 5:30 P.M. Veterans Memorial Hall 209 Surf St., Morro Bay, CA

Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953 this Meeting will be conducted in a hybrid format with both in-person and virtual public participation. Ways to watch this meeting and submit public comment are provided below.

### **Public Participation:**

Public participation is allowed in the following ways:

- Community members may attend the meeting in person at the Morro Bay Veterans Hall.
- Alternatively, members of the public may watch the meeting and speak during general Public Comment or on a specific agenda item by logging in to the Zoom webinar using the information provided below. Please use the “raise hand” feature to indicate your desire to provide public comment.

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHlRTk9xaTlmWVNWRFUQT09>

Password: 135692

- Or Telephone Attendee: 1 (408) 638-0968 or 1 (669) 900 6833 or 1 (346) 248 7799; Webinar ID: 827 2274 7698; Password: 135692; Press \*9 to “Raise Hand” for Public Comment

- Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).
- Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at [council@morrobayca.gov](mailto:council@morrobayca.gov) prior to the meeting. Agenda Correspondence received at [council@morrobayca.gov](mailto:council@morrobayca.gov) by 10 a.m. on the meeting day will be posted on the City website.

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE  
PLEDGE OF ALLEGIANCE  
RECOGNITION  
CLOSED SESSION REPORT  
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS  
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

#### PRESENTATION

- Sexual Assault ACTION Month Proclamation
- World War II Commemoration Week Proclamation
- National Police Week Proclamation
- Morro Bay Transit 45<sup>th</sup> Anniversary (Transit Week) Proclamation
- Proclamation for Appreciation for Tami and Randy Ponder

#### PUBLIC COMMENT

Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council at this time.

Public comment is an opportunity for members of the public to provide input to the governing body. To increase the effectiveness of the Public Comment Period, the City respectfully requests the following guidelines and expectations be followed:

- Those desiring to speak are asked to complete a speaker slip, which are located at the entrance, and submit it to the City Clerk. However, speaker slips are not required to provide public comment.
- When recognized by the Mayor, please come forward to the podium to speak. Though not required, it is helpful if you state your name, city of residence and whether you represent a business or group. Unless otherwise established by the Mayor, comments are to be limited to three minutes.
- All remarks should be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.
- The Council in turn agrees to abide by its best practices of civility and civil discourse according to Resolution No. 07-19.

#### A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE APRIL 12, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-2 SECOND READING AND ADOPTION OF ORDINANCE NO. 649, ADOPTING A MILITARY EQUIPMENT USE POLICY CONSISTENT WITH AB 481 REQUIREMENTS; (POLICE DEPARTMENT/CITY ATTORNEY)

**RECOMMENDATION: Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 649, "An Ordinance of the City Council of the City of Morro Bay, California Adopting a Military Equipment Use Policy Consistent with AB 481 Requirements."**

A-3 SECOND READING AND ADOPTION OF ORDINANCE NO. 651 AMENDING MORRO BAY MUNICIPAL CODE SECTION 3.26.120 TO REDUCE THE CITIZENS OVERSIGHT COMMITTEE MEMBERSHIP TO FIVE MEMBERS AND UPDATE THE TIMING OF THE ANNUAL REPORT TO CITY COUNCIL; (CITY MANAGER/ADMINISTRATIVE SERVICES DEPARTMENT)

**RECOMMENDATION: Staff recommends the City Council adopt, by second reading by title only, with further reading waived, Ordinance No. 651, "An Ordinance of the City Council of the City of Morro Bay, California, Amending Sections 3.26.120(B) and 3.26.120(E) of the Morro Bay Municipal Code (MBMC) regarding Citizens Oversight Committee Membership and Report Timing."**

A-4 PROCLAMATION DECLARING APRIL 2022 AS SEXUAL ASSAULT ACTION MONTH; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-5 PROCLAMATION HONORING WORLD WAR II COMMEMORATION WEEK; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-6 PROCLAMATION ACKNOWLEDGING NATIONAL POLICE WEEK AND NATIONAL PEACE OFFICERS MEMORIAL DAY; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-7 PROCLAMATION HONORING MORRO BAY TRANSIT'S 45<sup>TH</sup> ANNIVERSARY AND MORRO BAY TRANSIT WEEK; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-8 PROCLAMATION OF APPRECIATION FOR TAMI AND RANDY PONDER; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

C. BUSINESS ITEMS

C-1 WATER RECLAMATION FACILITY (WRF) PROGRAM – RECYCLED WATER FACILITIES – INJECTION WELL NO. 1 CONTRACT AWARD IN THE AMOUNT OF \$346,725.00 (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION: Staff recommends the City Council authorize the City Manager to execute a contract, subject to the City Attorney's approval as to form, with Pacific Coast Well Drilling Inc. (PCWD) in the amount of \$346,725.00 and include a \$9,900 bid alternate for a total contract amount of \$356,625.00 for the construction and injection testing of the City's Injection Well No. 1.**

C-2 REVIEW OF RESERVE POLICIES, CONSIDER ADOPTING A PROPOSED PENSION RESERVE POLICY, AND REVIEW POTENTIAL SECTION 115 PENSION TRUST CONTRIBUTION; (ADMINISTRATIVE SERVICES DEPARTMENT)

**RECOMMENDATION: Staff recommends that the City Council:**

**1. Adopt Resolution No. 37-22 which:**

- **Implements a proposed pension reserve policy; and**
- **Approves the updated and consolidated City Reserve Policy, which does not make changes to reserve levels but simplifies the enterprise fund reserve tracking and accounting as outlined in this report; and**

2. Provide direction to staff regarding a potential Section 115 pension trust contribution in FY 2022-23, with a recommendation that Council direct staff to work with NHA Advisors, one Citizen Finance Advisory Committee (CFAC) member, and one Council Member (to be designated by Council if Council desires) to select a section 115 trust provider and return to Council with formation documents and a risk portfolio selection depending on the specific offerings of the selected provider.

C-3 REVIEW AND DISCUSSION OF PROPOSED REVISIONS TO THE CITY COUNCIL POLICIES & PROCEDURES AND ADVISORY BODIES HANDBOOK AND BY-LAWS AS RECOMMENDED BY THE COUNCIL SUB-COMMITTEE AND CLARIFICATION REGARDING THE PUBLIC WORKS ADVISORY BOARD'S REVIEW OF THE WATER RECLAMATION FACILITY ("WRF") PROJECT; (CITY MANAGER)

**RECOMMENDATION:** Staff recommends the City Council discuss proposed revisions to the City Council Policies & Procedures and Advisory Bodies Handbook & By-Laws and take the following actions: 1) Adopt Resolution No. 38-22 amending the City Council Policies & Procedures; and 2) Adopt Resolution No. 39-22 amending the Advisory Bodies Handbook & By-Laws; and 3) Direct the Public Works Advisory Body to review the WRF Quarterly Report and, to the extent possible, contract amendments related to the WRF Project. The Citizens Finance Advisory Committee's role related to WRF review will continue to include the following as directed by Council in December 2020: 1) Review debt service recommendations from staff including use of cash vs. other funding sources and analysis of impacts on rates; 2) Review of cash flow performance to ensure we maximize the use of funds (time use of money); and 3) Monitor compliance with drawdown requirements for WIFIA and WRF funding.

C-4 WATER RECLAMATION FACILITY (WRF) PROGRAM QUARTERLY REPORT DRAFT FORMAT; (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION:** Staff recommends the City Council provide feedback and approve the draft format of the WRF program quarterly report.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, May 10, 2022 at 5:30 p.m.**

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 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 805-772-6205 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION UPON REQUEST BY CALLING THE CITY CLERK'S OFFICE AT 805-772-6205.

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 REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

*City Council conducted this meeting in accordance with Assembly Bill 361 (2021-22) and Government Code section 54953 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:            John Headding                    Mayor  
                         Dawn Addis                        Council Member  
                         Laurel Barton                     Council Member  
                         Jennifer Ford                    Council Member  
                         Jeff Heller                        Council Member

ABSENT:            None

STAFF:             Scott Collins                     City Manager  
                         Chris Neumeyer                City Attorney  
                         Lona Laymon                    Assistant City Attorney  
                         Colin Tanner                    Special Counsel  
                         Greg Kwolek                    Public Works Director  
                         Eric Endersby                   Harbor Director

**ESTABLISH QUORUM AND CALL TO ORDER**

Mayor Headding called the meeting to order at 4:00 p.m. with all members present.

**SUMMARY OF CLOSED SESSION ITEMS** – The Mayor read a summary of Closed Session items.

**CLOSED SESSION PUBLIC COMMENT** – Mayor Headding opened public comment for items on the agenda; seeing none, the public comment period was closed.

The City Council moved to Closed Session and heard the following items:

**CS-1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GOVERNMENT CODE SECTION 54956.8**

Property:            Lease Site 78-81/78W-81W, Dutchman’s Seafood House, 701 Embarcadero Rd.  
Property Negotiators: Paul and Leon Van Beurden  
Agency Negotiators: Eric Endersby, Harbor Director; Scott Collins, City Manager; and Chris Neumeyer, City Attorney  
Negotiation:        Price and Terms of Payment

**CS-2 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8**

Property:            Assessor Parcel No. 073-010-017  
Property Negotiators: Michael Martz, et al.  
Agency Negotiators: Scott Collins, City Manager; Greg Kwolek, Public Works Director; Kyle Rohrer, WRF Program Manager and Chris Neumeyer, City Attorney  
Under Negotiation: Price and Terms of Payment

**CS-3 CONFERENCE WITH LABOR NEGOTIATORS**

City Designated Representative: Colin Tanner, Special Labor Counsel  
Employee Organizations: Morro Bay Firefighters’ Association; Morro Bay Peace Officers’ Association; Service Employee’s International Union - SEIU Local 620; and unrepresented Management, Confidential and Executive employees

RECONVENE IN OPEN SESSION – The City Council reconvened in Open Session. The Council did not take any reportable action in accordance with the Brown Act.

ADJOURNMENT - The meeting adjourned at 4:38 p.m.

Recorded by:

Dana Swanson  
City Clerk



**AGENDA NO: A-2**

**MEETING DATE: April 26, 2022**

# Staff Report

**TO: Honorable Mayor and City Council**

**DATE: April 21, 2022**

**FROM: Police Chief Jody Cox**

**SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 649, ADOPTING A MILITARY EQUIPMENT USE POLICY CONSISTENT WITH AB 481 REQUIREMENTS**

## **RECOMMENDATION**

Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 649, "An Ordinance of the City Council of the City of Morro Bay, California Adopting a Military Equipment Use Policy Consistent with AB 481 Requirements."

## **ALTERNATIVES**

There are no currently available alternatives prior to taking certain actions relating to the funding, acquisition, or use of "military equipment" as defined by AB 481.

## **FISCAL IMPACT**

No current fiscal impacts and there are no new financial considerations for existing/currently owned equipment and/or munitions.

## **BACKGROUND**

Assembly Bill 481 (AB 481 or the Bill), codified in Government Code sections 7070 through 7075, requires a law enforcement agency (LEA) to obtain approval from the applicable governing body, via adoption of a "Military Equipment" use policy (the Policy) by ordinance (the Ordinance), prior to the LEA funding, acquiring, or using military equipment. The Morro Bay Police Department (MBPD) seeks City Council adoption of the attached Military Equipment Use Policy – MBPD Policy #707 (Exhibit "A"), in order to allow MBPD to continue to use the vital equipment specified therein, as well as continue to use equipment operated through our Regional S.W.A.T. (Special Weapons and Tactics) Team and allied agencies as would be requested in emergency situations.

Items deemed to be "military equipment" by AB 481 are used as a component of overall best practices for Law Enforcement Agencies (LEAs) throughout the country. These tools have been tested in the field and are used by LEAs to enhance citizen and officer safety. Loss of these items would jeopardize the welfare of citizens and peace officers within the City of Morro Bay and surrounding communities. The term "military equipment", as used in AB 481, in fact does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, items deemed to be "military equipment"

Prepared By:   JC                   Dept Review:                     
City Manager Review:                    City Attorney Review:   CFN

include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, long range acoustic devices, and flashbangs.

MBPD is committed to using the most up to date tools and equipment to safeguard the citizens of Morro Bay. Many of the items deemed to be “military equipment” by AB 481 are in fact employed by MBPD, and LEAs across the country, in order to specifically reduce risk to community members. These items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the items at issue in this report, and accompanying Military Equipment Use Policy, also provide MBPD’s peace officers with vital tools that facilitate compliance with its stringent use of force policy.

Other items deemed to be “military equipment” via AB 481 include foundational equipment such as certain rifles. These rifles allow peace officers to address lethal threats from a greater distance and with greater precision.

Along with seeking authorization to use preexisting equipment, the MBPD also seeks authorization to continue to partner with and utilize (by request) the assistance of our Regional SWAT team and allied agencies, and the equipment owned/utilized by these agencies as members of this regional team travel between our communities to provide emergency law enforcement assistance (as outlined in AB481).

## **DISCUSSION**

The City Council introduced the ordinance for first reading on April 12, 2022.

There is significant interest in ensuring that law enforcement continues to have access to equipment that will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The use of the tools/equipment identified in the attached MBPD Equipment Inventory List (Exhibit “B”) are vital to MBPD’s mission and will continue to be strictly regulated through internal processes and oversight.

The proposed ordinance seeks to approve the new MBPD Military Equipment Use Policy (#707, Exhibit “A”). This policy (and its accompanying attachment, Equipment Inventory List, Exhibit “B”) outlines each item identified in Government Code section 7070, that is currently owned by the City. The policy also includes the current use and cost of each item (as required). These particular items, and their stated uses, have been in place prior to the implementation of AB 481. Future acquisitions of any item deemed to be “military equipment” not currently owned/deployed by the MBPD will require a further public meeting, policy update, and council approval.

The proposed policy (#707) safeguards the public’s welfare, safety, civil rights and civil liberties. The policy ensures that there are safeguards, including transparency, oversight, and accountability measures in place. For instance, Policy #707 requires that MBPD’s Operations Commander will ensure that MBPD complies with Policy #707. MBPD will conduct an annual audit of military equipment. Any noted violations of policy will be corrected immediately when discovered. Members of the public are provided direction per the policy on how to register complaints for any alleged violations. All items which result in a use of force will be investigated, as is already required by existing MBPD policy.

There are no reasonable alternatives to the items listed in the attached “Equipment List.” MBPD has not discovered alternative items that can achieve the same objectives of officer and civilian safety.

Each item's necessity is further described in the Equipment Inventory List.

### **CONCLUSION**

Assembly Bill 481, codified at California Government Code sections 7070 through 7057, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a "military equipment" use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The Term "military equipment" is defined in California Government Code section 7070.

Per the current legislation, agencies seeking to continue using military equipment (as defined by AB 481) acquired prior to Jan. 1, 2022, have until May 1, 2022 to commence the governing body approval process described by the statute, and then have 180 days from submission of the proposed policy to approve the policy.

Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 649, "An Ordinance of the City Council of the City of Morro Bay, California Adopting a Military Equipment Use Policy Consistent with AB 481 Requirements."

### **ATTACHMENTS**

1. Proposed MBPD Policy #707 "Military Equipment" (Exhibit "A")
2. Proposed MBPD Equipment Inventory (Exhibit "B")
3. Ordinance No. 649

**ORDINANCE NO. 649**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
ADOPTING A MILITARY EQUIPMENT USE POLICY  
CONSISTENT WITH AB 481 REQUIREMENTS**

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

**WHEREAS**, On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies; and

**WHEREAS**, Assembly Bill 481, codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term “military equipment” is defined in California Government Code section 7070; and

**WHEREAS**, Assembly Bill 481 allows the governing body of a city to approve the funding, acquisition, or use of defined military equipment within its jurisdiction only if it makes specified determinations; and

**WHEREAS**, The proposed military equipment use policy is found within Morro Bay Police Department Policy #707 (Exhibit “A”) (“Policy”); and

**WHEREAS**, Morro Bay Police Department (proposed) Policy #707 was published on the Morro Bay Police Department’s internet website on March 11, 2022. The Morro Bay Police Department Policy was presented to City Council on April 12, 2022, and

**WHEREAS**, this ordinance and the Morro Bay Police Department Policy #707 (exhibit “A”) and the Attachment “Morro Bay Police Department Military Equipment Inventory List” (exhibit “B”) meets the requirements of California Government Code section 7070, subdivision (d) and 7071 subdivision (a) (1).

**WHEREAS**, once adopted, the Policy will be made publicly available on the MBPD’s website for as long as the covered military equipment is available for use; and

**WHEREAS**, in accordance with AB 481, the Policy is being agendaized as an open session item at a regular meeting of the City Council, and public comment on the item will be allowed in accordance with the Brown Act; and

**WHEREAS**, this ordinance shall be reviewed by the City Council at least annually, and based on an annual military equipment report that will be submitted to the City Council pursuant to AB 481, the City Council shall determine whether each type of military equipment identified in the report has complied with the standards for continued approval.

**NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:**

**SECTION 1. DETERMINATIONS**

The foregoing recitals are true and correct and incorporated herein by this reference. Based on the foregoing recitals, in addition to information provided to the City Council at the public meeting to consider the same, the City Council determines as follows:

1. The military equipment identified in Morro Bay Police Policy #707 (and Attachment “Morro Bay Police Department Military Equipment Inventory List”) is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. Morro Bay Police Policy # 707 will safeguard the public’s welfare, safety, civil rights, and civil liberties.
3. The military equipment identified in Morro Bay Police Policy #707 (and attached “Military Equipment Inventory List”) is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. The City did not previously have a prior military equipment use policy but as to any prior uses that do not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
5. The City Council, therefore, hereby approves and adopts the attached Morro Bay Police Military Equipment Use Policy #707 (exhibit “A”) (and attached “Military Equipment Inventory List”, exhibit “B”).

**SECTION 2. SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

**SECTION 3. EFFECTIVE DATE**

This ordinance shall be in full force and effect thirty (30) days after its passage.

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**SECTION 4. CERTIFICATION**

The City Clerk shall certify as to the passage and adoption of this ordinance, and the City Clerk shall cause the same to be posted and codified in the manner required by law.

**INTRODUCED** at a regular meeting of the City Council of Morro Bay, held on the 12<sup>th</sup> day of April 2022 by motion of Councilmember Heller, seconded by Mayor Heading.

**PASSED AND ADOPTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRISTOPHER F. NEUMEYER, City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF SAN LUIS OBISPO )  
CITY OF MORRO BAY            )

I, Dana Swanson, City Clerk for the City of Morro Bay, California, do hereby certify that the foregoing Ordinance No. 649 was duly passed and adopted by the City Council of the City of Morro Bay at the regular meeting thereof, held on the \_\_\_\_ day of \_\_\_\_\_ 2022, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
DANA SWANSON, City Clerk

## Military Equipment

### 707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, funding, use and reporting requirements of military equipment as the term is defined in Government Code § 7070; Government Code § 7071 and Government Code § 7072. This policy is provided to fulfill the obligations set forth in Assembly Bill No. 481 (2021-22). These obligations include but are not limited to seeking approval on specific items deemed to be military equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.

#### 707.1.1 PHILOSOPHY

The acquisition of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

#### 707.1.2 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

**Governing body** – The elected or appointed body that oversees the Department.

**Military equipment** – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms and ammunition of less than .50 caliber.

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### *Military Equipment*

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- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

#### **707.2 POLICY**

It is the policy of the Morro Bay Police Department that members of this department comply with the provisions of Government Code § 7070-7075 with respect to military equipment.

#### **707.3 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police will designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Morro Bay Police Department (Government Code § 7071). (ie; Regional S.W.A.T. Team)
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
  1. Publicizing the details of the meeting.
  2. Preparing for public questions regarding the department's funding, acquisition, and use of military equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

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## *Military Equipment*

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### **707.4 MILITARY EQUIPMENT INVENTORY**

The following constitutes a list of qualifying equipment for the Department:

\* See Attachment of defined Military Equipment Inventory List.

### **707.5 APPROVAL**

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

#### **707.5.1 MILITARY EQUIPMENT USE CONSIDERATIONS**

1. The military equipment acquired and authorized by the Department is:

- a. Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- b. Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

2. Military equipment shall only be used by a Department employee only after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances arise.

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#### **707.6 COORDINATION WITH OTHER JURISDICTIONS**

Military equipment used by any member of this agency shall be approved for use and in accordance with this Department policy. The Morro Bay Police Department participates in the San Luis Obispo County Regional Special Weapons and Tactics (SWAT) team and works closely with other local, county, state and federal law enforcement partners in specific events which may include natural disasters, civil unrest, or high-risk criminal incidents. In planned or exigent circumstances, and with the approval of the Chief of Police or their designee, military equipment may be deployed by these law enforcement partners to promote the safety and security of the Morro Bay community. Military equipment used by other agencies/jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective AB481 compliant and approved military equipment use policies in rendering mutual aid. The Chief of Police or their designee will provide information during the annual report on the use of military equipment within the city limits of Morro Bay by other law enforcement partners.

#### **707.7 ANNUAL REPORT**

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

The annual military equipment report shall, at a minimum, include the following information:

- a. A summary of how the military equipment was used and the purpose of its use.
- b. A summary of any complaints or concerns received concerning the military equipment.
- c. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- d. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- e. The quantity possessed for each type of military equipment.
- f. If MBPD intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

##### **707.7.1 CATALOGING OF MILITARY USE EQUIPMENT**

All military use equipment kept and maintained by the Morro Bay Police Department shall be cataloged in a way which addresses each of the following requirements:

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### *Military Equipment*

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- (a) The manufacturers description and/or general description of the equipment.
- (b) The capabilities of the equipment.
- (c) The purposes and authorized uses for which the Department proposes to use the equipment.
- (d) The expected lifespan of the equipment.
- (e) The fiscal impact of the equipment, both initially and for on-going maintenance.
- (f) The quantity of the equipment, whether maintained or sought.
- (g) The legal and procedural rules that govern each authorized use.
- (h) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer of this agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights and civil liberties and full adherence to the military equipment use policy.

#### 707.7.2 COMPLIANCE

- (a) The Department Operations Commander will ensure that all Department members comply with this policy. The Commander will conduct an annual audit with the assistance of the Training Division and Range Master. The Chief of Police or designee will be notified of any policy violations and, if needed, the violation(s) will be referred to the Internal Affairs Division and handled in accordance with Dept. Policy. All instances of non-compliance will be reported to City Council via the annual military equipment report.
- (b) Any member of the public can register a question or concern regarding military use equipment by contacting the Morro Bay Police Department via phone, email or in person. A response to the question or concern shall be completed by the Department in a timely manner.
- (c) 3. Any member of the public can submit a complaint to any member of the Department and in any form (i.e. in person, telephone, email, etc.). Once the complaint is received, it should be routed to the Operations Commander in accordance with Dept. Policy #1012 (Personnel Complaints).

#### 707.7.3 FUNDING

The Department shall seek council approval for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

1. The Department has authority to apply for funding prior to obtaining council approval in the case of exigent circumstances. The Department shall obtain council approval as soon as practicable.

#### **707.8 COMMUNITY ENGAGEMENT**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which

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the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.



## CITY OF MORRO BAY

POLICE DEPARTMENT

850 Morro Bay Boulevard  
Morro Bay, CA 93442

### **MBPD Military Equipment Use Policy/Inventory List**



The Morro Bay Police Department does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use.

Regardless, California Assembly Bill No. 481 and Government Code §7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing body for approval.

California Government Code §7070 provides a list of equipment types that are considered to be “military equipment” for purposes of this policy requirement, and this Military Equipment Use Policy includes information for any such equipment types that are possessed by the Morro Bay Police Department, or reasonably likely to be deployed in Morro Bay by other law enforcement partners.

California Government Code §7070(d) describes a Military Equipment Use Policy as a publicly released, written document that includes, at a minimum, all of the following:

1. A description of each type of Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.
2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Military Equipment.
3. The fiscal impact of each type of Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
4. The legal and procedural rules that govern each authorized use.
5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment use policy.
6. The mechanisms to ensure compliance with the Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

California Government Code § 7070(c) defines Military Equipment as any of the following:

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
13. Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

Pursuant to California Government Code §7070(d)(6), and in accordance with California Government Code §7072, the Morro Bay Police Department will submit to the Morro Bay City Council an Annual Military Equipment Report and will make that report publicly available on its internet website. The Annual Military Equipment Report will include the following information for the immediately preceding calendar year for each type of military equipment:

1. A summary of how the military equipment was used and the purpose of its use.
2. A summary of any complaints or concerns received concerning the military equipment.
3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Morro Bay City Council will use the Annual Military Equipment Report as a mechanism to ensure the Morro Bay Police Department’s compliance with this Military Equipment Use Policy, and to help it determine whether to approve, revise, or revoke components of the Military Equipment Use Policy for the subsequent year.

Pursuant to California Government Code §7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment in this policy by any of the following means:

1. Via email to: [mbpdmedia@morrobayca.gov](mailto:mbpdmedia@morrobayca.gov)
2. Via phone call to: (805) 772-6284
3. Via mail sent to:
  - Morro Bay Police Department
  - Attn: Military Equipment Use Coordinator
  - 850 Morro Bay Blvd.
  - Morro Bay CA. 93442

The Morro Bay Police Department is committed to responding to complaints, concerns and/or questions received through any of the above methods in a timely manner.

The remainder of this Military Equipment Use Policy is divided into two sections. Section One lists qualifying equipment that is owned and/or utilized by the Morro Bay Police Department. Section Two lists qualifying equipment that is not owned or regularly utilized by the Morro Bay Police Department, but which is known to be owned and/or utilized by certain law enforcement agencies/units with which the Morro Bay Police Department collaborates and/or participates for law enforcement purposes.

**Section One: Qualifying Equipment Owned/Utilized by the Morro Bay Police Department**

<b>Equipment Type:</b> Unmanned Aircraft Systems (UAS/Drones) – CA Gov’t Code §7070(c)(1)	
<b>Quantity Owned/Sought:</b> 3 owned	<b>Lifespan:</b> Approximately 5 years
<b>Equipment Capabilities:</b> Remotely piloted aerial vehicles capable of providing live and recorded video images captured from aerial positions, including images enhanced by Forward Looking Infrared (FLIR) and optical zoom lenses.	
<b>Manufacturer Product Description:</b>	
<p><b>DJI Inspire:</b> The DJI Inspire 1 is a powerful, quadcopter flight platform capable of capturing 4K video and transmitting an HD signal to multiple devices. It is equipped with retractable landing gear to allow capture of an unobstructed 360-degree view from its camera. The built-in camera has an integrated gimbal to maximize stability and weight efficiency while minimizing space. When no GPS signal is available or is lost, Vision Positioning technology provides hovering precision for maximum safety. The DJI Inspire 1 also has an attachable Zenmuse XT FLIR Longwave Thermal Imaging Camera System which provides high-sensitivity infrared imaging for enhanced performance during search and rescue operations, locating missing persons, assisting on fire responses and other emergency situations. The Inspire 1 weighs approx. 6.74 lbs. fully equipped, can reach speed of approx. 16 ft/s, and has an approx. 25-30 min. flight time.</p> <p><b>DJI Phantom 4:</b> The DJI Phantom 4 Pro is an extremely smart sUAS flying camera with multi-directional collision avoidance technology made up of vision and infrared sensors, making it intelligently avoid obstacles during flight. Its camera system offers unprecedented image quality with greater clarity, lower noise, higher resolution photos and videos. Dual frequency support in the remote controller makes the HD video downlink more efficient and more stable. The Phantom 4 Pro features a more efficient propulsion system allowing a 4db (60%) operational noise reduction. The</p>	

Phantom 4 Pro weighs approx. 1375g, has a max. speed of approx. 40mph and an Intelligent Flight battery system allows for approx. 25 min. flight time.

**Mavic II Enterprise:** The DJI Mavic II Enterprise features omnidirectional Vision Systems and Infrared Sensing Systems and comes with a fully stabilized 3-axis gimbal camera with an equivalent 24-48 mm 2x optical enterprise lens capable of shooting 4k videos and 12-megapixel photos that support up to 6x FHD zoom. DJI signature technologies such as Obstacle Sensing and the Advanced Pilot Assistance System, help you capture complex shots effortlessly. Additional features like the built in AirSense make you aware of your surrounding airspace, and password protection helps you maintain secure access to your aircraft and protect your data. The Mavic II Enterprise also has attachable modular accessories like the M2E spotlight, M2E Beacon, and M2E Speaker that are purpose built for various applications. The Mavic II Enterprise boasts a maximum flight speed of 44.7 mph and a maximum flight time of 31 minutes.

**Purpose/Authorized Uses:** UAS/Drones may be utilized to enhance the Department's mission of protecting lives and property when other means and resources are not available or are less effective. Uses may include but are not limited to: search and rescue; suspect apprehension; crime scene documentation; tactical operations; scene security; hazard monitoring, identification and mitigation; response to emergency calls; crisis communications; legally authorized surveillance.

**Fiscal Impacts:** The initial costs of equipment, licensing, software and training was approximately \$20,000 which was funded with SLESF COPS Grant Funds. Ongoing cost associated with UAS operation, maintenance and training is estimated to be approximately \$5,000 per year.

**Legal/Procedural Rules Governing Use:** Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

**Training Required:** Prior to piloting any UAS/Drone staff members must secure an FAA Remote Pilot License and complete all training required by our FAA COA.

**Other Notes:** None.

**Equipment Type:** Semiautomatic Rifles and Ammunition - CA Gov't Code §7070(c)(10)

**Quantity Owned/Sought:** 18 owned

**Lifespan:** Approximately 15 years

**Equipment Capabilities:** The Aero Precision X15 semiautomatic rifle is capable of firing 5.56mm projectile bullet.

**Manufacturer Product Description:** The Aero Precision X15 rifle features the Atlas R-ONE 10.5" barrel, front and rear folding aluminum sights, Aimpoint Red Dot Laser sight system, Inforce WMLX Tactical light, Blue Force Vickers Sling system and Magpul Gen. 2 (30 rd.) magazine.

**Purpose/Authorized Uses:** Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include but are not limited to:

1. Situations where the officer reasonably anticipates an armed encounter.

<p>2. When an officer is faced with a situation that may require accurate and effective fire at long range.</p> <p>3. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.</p> <p>4. When an officer reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.</p> <p>5. When an officer reasonably believes that a suspect may be wearing body armor.</p> <p>6. When authorized or requested by a supervisor.</p>
<p><b>Fiscal Impacts:</b> The initial cost of equipment was approximately \$18,000 funded by SLESF COPS Grant. The ongoing costs for ammunition will vary and maintenance is conducted by departmental staff and/or certified armorer.</p>
<p><b>Legal/Procedural Rules Governing Use:</b> All applicable State, Federal and Local laws governing police use of force. Various Morro Bay Police Department Policies on Use of Force and Firearms.</p>
<p><b>Training Required:</b> Officers must successfully complete a CA POST certified 24-hour patrol rifle course as well as regular department firearms training and qualifications as required by law and policy.</p>
<p><b>Other Notes:</b> These rifles are standard issue service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and in the interest of transparency.</p>

<p><b>Equipment Type:</b> 40mm Less Lethal Launchers and Kinetic Energy Munitions – CA Gov't Code §7070(c)(14)  12 Ga. Less-Lethal Shotgun and bean bag munitions- CA Gov't Code §7070(c)(14)  Pepperball Gas powered Launchers- CA Gov't Code §7070(c)(12)</p>	
<p><b>Quantity Owned/Sought:</b> 40 mm Launchers (2) (back ordered). 12 Ga. Less-Lethal shotguns (5), Pepper ball gas powered launchers (2)</p>	<p><b>Lifespan:</b> Approximately 10-15 years</p>
<p><b>Equipment Capabilities:</b> The 40mm Less Lethal Launcher is capable of firing 40mm Kinetic Energy Munitions, which are essentially rubber, foam, pepper ball or bean bag projectiles, Smoke grenades and/or Gas.  The Remington 12 GA. Less-Lethal shotgun can fire a bean bag munition.  The Pepperball FTC launcher is capable of firing pepper balls.</p>	
<p><b>Manufacturer Product Description:</b>  <b>40mm Single Tube Launcher, DT-LMT 1425:</b> Manufactured exclusively for Defense Technology®, the 40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stock and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single- and two-point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems.  <b>40mm Multi Tube Launcher, DT-LMT 1440:</b> Designed for riot and tactical situations, the Defense Technology® 1440 40mm Tactical 4-Shot Launcher is low-profile and lightweight, providing multi-shot capability in an easy to carry launcher. It features the Rogers Super Stoc™ expandable gun stock, an adjustable Picatinny mounted front grip, and a unique direct-drive system to advance the magazine</p>	

cylinder. These launchers are light weight, versatile and used worldwide by police and corrections officers.

**Remington 870 12 GA. Less-Lethal shotgun:** Pump action shotgun manufactured by Remington Arms for sport shooting, hunting and self-defense and used by law enforcement organizations worldwide. These firearms are distinctively marked with orange and designated solely as less-lethal force options.

**Pepperball FTC Gas powered Launcher:** Pepper Ball is the most versatile non-lethal system available, allowing officers to deploy it in a wide range of situations. The pepper ball FTC launcher is a high-capacity, semi-automatic launcher. It weighs 2.95 lbs., operates at 3000 psi with an accuracy range of approx. 65 feet and holds approx. 180 rounds. It has full mechanical operation, front and rear sights and an electronic anti-jam loading feature. These launchers are distinctly yellow in color for easy identification as a less/non-lethal use of force option.

**Purpose/Authorized Uses:** The 40mm Less Lethal Launchers, 12 GA. Less-Lethal shotguns and Pepperball Launchers and Kinetic Energy Munitions are intended for use as a less lethal use of force options.

**Fiscal Impacts: 40mm-** initial cost of this equipment was approx. \$3,000 purchased through SLESF COPS Grant funds.

**Remington 870 12 Ga.-** initial cost of this equipment was approx. \$5,000 (general fund).

**Pepper Ball FTC Gas Launcher-** initial cost of this equipment was approx. \$2,362 purchased through SLESF COPS Grant funds.

The ongoing costs for munitions will vary (based on use/training) and maintenance is conducted by departmental staff and/or a certified armorer.

**Legal/Procedural Rules Governing Use:** All applicable State, Federal and Local laws governing police use of force. Various Morro Bay Police Department Policies on Use of Force and Crowd Control.

**Training Required:** Officers must complete a department approved/certified 40mm course, 12 GA. Less-lethal course and specified Pepperball training as well as regular firearms training and qualifications as required by law and policy.

**Other Notes:** None.

**Section Two: The following list of Qualifying Equipment may be owned and/or utilized by law enforcement units with which the Morro Bay Police Department collaborates and/or participates for law enforcement purposes; to include but not limited to: SLO Regional SWAT, SLO County Sheriff Dept., CHP, State Parks, Calif. Dept. of Fish and Wildlife. \*(Not all agencies own/utilize each of these equipment items).**

**Equipment Type:** Unmanned, remotely piloted, powered ground vehicles - CA Gov't Code §7070(c)(1)

**Quantity Owned/Sought:** None (outside owned) | **Lifespan:** Estimate approx. 15 years

**Equipment Capabilities:** Vehicles are capable of being remotely navigated to provide scene information and intelligence in the form of video and still images transmitted to first responders.

**Manufacturer Product Description/General Description:** Remote vehicle to be operated on the ground without need/requirement of human presence on board.

**Purpose/Authorized Uses:** To enhance the safety of potentially dangerous situations by providing first responders with the ability to capture video and still images of hazardous areas prior to, or in lieu of, sending in personnel.

<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.
<b>Legal/Procedural Rules Governing Use:</b> The use of unmanned, remotely piloted, powered ground vehicles potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to all applicable privacy laws and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure).
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members prior to allowing them to pilot these vehicles.
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.

<b>Equipment Type:</b> Mine Resistant Ambush Protected Vehicles (MRAP) - CA Gov't Code §7070(c)(2)	
<b>Quantity Owned/Sought:</b> None (outside owned)	<b>Lifespan:</b> Estimate approx. 15 yrs.
<b>Equipment Capabilities:</b> Capable of transporting personnel and equipment while providing them with armored protection from gunfire.	
<b>Manufacturer Product Description/General Description:</b> Commercially produced wheeled armored personnel vehicle utilized for law enforcement purposes.	
<b>Purpose/Authorized Uses:</b> To move personnel and/or resources in support of tactical operations in which there is reason to expect potential armed resistance requiring protection.	
<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.	
<b>Legal/Procedural Rules Governing Use:</b> The MRAP can be deployed any time tactical operators determine that there is a need to move personnel and/or resources into areas in which they have reason to expect potential armed resistance requiring its protection.	
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members prior to allowing them to drive MRAP vehicles.	
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.	

<b>Equipment Type:</b> Wheeled vehicles that have a breaching apparatus attached - CA Gov't Code §7070(c)(3)	
<b>Quantity Owned/Sought:</b> None (outside owned)	<b>Lifespan:</b> Estimate approx. 15 yrs.
<b>Equipment Capabilities:</b> Capable of breaching doors, gates, and other points of entry.	
<b>Manufacturer Product Description/General Description:</b> The breaching vehicle/apparatus is a mobile armored breaching system to allow safe and effective entry methods into high-risk or fortified locations to maximize officer and civilian safety.	
<b>Purpose/Authorized Uses:</b> Breaching doors, gates, and other points of entry.	
<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.	
<b>Legal/Procedural Rules Governing Use:</b> Breaching vehicles can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances.	
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members prior to allowing them to drive breaching vehicles.	
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.	

<b>Equipment Type:</b> Battering rams, slugs, and breaching apparatus that are explosive in nature - CA Gov't Code §7070(c)(7)	
<b>Quantity Owned/Sought:</b> None (outside owned)	<b>Lifespan:</b> Estimate approx. 15 yrs.
<b>Equipment Capabilities:</b> Capable of breaching doors, gates, windows, and other points of entry.	
<b>Manufacturer Product Description/General Description:</b> Explosive breaching tools that are used to conduct an explosive breach to create an entry or exit point during a high-risk or tactical situation.	
<b>Purpose/Authorized Uses:</b> Breaching doors, gates, windows, and other points of entry.	
<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.	
<b>Legal/Procedural Rules Governing Use:</b> Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances.	
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members prior to allowing them to use explosive breaching apparatus.	
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.	

<b>Equipment Type:</b> Flashbang grenades, explosive breaching tools, tear gas and pepper balls - CA Gov't Code §7070(c)(12)	
<b>Quantity Owned/Sought:</b> None (outside owned)	<b>Lifespan:</b> Estimate 3-5 yrs.
<b>Equipment Capabilities:</b> Capable of breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemical.	
<b>Manufacturer Product Description/General Description:</b> A distraction device is used to distract dangerous suspects during assaults, hostage rescues, room entry, or other high-risk arrest situations.	
<b>Purpose/Authorized Uses:</b> breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemicals.	
<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.	
<b>Legal/Procedural Rules Governing Use:</b> Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances. Tear gas and pepper balls can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.	
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members (as required) prior to allowing them to use any of these items.	
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.	

<b>Equipment Type:</b> Long Range Acoustic Device (LRAD) - CA Gov't Code §7070(c)(13)	
<b>Quantity Owned/Sought:</b> None (outside owned).	<b>Lifespan:</b> Estimate approx. 20-25 yrs.
<b>Equipment Capabilities:</b> LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.	
<b>Manufacturer Product Description/General Description:</b> LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.	
<b>Purpose/Authorized Uses:</b> Can be used to disperse unlawful crowds and/or to disrupt the activities of person(s) who represent an immediate threat to others.	
<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.	
<b>Legal/Procedural Rules Governing Use:</b> LRADs can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.	
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.	
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.	

<b>Equipment Type:</b> Mobile Incident Command (MIC)- CA Gov't Code §7070(c)(5)	
<b>Quantity Owned/Sought:</b> None (outside owned)	<b>Lifespan:</b> Estimate 10-15 yrs.
<b>Equipment Capabilities:</b> On-site platform for command, control and communications during a critical incident, natural disaster, etc.	
<b>Manufacturer Product Description/General Description:</b> A mobile office that provides shelter, access to police department computer systems, radio communications, and restroom facilities on extended events.	
<b>Purpose/Authorized Uses:</b> Vehicle/trailer used as a main workspace and storage area to operate as mobile command center to support management of incidents and planned events by providing interior and exterior workspaces as well as command and control capabilities.	
<b>Fiscal Impacts:</b> MBPD contributes approx. \$6,000 annually to SLO Regional SWAT for equip/maint.	
<b>Legal/Procedural Rules Governing Use:</b> Mobile Command Centers are deployed in accordance with all applicable State, Federal and Local laws governing police emergency use during critical incidents, natural disasters, emergency management operations and planned events.	
<b>Training Required:</b> The San Luis Obispo Regional SWAT Team provides internal training for staff members prior to allowing them to utilize Command Center vehicles and equipment.	
<b>Other Notes:</b> The Morro Bay Police Department participates in the San Luis Obispo Regional SWAT Team (SLO Reg. SWAT). This equipment may be owned and operated by SLO Regional SWAT through the San Luis Obispo Police Department. While the Morro Bay Police Department does not own or operate this equipment, it could be used in Morro Bay by SLO Regional SWAT (or an allied agency) if they are requested/deployed to an incident within city limits.	

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fill those unscheduled vacancies, even after extending and more broadly advertising the vacancies. Currently, there are four active members which is the minimum number to form a quorum for a seven-member Committee. This is concerning as we move through the budget cycle. Staff recommends that Council consider reducing the Committee membership from seven to the pre-2016 level of five and direct staff to begin a recruitment to fill the one remaining vacancy.

The Committee provides an annual report to Council on activities funded with the additional general purpose local sales tax monies. Staff believes that for purposes of efficiency and to provide for a more thorough review, the Committee should be authorized to provide its annual report no later than the last day of the eighth month following the end of each City fiscal year. Currently the code requires the report to be provided no later than the last day of the sixth month. Staff believes a more comprehensive review toward or at the end of the year-end close process could be based on audited numbers or as close to final numbers as possible, would be advisable and could be conducted with this additional time. Staff presents the report on prior year expenditures to CFAC prior to the CFAC Chair reporting to Council, which requires additional lead time. Based on this process and timing, staff recommends Council consider allowing an extra two months for the submission of the annual report to Council.

MBMC section 3.26.135 (City amendments) provides “The city council has the right and authority to amend this chapter, to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the city council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Section 9217 of the California Elections Code.” Staff believes both of the recommended amendments will further the purposes and intent of the Committee and provide for more efficient administration.

**CONCLUSION**

Staff recommends the City Council adopt, by second reading by title only, with further reading waived, Ordinance No. 651, “An Ordinance of the City Council of the City Of Morro Bay, California, Amending Sections 3.26.120(B) and 3.26.120(E) of the Morro Bay Municipal Code (MBMC) regarding Citizens Oversight Committee Membership and Report Timing.”

**ATTACHMENT**

1. Ordinance No. 651

**ORDINANCE NO. 651**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF MORRO BAY, CALIFORNIA, AMENDING  
SECTIONS 3.26.120(B) AND 3.26.120(E)  
OF THE MORRO BAY MUNICIPAL CODE (MBMC) REGARDING  
CITIZENS OVERSIGHT COMMITTEE MEMBERSHIP AND REPORT TIMING**

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

**WHEREAS**, the City of Morro Bay currently has a general transactions and use tax (commonly known as a “sales tax”) pursuant to the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code (commencing with Section 7251) and Chapter 2.3 of Part 1.7 of Division 2 of the Revenue and Taxation Code (commencing with Section 7285.9), with a rate of 1 ½ percent (1.5%), as approved by the voters and established in Chapter 3.26 of the Morro Bay Municipal Code (“MBMC”); and

**WHEREAS**, MBMC Section 3.26.120 currently provides for a seven citizen-member Citizens Oversight Committee which shall semi-annually review revenues and expenditures from the collection of the sales tax imposed by this chapter, and provide an annual report to Council on its findings and conclusions; and

**WHEREAS**, a five citizen-member Citizens Oversight Committee (“Committee”) was established in 2006 following the passage of Measure “Q” which imposed a .5% sales tax; and

**WHEREAS**, in 2016 the City Council adopted Ordinance No. 602 in response to the Committee’s request to increase its membership from five to seven members to assist with additional duties and sub-committee work it had been assigned when acting in the capacity of the Citizens Finance Advisory Committee; and

**WHEREAS**, MBMC section 3.26.135 (City amendments) provides “The city council has the right and authority to amend this chapter, to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the city council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Section 9217 of the California Elections Code.”; and

**WHEREAS**, the need for sub-committee work has greatly diminished and the City has been unable to maintain seven active Committee members, this inability to maintain seven active Committee members hinders the purposes and intent of the Committee, and the City Council determines for purposes of efficient administration the Committee membership should be reduced to its original size of five members; and

**WHEREAS**, to provide for a more thorough and complete annual report from the Committee that is based on prior year expenditures after the year-end close is almost or entirely complete, and to allow time for Committee review prior to presentation to the City Council, the City Council determines that for purposes of efficient administration and consistent with the purposes and intent of the Committee, the Committee should be authorized to provide no later than the last day of the eighth month (rather than the sixth month) following the end of each city fiscal year, findings and conclusions to the City Council for review, pursuant to MBMC section 3.26.120(E), so as to provide more time for review; and

**NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:**

**SECTION 1:** The City Council hereby finds that the recitals set forth above are all true and correct and are incorporated herein by this reference.

**SECTION 2:** Subdivision 3.26.120(B) of the MBMC is hereby amended, in its entirety, to read, as follows:

**3.26.120 B.** Committee Membership. The committee shall have five citizen-members appointed by the city council for staggered four-year terms. Appointees shall be residents of the city; however, no member of the committee shall be an elected official. Each unanticipated vacancy shall be filled only for the duration of the unexpired term for that vacancy.

**SECTION 3:** Subdivision 3.26.120(E) of the MBMC is hereby amended, in its entirety, to read, as follows:

**3.26.120 E.** Semi-Annual Report. The committee shall review a semi-annual expense report of the city relative to activities funded with the additional general purpose local sales tax monies. Not later than the last day of the eighth month following the end of each city fiscal year, the committee will present its findings and conclusions to the city council for its review.

**SECTION 4.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 5.** This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

**INTRODUCED** at a regular meeting the of the City Council of Morro Bay, held on the 12<sup>th</sup> day of April 2022, by motion of Council Member Addis, seconded by Council Member Barton.

**PASSED AND ADOPTED** on the \_\_\_ day of \_\_\_\_\_2022, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS NEUMEYER, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF SAN LUIS OBISPO )  
CITY OF MORRO BAY )

I, Dana Swanson, City Clerk for the City of Morro Bay, California, do hereby certify that the foregoing Ordinance No. 651 was duly passed and adopted by the City Council of the City of Morro Bay at the regular meeting thereof, held on the \_\_\_\_ day of \_\_\_\_\_ 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
DANA SWANSON, City Clerk

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**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DECLARING APRIL 2022 SEXUAL ASSAULT ACTION MONTH**

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

**WHEREAS**, Sexual Assault Action Month calls attention to the fact that sexual and intimate partner violence is widespread and impacts every person in Morro Bay; and

**WHEREAS**, RISE and Stand Strong officially merged on July 1st, 2021 to form Lumina Alliance, an agency that serves survivors of sexual and intimate partner violence throughout all of San Luis Obispo County; and

**WHEREAS**, although progress has been made toward preventing and ending sexual violence and providing support to survivors and their families, important work remains to be done; and

**WHEREAS**, there is a need to focus on the individualized needs of sexual violence survivors; and

**WHEREAS**, the marginalization of certain groups in society, including undocumented individuals, transgender individuals, and those living with disabilities, increases their vulnerability to sexual violence; and

**WHEREAS**, LUMINA ALLIANCE continues to provide a safe environment to those affected by sexual violence with crisis intervention, counseling, education, legal services, and emergency safe housing, with the help of dedicated volunteers and professionals; and

**WHEREAS**, LUMINA ALLIANCE has provided services to more than 1874 people in the last year, including more than 8,027 collective nights provided for shelter clients, and more than 6,461 therapy sessions; and

**WHEREAS**, LUMINA ALLIANCE encourages the community to recognize our collective power to create a culture that simultaneously supports survivors and nurtures a world where everyone can live free from violence; and

**WHEREAS**, the City of Morro Bay strongly supports the efforts of LUMINA ALLIANCE, how every segment of our society can work together to better address sexual violence, and how to help survivors connect with services.

**NOW, THEREFORE BE IT RESOLVED**, that the Morro Bay City Council recognizes the important work done by sexual violence programs, do hereby proclaim the month of April to be National Sexual Assault Action Month.

**IN WITNESS WHEREOF**, I have  
hereunto set my hand and caused the  
seal of the City of Morro Bay to be  
affixed this 26th day of April 2022.

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JOHN HEADDING, MAYOR  
City of Morro Bay, California

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**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
HONORING “WORLD WAR II COMMEMORATION WEEK”**

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

**WHEREAS;** in the months after the attack on Pearl Harbor, the advent of World War II dramatically and irrevocably transformed the County of San Luis Obispo and all its population as the entire nation mobilized for war; and

**WHEREAS;** Camp San Luis Obispo was activated by the Army in 1940 and during the war, the post served as a training base for 22,000 soldiers, with nine combat divisions training there that deployed both to European and the Pacific Theaters of war, as well as 5,000 Marines. By war’s end in 1945, over 140,000 soldiers had prepared for war at Camp San Luis Obispo; and

**WHEREAS,** in Morro Bay the US Navy established a Section Base Headquarters controlling patrol craft, and mounted beach patrols protecting the critical oil terminals at Port San Luis and Estero Bay, expanding it into the Amphibious Training Base - Morro Bay, and the Baywood Park Training Area, amphibious training bases were utilized by the Navy, Marines, Army and Coast Guard to prepare 60,000 troops for the “island-hopping” strategy employed in the Pacific Theater of the war; and

**WHEREAS,** Camp Roberts in northern San Luis Obispo County began its mission in March 1941; throughout World War II, Camp Roberts was the largest U.S. Army basic training installation in the nation. Over 436,000 troops were trained here, over 5% of the nation’s entire Army during the war. By 1944 this base reached its peak population of 45,000 troops, with thousands of these soldiers quartered in huge tent cities with a 750-bed hospital, churches, warehouses, PXs, and other support facilities (many of which continue in use today); and

**WHEREAS,** the last week of April 1942 held special significance in the history of each of the communities throughout the Central Coast, because on April 30 the nation began the enforcement of Executive Order 9066 throughout the County and in the cities of Arroyo Grande and San Luis Obispo. In the Arroyo Grande Valley alone, 211 Japanese-Americans were expelled from their homes and confined in internment camps for the duration of the conflict, including 25 of the 58 members of Arroyo Grande High School’s Class of 1942 – all of them citizens of the United States; and

**WHEREAS,** in April 1942 the first units of the 54<sup>th</sup> Coast Artillery Regiment began arriving in San Luis Obispo, deployed - a battalion of eight 155-mm howitzers pointed out to sea, and assigned to protect the critical oil terminals in the communities Avila Beach, Shell Beach, and Morro Bay. These highly trained Black GIs took up their positions in barracks within a 5-minute response time of their batteries, thereby tripling the County’s Black population; and

**WHEREAS,** Filipino-Americans were also called to enlist throughout the Central Coast, and first reported to Camp San Luis Obispo. These men responded in numbers far exceeding the recruitment goals of the US Army, and ultimately formed two full regiments of volunteers who fought bravely throughout the Pacific – especially in the savage battles that liberated Manila in 1945 – and played a key role in the transition of the Philippines to full independence during the occupation that followed; and

**WHEREAS,** the Veterans Memorial building in San Luis Obispo and the “Faces of Freedom” Memorial in Atascadero provide a permanent monument to the memory of those who served in World War II as well as each of the other conflicts in which our nation has been engaged; and

**WHEREAS,** it is appropriate that the residents of the Central Coast set aside a week in April 2022 to reflect upon that time – only 80 years ago – where our community and our nation came together as one people to fight the common enemy of the Third Reich and Japanese Imperialism; a time when we entered a war that ended not only with military victory, but with the establishment of institutions that fostered a peaceful world order committed to human rights, democracy, and respect for national sovereignty and the common aspirations of humanity.

**NOW, THEREFORE BE IT RESOLVED,** that the Morro Bay City Council does hereby proclaim the last week of April as “World War II Commemoration Week,” joining with the History Center of San Luis Obispo County, South County Historical Society, Historical Society of Morro Bay, Morro Bay Maritime Museum, and Central Coast Veterans Memorial Museum in marking this week with free public events throughout the County to educate our citizens about the brave men and women who endured enormous sacrifices of their property, their liberty, and in many cases their lives to achieve victory in World War II and kindle the hopes for a lasting peace.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 26th day of April 2022.

\_\_\_\_\_  
JOHN HEADING, MAYOR  
City of Morro Bay, California

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**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY  
ACKNOWLEDGING “NATIONAL POLICE WEEK”  
AND DECLARING MAY 15, 2022 AS  
“NATIONAL PEACE OFFICERS MEMORIAL DAY”**

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

**WHEREAS**, in 1962, President Kennedy established “National Police Week;” and

**WHEREAS**, we are honored to observe “National Police Week” from May 15-21, 2022 and May 15, 2022 as “National Peace Officers Memorial Day;” and

**WHEREAS**, for generations, brave Peace Officers have answered the call to serve and protect our communities and our Nation, often in dangerous and unpredictable circumstances, embodying courage, honor and pride and representing the best of the law enforcement profession; and

**WHEREAS**, today we recognize and honor the sacrifice of our fallen Heroes, Peace Officers in California and Nationally who bravely and unselfishly gave their lives in the line of duty in the protection and service of others; and

**WHEREAS**, the City of Morro Bay expresses our respect and appreciation for the bravery, service and professionalism of the Morro Bay Peace Officers and Peace Officers throughout the San Luis Obispo County and Nationwide, as they serve and protect us.

**NOW, THEREFORE, BE IT RESOLVED**, that the Morro Bay City Council does hereby call upon all Morro Bay community members to observe and acknowledge this day, Sunday, May 15, 2022, as “Peace Officers Memorial Day,” and the week of May 15-21, 2022 as “National Police Week” in honor of fallen Peace Officers who, through their courageous deeds, have made the ultimate sacrifice in the service of their communities. We recognize and pay respect to these Heroes and their families.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 26<sup>th</sup> day of April, 2022

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JOHN HEADDING, MAYOR  
City of Morro Bay, California

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**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY  
HONORING MORRO BAY TRANSIT'S 45<sup>TH</sup> ANNIVERSARY AND  
DECLARING MAY 2 THROUGH MAY 6, 2022 AS "MORRO BAY TRANSIT WEEK"**

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

**WHEREAS**, the City of Morro Bay City Council established a door-to-door general public transit system in Morro Bay known as Morro Bay Dial-A-Ride (MBDAR) and began providing service on May 2, 1977; and

**WHEREAS**, MBDAR was established to provide local transit service to individuals who did not have access to or were unable to drive a car because of age, medical condition, economic circumstances, or personal choice; and

**WHEREAS**, due to State transit funding cuts in 2008 and 2009 resulting from the Great Recession, in 2010 MBDAR transitioned to a deviated fixed route and Call-A-Ride service, Morro Bay Transit, to continue providing local transit service to its residents and visitors; and

**WHEREAS**, Morro Bay Transit provided lifeline transport services for those in need that may have been economically impacted by the COVID-19 pandemic, offering free service for over 15 months while concurrently maintaining core service levels through increased interior vehicle cleaning frequency, promoting social distancing, limiting the number of riders in the bus at the same time, and providing face masks and hand sanitizer to riders; and

**WHEREAS**, Morro Bay Transit has provided more than 1,672,211 rides to Morro Bay residents and visitors in the forty-five years since local transit service began operating; and

**WHEREAS**, the City Council of the City of Morro Bay acknowledges and appreciates the high quality of public transit service provided to Morro Bay residents and visitors by Morro Bay Transit contractors and their respective employees since inception in 1977; and

**WHEREAS**, Morro Bay Transit is an alternative to the single occupant vehicle for Morro Bay residents and visitors, and is an effective means to reduce fuel consumption, air pollution, traffic congestion, and parking requirements as well as promote a cleaner, healthier environment, and better economic conditions.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council for the City of Morro Bay do hereby proclaim in honor of Morro Bay Transit's 45<sup>th</sup> anniversary, May 2 through May 6, 2022 to be "Morro Bay Transit Week".

**BE IT FURTHER RESOLVED**, that the City Council for the City of Morro Bay does hereby encourage all residents to use Morro Bay Transit not only during Morro Bay Transit week, but whenever possible, including using other alternative modes of transportation such as regional public transit, ridesharing, bicycling, and walking.

**IN WITNESS WHEREOF:** I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 26<sup>th</sup> day of April, 2022

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John Headding, Mayor  
City of Morro Bay, California

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**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY  
EXPRESSING APPRECIATION FOR THE DEDICATION  
AND PUBLIC SERVICE OF RANDY AND TAMI PONDER**

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

**WHEREAS**, the City of Morro Bay is blessed to have residents, employees and volunteers who generously offer their time and talents in support of City operations, activities, and events; and

**WHEREAS**, Randy Ponder served as a volunteer for Morro Bay Police Department as Chaplain since July 2009 and, Tami Ponder worked at Morro Bay Police Department as the Property & Evidence Technician from November 2011 through April 2022; and

**WHEREAS**, Randy and Tami Ponder have served the community of Morro Bay through their ministry at Rock Harbor Christian Fellowship with a drive through community food bank during the COVID pandemic from 2020-2022; and

**WHEREAS**, Randy and Tami Ponder were instrumental in Easter Sunday services at Morro Rock from 2011-2019 and Church in the Park in 2018; and

**WHEREAS**, Randy Ponder conducted weekly ride-a-longs with patrol officers to offer support to the Officers and our community; and

**WHEREAS**, Randy and Tami Ponder opened their church to the community for a Suicide Prevention and Awareness seminar in 2022 along with a 10-week Grief Recovery Support group in 2021-2022; and

**WHEREAS**, Randy and Tami Ponder provide their support and comfort to the community in times of loss, and would be present with family members by listening, cleaning, sharing stories and comfort during tough times; and

**WHEREAS**, Randy and Tami Ponder were leaders in the Morro Bay Police Department Peer support group. They were instrumental in creating a family environment at Morro Bay Police Department and giving many hours of dedicated service to all the community events with Morro Bay Police Department; and

**WHEREAS**, Tami Ponder's organizational skills and abilities proved to be of the highest standards when during an extensive external audit of the property & evidence division at Morro Bay Police Department it was reported to Chief this was the most organized evidence room this company had audited.

**NOW, THEREFORE, BE IT RESOLVED**, that the Morro Bay City Council does hereby thank Randy and Tami Ponder for their dedicated service of a combined 24 years, to the City of Morro Bay and the Morro Bay Police Department, and offers its best wishes filled with happiness in their new journey.

IN WITNESS WHEREOF I have  
hereunto set my hand and caused the  
seal of the City of Morro Bay to be  
affixed this 26th day of April 2022

\_\_\_\_\_  
JOHN HEADING, MAYOR  
City of Morro Bay, California

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AGENDA NO: C-1

MEETING DATE: April 26, 2022

# Staff Report

**TO:** Honorable Mayor & City Council **DATE:** April 19, 2022

**FROM:** Greg Kwolek – Public Works Director  
Paul Amico – Water Reclamation Facility (WRF) Program Manager

**SUBJECT:** Water Reclamation Facility (WRF) Program – Recycled Water Facilities – Injection Well No. 1 Contract Award in the amount of \$346,725.00

## RECOMMENDATION

Staff recommends the City Council authorize the City Manager to execute a contract, subject to the City Attorney’s approval as to form, with Pacific Coast Well Drilling Inc. (PCWD) in the amount of \$346,725.00 and include a \$9,900 bid alternate for a total contract amount of \$356,625.00 for the construction and injection testing of the City’s Injection Well No. 1.

## BACKGROUND/DISCUSSION

Injection Well No. 1, also known as the Pilot Injection Well, will be constructed to be a full-scale groundwater injection well that will be used initially to perform a pilot injection study. The pilot study will determine injection performance to further characterize the Morro groundwater basin, and the data obtained during the pilot injection study will allow the City to finalize the locations and design characteristics of the other wells that will be included the recycled water facilities component of the WRF Program.

The Pilot Injection Well will be located near the bike path along the west side of Highway 1 between Atascadero Road and Main Street. The well will be drilled to a depth of approximately 90 feet utilizing a mud-rotary method and with a final borehole diameter of 18 inches and a casing diameter of 12 inches. Following the completion of the well, PCWD will perform a pump test and an injection test to collect water quality and hydrogeologic parameter information. Recent Indirect Potable Reuse (IPR) recycled water program modeling assumed injection rates ranging from 50 to 100 gallons per minute per well and estimated, with an overall injection rate of 825 acre-feet per year, extraction of 994 acre-feet per year could be achieved without inducing seawater intrusion. Results from the Pilot Injection Well will allow for further refinement of the injection and extraction scenarios and inform the final design of the recycled water injection system.

## FISCAL IMPACT

The base costs for the injection well No. 1 scope of work is \$346,725. One bid alternate was listed on the bid documents for a total value of \$9,900. Including this bid alternate in the scope of work for PCWD results in a total contract amount of \$356,625.00. This falls within the WRF program budget for the pilot injection well and will not need to utilize contingency.

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Prepared By: <u>AC</u>	Dept Review: <u>GK</u>
City Manager Review: <u>SC</u>	City Attorney Review: <u>JWP</u>

**CONCLUSION**

The Program Management Team and City staff have thoroughly reviewed PCWD bid and scope of work. It is recommended City council authorize the City Manager to execute a Contract with PCWD to complete the Injection Well No. 1 scope of work and progress the Recycled Water Facility component of the WRF Program.

**ATTACHMENT**

1. Injection Well No. 1 Agreement
2. Bid Results

## **AGREEMENT BETWEEN OWNER AND CONTRACTOR**

THIS AGREEMENT (“this Contract” or “this Agreement”) is made and entered into in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Morro Bay, a municipal corporation, hereinafter referred to as “City” and Pacific Coast Well Drilling, Inc., a California corporation hereinafter referred to as “Contractor”. In consideration of the mutual covenants, conditions, promises, and agreements herein contained, City and Contractor hereby mutually covenant and agree as follows:

### **ARTICLE I – SCOPE OF WORK:**

Each work order issued pursuant to this Agreement and each amendment, as provided herein, shall be based on the unit prices included in the bid upon which this Agreement was awarded. For all work provided pursuant this Agreement and every amendment provided for herein (the “WORK”), Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor and materials necessary to perform and complete in a workmanlike manner, and in strict accordance with the Contract Documents, (defined in Article 6 herein) the WORK of: Injection Well No. 1, in the City of Morro Bay, State of California, as called for in the drawings and specifications adopted by City, which said drawings and specifications are identified by the signature of the parties of this Agreement. It is understood and agreed the tools, equipment, apparatus, facilities, labor, and materials shall be furnished, and the WORK performed and completed as required in the Contract Documents, and subject to the approval of City and duly authorized representatives.

### **ARTICLE 2 - TIME OF COMPLETION:**

- A. The WORK shall be commenced upon availability of Contractor drilling equipment, but no later than 45 calendar days from and after the date Contractor receives City’s written “Notice to Proceed” (initial Commencement Date) and shall be at Completion no later than 60 days from and after the Initial Commencement Date. For purposes of this Agreement, “Completion” shall have the same meaning as set forth in Section 0800 of the Supplementary Conditions.
- B. City and Contractor recognize time is of the essence as stated in paragraph A., above, and the City will suffer losses if the WORK is not completed in the time specified in paragraph A. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by City if the WORK is not completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree, as liquidated damages for delay (but not as a penalty) Contractor shall pay City One Thousand Dollars (\$1,000.00) for each day, or portion thereof, that expires after the time specified in Article 2.A.

### **ARTICLE 3 - CONTRACT PRICE:**

City will pay Contractor in current funds for the full, complete and satisfactory performance the sum of: Three Hundred Forty-Six Thousand, Seven Hundred Twenty-Five Dollars (\$346,725).

### **ARTICLE 4 – PAYMENT PROCEDURES:**

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.
- B. The acceptance by Contractor of final payment shall be and shall operate as a full and unconditional release to the City of all claims and all liability to Contractor for all things

done or furnished in connection with the WORK and for every act and neglect of City and others relating to or arising out of the WORK. No payment, however, final or otherwise, shall operate to release Contractor or sureties from any obligations under this Contract or the Performance and Payment Bond.

- C. The amount of retention on the project shall be five percent (5%) of the WORK completed to date including stored materials, if any.

**ARTICLE 5 – CONTRACTOR’S REPRESENTATIONS:**

In order to induce City to enter into this Agreement the Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the WORK.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the WORK.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-5.05 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC- 5.06 of the Supplementary Conditions as containing reliable "technical data."
- E. Contractor has considered the information known to Contractor; information commonly known to Contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the WORK; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor’s safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 8.01.E of the General Conditions (page 0700-40), Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the WORK at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the WORK as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the WORK.

**ARTICLE 6 – CONTRACT DOCUMENTS:**

This Contract shall consist of the following identified documents herein referred to as the Contract Documents: Invitation to Bidders, Instructions for Bidders, Bid Form, Supplements to Bid Form, Agreement, Bond Requirements and Bond Forms, Substitution of Securities, Guarantees, Insurance and Indemnification Requirements, Standard General Conditions, Specifications, City Standard Specifications, and attached supplemental information, Drawings, and any Addenda, for the project, as those documents exist on the date of the first signature to this Contract. There are no other Contract Documents except those listed above. This Contract shall include all labor, materials, equipment, transportation, and services necessary for the proper execution of the WORK. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 11.01 of the General Conditions.

**ARTICLE 7 – LAW AND VENUE:**

This Agreement has been executed and delivered in the County of San Luis Obispo, State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in the City of Morro Bay and as such the County shall be the venue for any action of proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

**ARTICLE 8 - CONFLICTS OF INTERESTS:**

No official of City who is authorized on behalf of City to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction, or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for City who is authorized on behalf of City to exercise any executive, supervisory or other similar function in connection with the construction of the project shall become directly or indirectly interested personally in this Contract or in any part thereof.

**ARTICLE 9 – ASSIGNMENT:**

No assignment by a party hereto of any rights under or interests in this Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

**ARTICLE 10 – SUCCESSORS:**

City and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

**ARTICLE 11 – SEVERABILITY:**

Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**ARTICLE 12 – CONFLICTS:**

In the event of a conflict between the General Conditions; Bid Documents and this Agreement, the terms and conditions of this Agreement shall control.

**ARTICLE 13 – BONDS:**

- A. PERFORMANCE BOND: The successful Bidder shall, within ten (10) working days after award of this Contract simultaneously with the execution and delivery of this Agreement, execute a Faithful Performance Bond in an amount equal to one hundred percent (100%) of the Contract price, secured from a surety company admitted in the State of California and satisfactory to City. The Bond shall be issued on the Performance Bond form contained in these Contract Documents.
  
- B. PAYMENT BOND: Pursuant to Sections 9550 through 9560, inclusive, of the California Civil Code, the successful bidder shall, within eight (8) working days after award of this Contract exceeding \$25,000, simultaneously with the execution and delivery of the Agreement, execute a Payment Bond in the amount equal to 100 percent of the Contract price, secured from a surety company admitted in the State of California and satisfactory to City. The Bond shall be issued on the Payment Bond form contained in these Contract Documents.

**ARTICLE 14 - SUBSTITUTIONS OF SECURITIES FOR RETENTION AMOUNTS:**

Substitution of certain securities for retention amounts are allowed under the Public Contract Code at the option of Contractor. Contractor is required to formally request the substitution and to conform to the specific provisions of Public Contract Code Section 22300:

- A. Acceptable Securities: Whenever retention of monies is authorized to insure performance of the Contract conditions, Contractor shall be permitted to substitute securities for the amount withheld in accordance with Public Contract Code Section 22300. Securities eligible for deposit under this procedure shall consist of bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, securities listed in Government Code Section 16430, or any other security mutually agreed to by Contractor and the public agency. Contractor shall be the beneficiary of the City of any securities substituted for monies withheld and shall receive any interest thereon.

- B. Value of Securities: The value of securities being deposited shall be based upon market value as of the date of deposit and not necessarily on face value of the securities. Market value shall be determined by the City Public Works Director. If deposit is made into an escrow, escrow instructions must clearly state, in addition to the items mentioned in, that the escrow agent must convert the securities to cash in whole or in part upon a unilateral written demand for such conversion by the City Manager; and further, that any amount demanded by City shall be paid to City upon unilateral written demand for payment. Escrow instructions used must be substantially similar to the form set forth in Public Contract Code Section 22300. City will only make such demand for conversion in payment when the conditions of the Contract would have warranted an expenditure by City of a cash retention expenditure without any securities substitution. All escrow expenses shall be paid by Contractor.
  
- C. Release of Securities: Securities deposited hereunder shall be released back to Contractor when the City Manager has certified in writing to the escrow holder that the project has been satisfactorily completed. The recording of Notice of Completion does not constitute such certification. All retention times called for in these Contract Documents must have passed, including the time after recording of Notice of Completion, before City will certify to satisfactory completion of the Contract.

**ARTICLE 15 – GUARANTEES AND WARRANTIES:**

- A. GUARANTEE FOR TOTAL WORK: Prior to acceptance of the WORK by City, the Contractor shall submit a guarantee in the form of a written warranty on Contractor’s own letterhead as follows:

“WARRANTY FOR INJECTION WELL No. 1. This WORK has been constructed in accordance with the Contract Documents, and the WORK as installed will fulfill the requirements of this warranty, and any other warranty therefor, included in the Contract Documents. We agree to repair or replace any and all of our WORK together with any other adjacent WORK which may be displaced by so doing, that prove to be defective in its workmanship or material for the period of one (1) year (except when otherwise required in this Contract to be for a longer period) from date of acceptance of the above mentioned structure by City, ordinary wear and tear and unusual abuse or neglect excepted. Said date of acceptance shall be the date of acceptance and filing of the Notice of Completion by the City Council.

In the event of our failure to comply with the above mentioned conditions within seven (7) days after being notified in writing, we collectively or separately, do hereby authorize City to proceed to have said defects repaired and made good at our expense and we will honor and pay the cost and charges therefor on demand.

Signed:

\_\_\_\_\_

Contractor License Number:

- B. ADDITIONAL GUARANTEES: Additional Guarantees shall be provided as required in the technical sections of the Contract Documents.

## **ARTICLE 16 – INSURANCE:**

- A. The parties to this Contract expressly agree the indemnification and insurance clauses in this Contract are an integral part of the performance exchanged in this Contract. The compensation stated in this Contract includes compensation for the risks transferred to Contractor by the indemnification and insurance clauses. Attention is invited to the provisions of the Insurance Code of the State of California with reference to the writing of insurance policies and bonds covering risks located in this state, and the premiums and commissions thereon. Contractor shall obtain, and maintain, at their own expense, all the insurance required by this Section. The insurance requirements must be met within the time period, as defined in Exhibit A. The parties to this Contract do not intend for the insurance provided pursuant to this Contract to limit the Contractor's obligations pursuant to the indemnification clauses of this Contract. The insurance provided by Contractor shall be as set forth in Exhibit A and Section 0800 - Supplementary Conditions, which is attached hereto as though set forth in full.
- B. Required insurance forms are included in Exhibit A to this Agreement. Insurance limits are outlined in Exhibit A and Section 00800 - Supplementary Conditions.
- C. The Notice to Proceed with the WORK under this Contract will not be issued, and Contractor shall not commence WORK, until such insurance has been approved by City. Contractor shall not allow any subcontractor to commence WORK on their subcontract until all similar insurance required for the subcontractor has been obtained. Such insurance shall be maintained in full force and effect at all times during the prosecution of the WORK and until the final completion and acceptance thereof.

## **ARTICLE 17 – INDEMNIFICATION:**

- A. Except as otherwise provided in subparagraphs B. and C. below, Contractor shall defend, indemnify and save harmless City, and entities' agents, officials, officers and employees, from any and all claims demands, damages, costs expenses, judgments, attorney fees or liability relating to any act or omission by Contractor, or its agents, employees, or certain independent Contractors (described below) which relates in any way to this Contract; regardless of whether said act or omission is willful, negligent or non-negligent. The preceding sentence applies to any theory of recovery relating to said act or omission, including but not limited to the following:
  - 1. Violation of statute, ordinance, or regulation.
  - 2. Professional malpractice.
  - 3. Willful, intentional or other wrongful acts, or failures to act.
  - 4. Negligence or recklessness.
  - 5. Furnishing of defective or dangerous products.
  - 6. Completed operations.
  - 7. Premises liability.
  - 8. Strict liability.
  - 9. Inverse condemnation.
  - 10. Violation of civil rights.
  - 11. Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board or any other California public entity responsible for collecting payroll taxes, when Contractor is not an independent contractor. The certain "independent contractors" referenced above refer to independent contractors which are either hired by Contractor, directly responsible to Contractor, or under the direction or control of Contractor.

- B. Nothing contained in the foregoing indemnity provision shall be construed to require indemnification for liability arising from proven willful misconduct of City.
- C. Nothing contained in the foregoing indemnity provision shall be construed to require indemnification for that portion of any liability attributable to the active negligence of City provided, however, this exception for active negligence shall not apply to (1) liability arising from the passive negligence of City, or (2) that portion of any liability attributable to any act or omission, whether willful misconduct or active or passive negligence on the part of the Contractor.
- D. Contractor shall have the burden of proving the exception described in paragraphs B and C above.
- E. It is the intent of the parties to provide City the fullest indemnification, defense, and “hold harmless” rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, then said word(s) shall be severed from this Contract and the remaining language shall be given full force and effect.

**ARTICLE 18 – COMPLIANCE WITH LAWS:**

Federal and State Laws and Regulations: The project shall be constructed under the complete jurisdiction of all applicable laws of the United States and State of California governing construction including, without limitation, the following:

- A. The California Health and Safety Code and all applicable administrative code regulations pursuant thereto.
- B. All laws governing the employment of labor, qualifications for employment of aliens, payment of employees, convict-made materials, domestic and foreign materials and accident prevention.
- C. Title 19 of the California Administrative Code entitled “Public Safety” Chapter 1, State Fire Marshall, Sub-Chapter 1, “General Fire and Panic Safety”.
- D. General Industrial Safety Orders: Each and every Contractor shall observe and conform to the provisions of Title 8, California Administrative Code bearing upon safe and proper use, construction, disposal, etc., of materials, machinery, and building appurtenances as therein set forth.
- E. Code Rules and Safety Orders: All work and materials shall be in full accordance with the latest - substantive rules and regulations of the State Fire Marshall, the safety orders of the Division of Industrial Safety, Department of Industrial Relations; the Uniform Building Code, National Electric Code, Uniform Mechanical Code, Uniform Plumbing Code, and other applicable State Laws or Regulations. Nothing in these plans and specifications is to be construed to permit WORK not conforming to these codes.

Note: The procedural aspects of the Uniform Codes referred to above may not apply to the WORK of this Contract, but the substantive provisions do apply. All of the above laws and regulations though referred to herein, are as much a part of the Contract as if they were incorporated in their entirety in these General Conditions.

--SIGNATURES ON NEXT PAGE--

IN WITNESS, WHEREOF, the parties to these presents have hereunto set their hands the year and date first above written.

CITY OF MORRO BAY

ATTEST:

\_\_\_\_\_  
SCOTT COLLINS, City Manager

\_\_\_\_\_  
DANA SWANSON, City Clerk

CONTRACTOR:

APPROVED AS TO FORM:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
CHRIS F. NEUMEYER, City Attorney

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

Licensed in accordance with an act providing for the registration of Contractors.

License No. \_\_\_\_\_; Classification A; Expires \_\_\_\_/\_\_\_\_/20\_\_\_\_

END OF DOCUMENT

**EXHIBIT A**  
**Insurance Requirements for Contractors**

# CITY OF MORRO BAY

595 Harbor St.

Morro Bay, CA 93442

(805) 772-6200

FAX (805) 772-7329

## INSURANCE REQUIREMENTS FOR CONTRACTORS

(with Construction Risks)

**CONTRACTOR** shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by **CONTRACTOR**, or any of their agents, representatives, employees or subcontractors.

### ***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form CG 0009 11 88 Owners and Contractors Protective Liability Coverage Form - Coverage for Operations of Designated Contractor.
3. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto).
4. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
5. Course of Construction insurance covering for all risks of loss.

### ***Minimum Limits of Insurance***

**CONTRACTOR** shall maintain limits no less than:

1. General Liability: **\$5,000,000** per occurrence for bodily injury, (Including operations, personal injury and property damage.) If products and Commercial General Liability Insurance or other completed operations with a general aggregate limit is used, then either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
3. Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.
4. Course of Construction: Completed value of the project with no coinsurance penalty provisions.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by **CITY**. At the option of **CITY**, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects **CITY**, its officers, officials, employees and volunteers; or **CONTRACTOR** shall provide a financial guarantee satisfactory to **CITY** guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### ***Other Insurance Provisions***

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. **CITY**, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of **CONTRACTOR**; and with respect to liability arising out of work or operations performed by or on behalf of **CONTRACTOR** including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage can be provided in the form of an endorsement to **CONTRACTOR'S** insurance, or as a separate owner's policy.
2. For any claims related to this project, **CONTRACTOR'S** insurance coverage shall be primary insurance as respects **CITY**, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by **CITY**, its officers, officials, employees, or volunteers shall be excess of **CONTRACTOR'S** insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either Party, except after 30-days' prior written notice by certified mail, return receipt requested, has been given to **CITY**.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Course of construction policies shall contain the following provisions:

1. **CITY** shall be named as loss payee.
2. The insurer shall waive all rights of subrogation against **CITY**.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

### ***Verification of Coverage***

**CONTRACTOR** shall furnish **CITY** with original certificates and amendatory **endorsements** effecting coverage required by this clause. The endorsements should be on forms provided by **CITY** or on other than **CITY'S** forms; provided, that those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by **CITY** **before** work commences. **CITY** reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

### ***Subcontractors***

**CONTRACTOR** shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to **CITY** for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.

# City of Morro Bay

## Public Works Department

Contract Name: **Injection Well No. 1**

### Base Bid (Signs in City of Morro Bay Right of Way)

				Pacific Coast		Engineer's Estimate	
Item No.	Description	Units	Quantity	Unit Cost	Total Cost	Unit Cost	Total Cost
1	Proejct Mobilization/Demobilization including Temporary Facilities	1	LS	\$77,500.00	\$77,500.00	\$50,000.00	\$50,000.00
2	Standby Time	8	hr	\$1,100.00	\$8,800.00	\$350.00	\$2,800.00
3	Misc. Authorized Hourly Work (Engineer's discretion)	8	hr	\$800.00	\$6,400.00	\$350.00	\$2,800.00
Injection Injection Well No. 1							
4	Conductor Casing	35	LF	\$800.00	\$28,000.00	\$250.00	\$8,750.00
5	Mud Rotary Drilling - 9 7/8" Pilot Borehole	55	LF	\$295.00	\$16,225.00	\$90.00	\$4,950.00
6	Mud Rotary Drilling - Ream 18" Borehole	55	LF	\$210.00	\$11,550.00	\$90.00	\$4,950.00
7	Geophysical Logging, and Caliper Survey	1	LS	\$14,000.00	\$14,000.00	\$2,500.00	\$2,500.00
8	Furnish and Install Roscoe Moss 12" dia. (nominal) Type 316, .312 Wall, Stainless Steel Blank Well Casing (includes 10 foot sump)	73	LF	\$625.00	\$45,625.00	\$260.00	\$18,980.00
9	Furnish and Install Roscoe Moss 12" dia. (nominal) Type 316, .312 Wall, Stainless Steel 50-slot Wire Wrapped Well Screen	20	LF	\$325.00	\$6,500.00	\$230.00	\$4,600.00
10	Furnish and 3" dia. Type 316 Stainless Steel Sch. 40 Gravel Feed Tube	60	LF	\$265.00	\$15,900.00	\$60.00	\$3,600.00
11	Furnish and Intall Filter Pack Envelope	45	LF	\$420.00	\$18,900.00	\$150.00	\$6,750.00
12	Bentonite Seal	2	LF	\$250.00	\$500.00	\$45.00	\$90.00
13	Transition Seal	3	LF	\$175.00	\$525.00	\$45.00	\$135.00
14	10.3 Sack Sand/Cement Annual Seals	50	LF	\$130.00	\$6,500.00	\$50.00	\$2,500.00
15	Plumbness and Alignment Tests	1	LS	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
16	Initial Well Development	16	hr	\$820.00	\$13,120.00	\$350.00	\$5,600.00
17	Initial Video Camera Survey	1	LS	\$5,500.00	\$5,500.00	\$2,000.00	\$2,000.00
18	Final Well Development	16	hr	\$285.00	\$4,560.00	\$350.00	\$5,600.00
19	Test Pump Installation and Removal	1	LS	\$14,750.00	\$14,750.00	\$12,000.00	\$12,000.00
20	Well and Aquifer Testing	32	hr	\$285.00	\$9,120.00	\$350.00	\$11,200.00
21	Injection Testing	100	hr	\$285.00	\$28,500.00	\$350.00	\$35,000.00
22	Post-Testing Water Quality Sampling	1	LS	\$3,175.00	\$3,175.00	\$12,000.00	\$12,000.00
23	Final Video Camera Survey	1	LS	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
24	Well Disinfection	1	LS	\$3,075.00	\$3,075.00	\$2,000.00	\$2,000.00
25	Surface Completion	1	LS	\$3,500.00	\$3,500.00	\$4,000.00	\$4,000.00
	Market Contingency	1	LS	\$0.00	\$0.00	\$142,695.00	\$142,695.00
<b>Sub-Total:</b>				<b>\$346,725.00</b>		<b>\$350,000.00</b>	

### Bid Alternative

Item No.	Description	Units	Quantity	Unit Cost	Total Cost	Unit Cost	Total Cost
26	Borehole Abandonement	90	LF	\$110.00	\$9,900.00		\$0.00
<b>Sub-Total:</b>				<b>\$9,900.00</b>		<b>\$0.00</b>	



AGENDA NO: C-2

MEETING DATE: April 26, 2022

# Staff Report

**TO:** Mayor and City Council

**DATE:** April 21, 2022

**FROM:** Sarah Johnson-Rios, Assistant City Manager/Admin Services Director

**SUBJECT:** Review of Reserve Policies, Consider Adopting a Proposed Pension Reserve Policy, and Review Potential Section 115 Pension Trust Contribution

## RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. 37-22 which:
  - Implements a proposed pension reserve policy; and
  - Approves the updated and consolidated City Reserve Policy, which does not make changes to reserve levels but simplifies the enterprise fund reserve tracking and accounting as outlined in this report; and
2. Provide direction to staff regarding a potential Section 115 pension trust contribution in FY 2022-23, with a recommendation that Council direct staff to work with NHA Advisors, one Citizen Finance Advisory Committee (CFAC) member, and one Council Member (to be designated by Council if Council desires) to select a section 115 trust provider and return to Council with formation documents and a risk portfolio selection depending on the specific offerings of the selected provider.

## FISCAL IMPACTS

The proposed Section 115 Trust contributions will put the City in a stronger fiscal position long-term by reducing the large unfunded CalPERS liability. This is consistent with the City Council's established goal of fiscal sustainability. Simplifying the accounting for reserve funds will bring the City into alignment with the Government Finance Officers Association's (GFOA) best practices for budgeting and will comply with all Governmental Accounting Standards Board (GASB) accounting requirements.

## ALTERNATIVES

- *Reserve policies:* Suggest revisions to other City reserves policies outlined herein.
- *Tracking reserves:* Direct staff to continue utilizing several funds for each enterprise and budgeting making interfund transfers between them, remaining inconsistent with GFOA best practices.
- *Pension reserve policy:* Suggest an alternative pension reserve policy and funding methodology.
- *Pension reserve policy:* Forgo the creation of a pension trust and continue to make only minimum payments to CalPERS toward the growing unfunded liability.
- *Section 115 trust contributions:* Adopt the proposed pension reserve policy going forward but

Prepared By: \_\_\_\_\_ SJR

Dept Review: SJR

City Manager Review: \_\_SC\_\_

City Attorney Review: \_CFN\_\_

direct staff to make an alternate contribution to a section 115 trust in FY 2022-23.

- Other direction as desired by Council.

### **NEXT STEPS**

1. Return to Council on May 24-25, 2022 with a Proposed Budget including pension trust contributions.
2. (If directed to do so by Council) work with NHA Advisors, one CFAC member, and one Council member (or as Council directs) to select a section 115 trust provider and return to Council with formation documents and a risk portfolio selection depending on the specific offerings of the selected provider.
3. Evaluate the City's ability to make future contributions to a pension trust in future years.

### **BACKGROUND**

Currently and in several recent years, one of City Council's core goals is and has been fiscal sustainability. Establishing and making every effort to comply with reserve policies has been one element of ensuring fiscal sustainability and resilience. Further addressing the large unfunded pension liability is the next significant step in continuing to improve the City's long-term fiscal position.

#### Industry Standards Regarding Fund Balance and Reserve Levels

GFOA has established policies and procedures that contribute to improved governmental financial management. The following guidance relates to fund balances and reserves. Note that guidance and reporting requirements differ for governmental and non-governmental funds.

#### *Fund Balance Guidelines for the General Fund*

- Establish a policy regarding the level of unrestricted fund balance to be maintained in the general fund for Generally Accepted Accounting Principles (GAAP) and budgetary purposes.
- Maintain a minimum of two months of regular general fund operating revenues or expenditures.
- Consider the following: predictability of revenues and expenditures, perceived exposure to significant one-time outlays, general fund commitments to other funds, availability of resources in other funds, bond rating impacts and borrowing costs, other commitments and assignments.
- Replenish expended fund balances within one to three years of use.

#### *Working Capital Targets for Enterprise Funds*

- Working capital is defined as current assets over current liabilities in enterprise funds.
- Adopt a target amount of working capital to maintain in each enterprise fund according to the characteristics of each fund.
- Start with a baseline of 90 days' worth of working capital, then adjust up or down based upon each fund's particular characteristics.

#### *Achieving a Structurally Balanced Budget*

- Adopt policies for operating funds to achieve and maintain a structurally balanced budget.
- Identify items related to structural balance (recurring and non-recurring revenues, recurring and non-recurring expenditures, and reserves).
- Define a minimum amount of funds to hold in reserve.

#### Addressing the Pension Liability

The City of Morro Bay's unfunded pension liability as reported in the Annual Comprehensive Financial

Report (ACFR) for the fiscal year ending June 30, 2021 was approximately \$27.1 million, an increase of approximately \$1 million from the prior year, despite the City making required minimum payments.

The City Council set five major goals and approximately 30 short-term action items at its most recent goal-setting meeting (November 2021). Council identified Fiscal Sustainability and Economic Vitality as one of its five top, overarching goals. As the first objective under this broad goal, Council identified that the City should: “(1) Create a plan to address the City’s unfunded liabilities while striving to achieve competitive compensation.”

Staff engaged NHA Advisors, a company that provides financial management services to local governments in California including in pension liability management, to lead both CFAC and the Council through an analysis of the City’s unfunded pension liability and various policy options that could be used to address it. At its January 11, 2022 meeting, Council directed staff to return with a proposed pension reserve policy that would guide and provide framework for the creation of a section 115 pension trust fund as the preferred policy option to address the pension liability currently. Establishing a pension trust fund now does not preclude the City from pursuing other or additional policy options in the future as part of a potential multi-faceted approach to addressing the large liability.

## **DISCUSSION**

Considering a pension reserve policy is best done within the context of the City’s other reserve policies, of which there are many. The City maintains reserve policies for several of its funds, including all major funds and some minor funds, in an effort to ensure that the City will be able to weather economic downturns, natural disasters, or other unanticipated emergencies while maintaining the ability to provide essential City services.

### **City Reserve Policies – Consolidating Policy Document:**

Last year, a Council Subcommittee evaluated in detail all of the City’s reserve policies, proposed several changes primarily increasing minimum and target reserve levels, and Council adopted several individual reserve policies as a result. This year, staff is not recommending further changes to the recently updated reserve policies given the depth of recent review. The only recommended substantive change is the creation of a pension reserve policy. However, staff does recommend consolidating the existing reserve policies into one consolidated reserve policy, which would also include the proposed pension reserve policy, to facilitate easier tracking, review and updating of the reserve policies. Currently, the disparate policies are in several different Council resolutions which have not always all been updated at the same time and could be somewhat cumbersome for the public to review and compare across several documents. The proposed consolidated document, attached, will simplify and add clarity to Council and public review of the City’s reserve policies going forward and will simplify staff’s implementation of the policy.

### **City Reserve Policies – Simplified Fund Structure and Accounting Methodology:**

Staff also proposes changing the accounting methodology for tracking some of the specific reserves. It has come to staff’s attention that some members of the community, including some CFAC members, desire to reduce the volume of interfund transfers in the budget. This would be consistent with GFOA best practices in budgeting, which call for limiting the amount of duplicate budgeting and interfund transfers overall. In addition, the City’s one audit finding in the FY 2020-21 audit process was associated with the large volume of manual entries that must be completed at year-end, many of which are necessary due to the City having multiple funds associated with one enterprise or governmental fund.

Each of the Water, Sewer and Harbor enterprises have four funds currently—an operating or “revenue” fund, a capital fund, an accumulation fund, and an equipment replacement fund. Staff recommends consolidating those funds into one operating fund and one capital fund for each enterprise, and tracking reserves as proposed by the GFOA, in the operating fund. Equipment replacement will be budgeted in each enterprise’s CIP fund, including “sinking” savings CIP projects that will serve as equipment replacement CIPs consistent with each enterprise’s equipment replacement schedule. The current and proposed simplified fund structures are as follows:

Current	Proposed
<b>Water Funds:</b> <ul style="list-style-type: none"> <li>• Operating/“Revenue” Fund</li> <li>• Capital Improvement Fund</li> <li>• Accumulation Fund</li> <li>• Equipment Replacement Fund</li> </ul>	<b>Water Funds:</b> <ul style="list-style-type: none"> <li>• Operating/“Revenue” Fund               <ul style="list-style-type: none"> <li>- Tracks Fund Balance/Reserve</li> </ul> </li> <li>• Capital Improvement Fund               <ul style="list-style-type: none"> <li>- Tracks Equipment Replacement</li> </ul> </li> </ul>
<b>Harbor Funds:</b> <ul style="list-style-type: none"> <li>• Operating/“Revenue” Fund</li> <li>• Capital Improvement Fund</li> <li>• Accumulation Fund</li> <li>• Equipment Replacement Fund</li> </ul>	<b>Sewer Funds:</b> <ul style="list-style-type: none"> <li>• Operating/“Revenue” Fund               <ul style="list-style-type: none"> <li>- Tracks Fund Balance/Reserve</li> </ul> </li> <li>• Capital Improvement Fund               <ul style="list-style-type: none"> <li>- Tracks Equipment Replacement</li> </ul> </li> </ul>
<b>Harbor Funds:</b> <ul style="list-style-type: none"> <li>• Operating/“Revenue” Fund</li> <li>• Capital Improvement Fund</li> <li>• Accumulation Fund</li> <li>• Equipment Replacement Fund</li> </ul>	<b>Harbor Funds:</b> <ul style="list-style-type: none"> <li>• Operating/“Revenue” Fund               <ul style="list-style-type: none"> <li>- Tracks Fund Balance/Reserve</li> </ul> </li> <li>• Capital Improvement Fund               <ul style="list-style-type: none"> <li>- Tracks Equipment Replacement</li> </ul> </li> </ul>

Tracking reserves in the operating fund is consistent with GFOA guidance regarding working capital, which considers the difference between the operation’s current assets and current liabilities and sets a level of working capital to maintain in the fund as reserves. It is consistent with guidance to reduce instances of duplicate budgeting and interfund transfers where possible.

There are also opportunities to simplify how reserves are tracked for the General Fund, General Fund Emergency Reserve, General Fund Vehicle Replacement Fund, and Compensated Leave Balances. Staff is not recommending making those changes at this time, though they could be made now or at a future date using the same rationale presented for enterprise funds regarding the reduction of the number of funds, budgeted transfers, and manual entries.

Summary of City Reserve Policies and Tracking:

The table below restates current reserve policies and outlines consolidating the funds above would modify the accounting for reserves for enterprise funds.

Existing Resolution	Reserve Policy	Reserve Level	Current Tracking	Proposed Tracking
45-21	General Fund Emergency Reserve Policy	<p>Minimum: 33% of on-going operating expenses in both the General Fund and Measures Q &amp; E Fund (excluding transfers out)</p> <p>Target: 50% of ongoing operating expenses in both the General Fund and Measures Q &amp; E Fund (excluding transfers out)</p>	Fund 051 balance and Unassigned Fund balance in Fund 001	No change needed at this time, though could track as Unassigned Fund balance in Fund 001 as reported in the ACFR, eliminate separate 051 Fund, and further reduce interfund transfers
46-21	Information Technology Reserve	<p>Minimum: \$200,000</p> <p>Target: \$300,000</p>	Fund balance in Fund 450	No change
46-21	Facility Maintenance Reserve (General Fund)	<p>Given the age of the City's facilities, increased maintenance needs are anticipated. The target funding level of \$75,000 represents a contingency for unanticipated maintenance issues which do not rise to the capital project level.</p> <p><u>Minimum:</u> \$50,000</p> <p><u>Target:</u> \$75,000</p>	Fund 052 fund balance (reported with General Fund in ACFR)	No change
46-21	Vehicle Replacement Reserve	<p>Vehicle Replacement and Enterprise Fund Equipment Replacement Funds</p> <p>Minimum level: 20% of replacement value of General Fund fleet or of each Enterprise Fund's fleet</p> <p>Target level: 30% of replacement value of General Fund fleet or of each Enterprise Fund's fleet</p>	<p>General Fund tracked as fund balance in Vehicle Replacement Fund balance Fund 050</p> <p>Enterprise funds (Water, Sewer, Harbor) tracked in separate funds requiring interfund transfers (Funds 053, 054, and 055)</p>	<p>No change to General Fund currently, though could track as a committed fund balance in 001 to reduce interfund transfers</p> <p>Enterprise funds - track balance as a budgeted CIP for Equipment Replacement in each Enterprise CIP Fund, consistent with replacement schedules, to reduce number of funds and transfers</p>
46-21	Compensated Absences Reserve	<p>Minimum: 30% of compensated absences liability established at year-end.</p> <p>Target: 35% of compensated absences liability established at year-end.</p>	Fund balance in Fund 005 (now grouped with General Funds in ACFR)	No change at this time, though could be tracked as a committed fund balance in 001

Existing Resolution	Reserve Policy	Reserve Level	Current Tracking	Proposed Tracking
48-21	Risk Management Fund Reserve	Minimum: \$700,000 Target: \$1,000,000	Fund balance in Fund 430	No change
51-21	Enterprise Fund Reserve Policy – Harbor	Minimum: 15% of annual operating expenses Target: 25% of annual operating expenses	Fund balance in Accumulation Fund 953	Track as working capital in Fund 331, consistent with industry standards
46-18	Enterprise Fund Reserve Policy – Water & Sewer	Minimum: 25% of annual operating expenses Target: 35% of annual operating expenses Rate Stabilization Reserve: 5% of prior fiscal year's water and sewer serve revenues Debt Service Reserve: in accordance with requirements of the debt issuance	Fund balance in Accumulation Funds 951 and 952  Not currently tracked  Tracked in fund balance model	Track as working capital in Fund 311 and 321, consistent with industry standards  Evaluate options  No change

**Reporting on Fund Balances and Reserve Levels:**

Some of the current reserve policies indicate that staff will report to Council on the reserve fund balance in quarterly financial reports. That is not the City's current or recent practice and would not add value to information provided to the public on such short intervals, as the reserve balances do not change dramatically within one quarter and are not calculated quarterly.

The updated and consolidated policy describes the City's existing practice of reporting on fund balances and net position in the Annual Comprehensive Financial Report, and in each Annual Budget. That practice is consistent with industry standards and is recommended to continue going forward.

**Proposed Pension Reserve Policy:**

Cities across California are establishing various forms of policies to address large unfunded pension liabilities. There are many examples for Morro Bay to review. The sample list below was provided to staff by PARS in 2021 (PARS is one of the primary Section 115 providers that staff would evaluate, among others, if directed to proceed).

*Sample Pension Funding Polices (PARS Presentation in 2021):*

1. Contribute 50% of a given year's realized year end surplus to address pension liability	Alameda/Solana Beach
2. Contribute full amount of annual PERS employer cont., allowing anytime access to trust assets	City of Brea
3. Contribute funds to stabilize PERS employer Misc. and Safety rates through FY 23-24	City of Healdsburg
4. "One equals five plan" - \$1M contribution for 5 years will save taxpayers \$5M over 25 years	City of Huntington Beach
5. Contribute Employer contribution equal to the 2.8% discount rate, with difference going into the Section 115 Trust	City of Sausalito
6. Contribute the annual savings realized from Reduction in UAL payment resulting from Pension Obligation Bonds issuance	City of Placentia
7. Earmark a portion of a local sales tax to be set aside for unfunded pension liabilities	City of Fountain Valley
8. Use ongoing savings from prepaying CalPERS unfunded liability vs. higher monthly payments	City of Pasadena
9. Use one-time revenue source and lower the minimum General Fund Reserve level (30% → 20%)	City of Glendale

After evaluating these sample policies in the context of Morro Bay's revenue sources (which are more volatile than many due to high reliance on sales and transient occupancy tax) and Morro Bay's existing reserve policies (already conservative given the volatile nature of the City's revenues), staff recommends the following:

**Proposed Pension Reserve Policy for Morro Bay:** Upon completion of the prior year's Annual Comprehensive Financial Report, if the General Fund Emergency Reserve Balance meets the minimum target established in the adopted policy (currently 33%), the General Fund will contribute 33% of the audited year's realized year-end General Fund surplus to address pension liabilities in the form of a contribution to a section 115 pension trust in the following year's budget cycle.

In years where Enterprise Funds have also met their minimum reserve policies for the prior fiscal year (defined by current assets over current liabilities), they shall also contribute their fair, pro rata share toward a section 115 pension trust commensurate with the General Fund's contributions to date.

Funds will be held in a restricted section 115 pension trust and **only** utilized for one of two purposes:

- Saving toward a significant pay-down of the CalPERS unfunded liability when the City's staff, financial advisors, and ultimately Council deem that most advantageous in the future; or
- In years of economic distress, at the direction of City Council, contributing toward the City's ongoing employer's "normal cost" portion of pension costs, if other funds are unavailable.

Staff considers the proposed policy to have several safeguards and advantages:

- *Maintains Robust Emergency Reserve* - This would allow Morro Bay to maintain a robust General Fund Emergency Reserve, keeping in mind that the current policy requires a minimum of 33% of the sum total of the operating budgets in both the General Fund and Measure Q&E Operating Funds (in other words, no reserve is held in the Measure Q & E fund because it is tracked and held in the General Fund instead). Morro Bay also has several other reserves established in its internal service funds and enterprise funds outlined above, which should reduce the likelihood that the General Fund Reserve would need to be used significantly to assist other funds.
- *Capitalizes on Strong Revenue Years* - This type of policy would allow Morro Bay to utilize years where transient occupancy tax and/or sales tax revenue is much higher than expected to begin to address a large one-time long-term liability without reducing future year operating budgets.
- *Leaves Room for Other Priorities* - Allocating one-third of surplus going toward pension liabilities would leave the remaining two-thirds available to continue to build the General Fund Emergency Reserve balance and/or for the Council-directed balance of capital budgeting and increasing operating costs, including but not limited to employee compensation, in the subsequent budget development cycle.
- *Builds in Council Review of Each Contribution* - Finally, incorporating the pension trust contributions into the subsequent year's budget cycle consistent with an adopted pension reserve policy would build in an explicit opportunity for the City Council to review and potentially modify direction at budget time if extenuating circumstances warrant a deviation from the policy.

Proposed Section 115 Trust Contributions for FY 2022-23:

If Council were to implement the recommended pension funding policy, this would warrant the creation of and contribution to a section 115 pension trust in FY 2022-23. As reported at Midyear on February 22, the fiscal year ended June 30, 2021 with a General Fund Emergency Reserve balance of approximately \$5.6 million, or 40% of operating expenditures in the General Fund and Measure Q & E Fund for that year. The minimum target of 33% was met and exceeded.

The annual General Fund surplus for FY 2020-21 was approximately \$2.5 million, warranting a contribution of approximately \$0.8 million to a pension trust.

The General Fund (and internal service funds) represents approximately 78% of the City's pension liability based on current payroll. The enterprise funds (Water, Sewer, and Harbor) represent the remaining percentages, below. Council's direction when a pension trust was discussed previously was to ensure that enterprise funds also contributed rather than the General Fund subsidizing or completing their contributions, which has been done in the past. Doing so would result in the following proposed FY 2022-23 contributions by fund. Once these funds are remitted to CalPERS at a future date and the City's unfunded liability is reduced, the enterprise funds would benefit via the reduction in long-term liability that is currently carried in each fund and part of the funds' net positions reported in the ACFR. Staff would continue to evaluate each enterprise fund's capacity to make these

contributions as the budget development and labor negotiations processes proceed, but staff anticipates that the funds should be able to make this level of one-time contribution in FY 2022-23:

<b>Fund</b>	<b>Share of Pension Liability</b>	<b>FY 2022-23 Contribution to a Pension Trust</b>
General Fund	78%	826,000
Sewer Fund	9%	96,000
Water Fund	7%	70,000
Harbor Fund	6%	68,000
	<b>100%</b>	<b>1,060,000</b>

**ATTACHMENTS**

1. Resolution No. 37-22
  - a. Exhibit A. Consolidated City Reserves Policy including Pension Reserve Policy
2. Links to Existing Reserve Policies
  - a. [Resolution 46-18](#)
  - b. [Resolution 45-21](#)
  - c. [Resolution 46-21](#)
  - d. [Resolution 48-21](#)
  - e. [Resolution 51-21](#)

**RESOLUTION NO. 37-22**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
TO RESCIND RESOLUTION NOS. 46-18, 45-21, 46-21, 48-21, AND 51-21,  
AND AMEND THE CITY RESERVE POLICY**

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

**WHEREAS**, Resolution Nos. 46-18, 45-21, 46-21, 48-21, and 51-21, established various individual reserve policies for several City funds, with overlapping content; and

**WHEREAS**, the City desires to simplify and consolidate reserve policies into one document for clarity, improved public information, and ease of policy implementation; and

**WHEREAS**, enterprise fund reserves should be tracked within enterprise operating funds consistent with Government Finance Officers Association best practices and the reserve policy is updated to clarify this accounting change; and

**WHEREAS**, the City Council goal of fiscal sustainability outlines an action item to address the City's unfunded pension liability which can be done in part by establishing and following a pension reserve policy and Council wishes to add the pension reserve policy to the City reserve policy; and

**WHEREAS**, a Council ad-hoc committee reviewed in detail and updated City reserve policies in 2021 to ensure the polices are up to date, aligned with current conditions, and reflect best practice, and made significant updates at that time; and

**WHEREAS**, minor revisions have been made to the policy to ensure there is consistency throughout; and

**WHEREAS**, no other substantive changes are needed at this time; and

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

1. Resolution Nos. 46-18, 45-21, 46-21, 48-21, and 51-21 are rescinded and replaced in their entirety with the passage of this Resolution;
2. The City Council approves the revised City of Morro Bay Reserve Policy as contained in Exhibit A herewith.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof, held on the 26<sup>th</sup> day of April 2022, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
JOHN HEADING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk



## City Council Policy: City of Morro Bay Reserve Policy

Last updated: April 2022

### Policy Statement

The City of Morro Bay (City) is a full-service city, providing essential services to over 10,000 residents related to public safety, planning, building, public works and recreation. In addition, the City has a vibrant tourism industry, attracting thousands of visitors annually, all of whom utilize City services in some fashion. As such, it is prudent for the City to establish and maintain reserve funds to mitigate a variety of emergency situations and ensure that core, essential services are maintained. The City first established reserve policies in the early 1990s and they are periodically reviewed and updated by Council resolution, most recently in 2021. The City Council has been proactive in setting aside emergency reserves and recognizing the need to utilize reserves during recessionary periods.

The City Council sets legislative financial management policies, as recommended by staff and advisory committees. This City of Morro Bay Reserve Policy (Policy) is designed to establish guidelines to ensure fiscal stability of the City and provide guidance to staff in the financial management of City operations.

### Purpose

A properly designed reserve policy is not only a financial best practice, but also sends a positive signal to ratepayers, investors, regulators, and credit rating agencies the City is committed to maintaining the long-run fiscal strength of the City. Strong and transparent financial policies, including maintaining prudent reserves for emergencies, working capital, and capital improvements, are consistent with Government Accounting Standards and are important to the City as they help to:

- Maintain the short-term and long-term financial health of the City
- Maintain stable user fees for customers and help ensure manageable rate increases
- Fund unanticipated expenditure contingencies, including emergencies
- Ensure funds exist for system and infrastructure improvements
- Ensure cash exists for the timely payment of bills
- Act as a significant positive credit factor in bond ratings

### Definitions

*Annual Comprehensive Financial Report (ACFR)* – The ACFR is the City’s audited comprehensive set of financial reporting documents that are prepared and presented to City Council each year. The report complies with Government Accounting Standards Board (GASB) and with Government Finance Officers Association (GFOA) best practices in reporting. The ACFR includes fund balances for governmental funds (categorized as nonspendable, restricted, committed, assigned, or unassigned per GASB 54 requirements), and includes net position reporting for proprietary (enterprise) and internal service funds.

*Compensated Absences Fund* – The Compensated Absences Fund is funded by the General Fund and grouped with the General Fund in the audit. Under the General Fund Unassigned Fund Balance classification, the Compensated Absences Reserve is used to smooth expenditure fluctuations resulting



from the payout of accrued leave to employees at service separation and distribution payouts. Use of the reserve occurs when total annual compensated absences payouts exceed budgeted salary funds. Large payouts decrease the compensated absences liability at year-end, supporting the practice of utilizing the reserve as needed. Year-end reconciling allocations to and from the reserve are approved through Council's budget resolution adoption each fiscal year, with the liability and resulting reserve amounts determined as part of the year-end close process. Compensated absences for enterprise funds covered by the enterprise funds' reserve policies.

*Facility Maintenance Fund* – The Facility Maintenance Fund is funded by the General Fund and grouped with the General Fund in the audit. It provides for maintenance and non-major repairs and building improvement services for all City-owned facilities that are not part of an enterprise fund (water, sewer or harbor). Additionally, the fund supports the maintenance and repair needs of the tenants of City-leased buildings and properties as defined in the lease agreements. The program's funding has primarily been derived from rental income from City-owned leased facilities. Accumulated net operations are held in the Facility Maintenance Fund for working capital cash flow. At year end, unspent funding flows into unassigned fund balance. Requests for use of the reserve are approved by Council through budget adoption or by a Council approved budget adjustment resolution during the year.

*General Fund Emergency Reserve ("GFER")* - When referring to the GFER no other unassigned fund balances accounted for in the General Fund shall be included in this total except for any excess revenue over expenditures at the end of each fiscal year. This includes General Fund Vehicle Replacement Fund, Capital Maintenance, Project Accumulation, Facilities Maintenance, and the Compensable Leave Fund. While these unassigned fund balances could be reallocated by City Council action it is the policy of the City that those specialized reserves be excluded from reporting on the fund balance of the GFER.

*Harbor Fund* – The Harbor Fund is administered by the Harbor Department, which is responsible for the management of the City's Tidelands Trust stewardship of the State-granted tidelands in Morro Bay, providing for waterfront property and lease management, public service, public safety, and municipal code enforcement on the waterfront, waters and beaches of Morro Bay. The Harbor Department is also responsible for the Harbor facilities maintenance, repair, capital improvement and replacement.

*Internal Service Funds* – Internal Service Funds are established to provide centralized cost centers for shared expenses and services to efficiently track costs and manage resources. Costs are then allocated back to the operational programs based on usage to determine cost of services more accurately. The City of Morro Bay's primary internal service funds include the Information Technology and Risk Management Funds. As each fund is accounted for as a separate entity, operational revenues less expenditures result in either a positive or negative fund balance. At year end, each fund's balance is represented at the "Fund Balance Reserve."

- *Information Technology Fund* – The Information Technology Fund provides technology-based services throughout the City's operations, including maintenance of the City's information systems and infrastructure, program implementation, internet, landline, and wireless communications systems, cloud-based technology, and support of all existing information technology as well as new technology initiatives. For technology oversight, security, and efficiency, information technology costs are managed collectively and funded through a charge-back to the various funds and departments. At year end, unspent funding flows into Unrestricted Net Position. Accumulated funds are held in the Information Technology Services Fund for



working capital cash flow. Requests for use of the reserve are approved by Council through budget adoption or by a Council approved budget adjustment Resolution during the year.

- **Risk Management Fund** - The City of Morro Bay's Risk Management Fund accounts for the City's self-insured liability program and for the purchase of various types of property and casualty insurance protection and fund damages not covered by that insurance. The funds are used to pay any liability losses, program operating costs, insurance premiums and insurance deductibles. Revenues for this fund are generated from assessments made to all City departments for their pro rata share of the total costs of the insurance administration program. The City of Morro Bay is a member of the California Joint Powers Insurance Authority (CJPIA), which is a pooled insurance program that allows the City of Morro Bay, as a small city, to receive insurance coverage at a reasonable cost. At year end, unspent funding flows into Unrestricted Net Position. Accumulated net operations are held in the Risk Management Fund for cash flow to help offset unexpected increases in insurance premiums, claims costs paid directly by the City, including personnel related claims and workers compensation expenses. Requests for use of the reserve are approved by Council through budget adoption or by a Council approved budget adjustment resolution during the year.

*Unrestricted-Undesignated Reserve* - The reserve policies outlined below are classified as "Unrestricted-Undesignated Reserves," representing funding that is being set aside to provide temporary financing for budget stabilization caused by fiscal downturns, unanticipated extraordinary expenditures related to a natural disaster or calamity, or from an unexpected liability or funding decrease created by a legislative action. Those moneys may be used for any lawful purpose, as approved by the City Council, and have not been designated for specific capital and operating needs. The Reserve Policies outlined address the level, use and replenishment of those types of unrestricted cash.

*Vehicle Replacement Fund* - The Vehicle Replacement Fund is for all General Fund-owned equipment such as the City's Police, Fire, Public Works, Recreation and pooled vehicles. Each individual enterprise fund (Water, Sewer, and Harbor) supports their own equipment maintenance in the enterprise funds. Accumulated funds will be held in the Vehicle Replacement Fund. Requests for use of the reserve are approved by Council through budget adoption or by a Council approved budget adjustment resolution.

*Water & Sewer Funds* – The Water & Sewer Funds are enterprise funds managed by the City of Morro Bay Public Works Department. The funds track the finances associated with the collection and treatment of wastewater for over 5,000 customers within City limits and delivery of potable water to a similar number of customers.

*Working Capital* – Enterprise or proprietary funds are required to be reported on differently according to Governmental Accounting Standards (reporting is on net position rather than the various types of fund balance that are reported on for governmental funds). Therefore, working capital is the definition utilized and recommended by the Government Finance Officers Association (GFOA) to track reserve balances in enterprise funds. Working capital is defined as current assets over current liabilities in enterprise funds. The GFOA recommends that cities adopt a target amount of working capital to maintain in each enterprise fund according to the characteristics of each fund. The policy below outlines that level for the City's three major enterprise funds, which include the Water, Sewer, and Harbor funds.



## City Reserve Policies

Fund(s)	Reserve Level	Tracking
General Fund Emergency Reserve Policy	<p>The reserve is intended to maintain or improve the City's credit ratings, ensure operating and maintenance costs will be paid in a timely manner, pay debt service obligations, invest in needed capital improvements and equipment replacement on a timely basis, minimize impacts from economic downturns, departmental expenditure freezes due to market volatility, other economic impacts on demands, contingencies, and regulatory changes. In calculating the minimum and target funding level, one-time expenditures and transfers out are not considered in the base for determining the operating expenditures. The minimum and target funding levels are intended to ensure sufficient resources to pay budgeted operating and maintenance expenses, recognizing the timing differences between payment of expenditures and receipt of revenues. Minimum and Target Levels equate to four months and six months of operating expenses, respectively. It also provides a source of funding to allow the City to operate during short term fluctuations in revenues and/or expenditures.</p> <ul style="list-style-type: none"> <li>• <u>Minimum:</u> 33% of on-going operating expenses in both the General Fund and Measures Q &amp; E Fund (excluding transfers out)</li> <li>• <u>Target:</u> 50% of ongoing operating expenses in both the General Fund and Measures Q &amp; E Fund (excluding transfers out)</li> </ul>	Fund 051 balance and Unassigned Fund balance in Fund 001
Pension Reserve Policy (General Fund, Water Fund, Sewer Fund, Harbor Fund)	<p>Upon completion of the prior year's ACFR, if the GFER balance meets the minimum target established in the policy herein (currently 33%), the General Fund will contribute 33% of the audited year's realized year-end General Fund surplus to address pension liabilities in the form of a contribution to a section 115 pension trust in the following year's budget cycle.</p> <p>In years where Enterprise Funds (Water, Sewer, and Harbor) have also met their minimum reserve policies for the prior fiscal year (defined by current assets over current liabilities), they shall also contribute their fair share toward a section 115 trust commensurate with the General Fund's contributions to date.</p> <p>Funds will be held in a restricted section 115 pension trust and only utilized for one of two purposes:</p> <ul style="list-style-type: none"> <li>• Saving toward a significant pay-down of the CalPERS unfunded liability with the City's staff, financial advisors and ultimately Council deem that most advantageous in the future; or</li> <li>• In years of economic distress only, at the direction of City Council, contributing toward the City's ongoing employer's "Normal cost" portion of pension costs, if other funds are unavailable.</li> </ul>	To be tracked in a restricted section 115 pension trust held by a third-party trust administrator that will be selected by the City with Council approval
Facility Maintenance Reserve (General Fund)	<p>Given the age of the City's facilities, increased maintenance needs are anticipated. The target funding level of \$75,000 represents a contingency for unanticipated maintenance issues which do not rise to the capital project level.</p> <ul style="list-style-type: none"> <li>• <u>Minimum:</u> \$50,000</li> <li>• <u>Target:</u> \$75,000</li> </ul>	Fund 052 fund balance (reported with General Fund in ACFR)



Fund	Reserve Level	Tracking
Vehicle Replacement Reserve (General Fund)	<p>The reserve will provide sufficient funds should there be a need for a one-time, larger than normal expenditure related to fleet services.</p> <ul style="list-style-type: none"> <li>• <u>Minimum</u>: 20% of replacement value of General Fund fleet or of each Enterprise Fund's fleet based on the most recently updated Vehicle Insurance Coverage list, or other internal tracking list developed by staff.</li> <li>• <u>Target</u>: 30% of replacement value of General Fund fleet or of each Enterprise Fund's fleet based on the most recently updated Vehicle Insurance Coverage list, or other internal tracking list developed by staff.</li> </ul>	Fund 050 fund balance (reported with General Fund in ACFR)
Compensated Absences Reserve (General Fund)	<p>The Compensated Absences Reserve is used to smooth expenditure fluctuations resulting from the payout of accrued leave to employees at service separation and distribution payouts</p> <ul style="list-style-type: none"> <li>• <u>Minimum</u>: 30% of compensated absences liability established at year-end.</li> <li>• <u>Target</u>: 35% of compensated absences liability established at year-end.</li> </ul>	Fund 005 fund balance (reported with General Fund in ACFR)
Information Technology Reserve (Internal Service Fund)	<p>The reserve should allow for periodic upgrades and enhancements to the City's collection of information and communications technology, while also providing sufficient funds to meet annual operating costs.</p> <ul style="list-style-type: none"> <li>• <u>Minimum</u>: \$200,000</li> <li>• <u>Target</u>: \$300,000</li> </ul>	Fund balance in Fund 450
Risk Management Fund Reserve (Internal Service Fund)	<p>The reserve should ensure sufficient resources exist to purchase various types of property and casualty insurance protection for the City, including liability losses, program operating costs and insurance premiums and deductibles; and to support current and future liability claims as well as any catastrophic event.</p> <ul style="list-style-type: none"> <li>• <u>Minimum</u>: \$700,000</li> <li>• <u>Target</u>: \$1,000,000</li> </ul>	Fund balance in Fund 430
Harbor Fund (Enterprise Fund)	<p>The reserve is intended to maintain or improve Harbor credit ratings, ensure operating and maintenance costs will be paid in a timely manner, pay debt service obligations, invest in needed capital improvements and equipment replacement and other uses on a timely basis. In addition, the Harbor Accumulation Fund Reserve will maintain sufficient cash accumulation to minimize user fee increases and departmental expenditure freezes due to market volatility, economic impacts on demands, contingencies, and regulatory changes. In calculating the minimum target funding level, one-time expenditures are not considered in the base for determining operating expenditures. The minimum target funding level is intended to ensure sufficient resources to pay budgeted operating and maintenance expenses, recognizing the timing differences between payment of expenditures and receipt of revenues. It also provides a source of funding to allow the Harbor Department to operate during short-term fluctuations in revenues and expenditures.</p> <ul style="list-style-type: none"> <li>• <u>Minimum</u>: 15% of annual operating expenses based on the most recent adopted budget.</li> <li>• <u>Target</u>: 25% of annual operating expenses based on the most recent adopted budget.</li> </ul>	Working capital in Fund 331, consistent with industry standards
Fund	Reserve Level	Tracking



<p>Water &amp; Sewer Funds (Enterprise Fund)</p>	<p><u>The Operating/Maintenance (Working Capital) component:</u> intended to ensure sufficient resources to pay budgeted operating and maintenance expenses, recognizing the timing differences between payment of expenditures and receipt of revenues. It also provides a source of funding to allow the Water and Sewer Divisions to operate during short term fluctuations in revenues and/or expenditures.</p> <ul style="list-style-type: none"> <li>• <u>Minimum:</u> 25% of annual operating expenses based on the most recent adopted budget.</li> <li>• <u>Target:</u> 35% of annual operating expenses based on the most recent adopted budget.</li> </ul> <p><u>Rate Stabilization Reserve:</u> 5% of prior fiscal year’s water and sewer serve revenues to help minimize significant potential fluctuations in the Water and Sewer rates for the system operations. The Rate Stabilization component can be treated as a coverage stabilization tool enabling transfers into and out of the Water and Sewer Revenue Funds, as determined necessary by the Finance Director, after consultation with recommendation of the Water and Sewer Divisions’ personnel and Public Works Director.</p> <p><u>Debt Service Reserve:</u> held in accordance with requirements of the debt issuance to ensure the ability to make debt service payments.</p> <p><u>Vehicle Replacement Reserve:</u> -</p> <ul style="list-style-type: none"> <li>• <u>Minimum:</u> 20% of replacement value of each Enterprise’s fleet</li> <li>• <u>Target:</u> 30% of replacement value of each Enterprise’s fleet</li> </ul>	<p>Working capital in Fund 311 and 321, consistent with industry standards</p> <p>Tracked in working capital calculation</p> <p>Tracked in fund balance model</p> <p>Tracked as a CIP for Equipment Replacement in each Enterprise CIP Fund, consistent with replacement schedules</p>
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### Withdrawal & Replenishment of Accumulation Reserves

The City will treat the minimum levels as practical reserve floors and allow reserves to increase or decrease within the minimum and target levels, as approved by City Council during the annual budget process. To the extent cash in the fund balances is above the target reserve levels outlined above, the Council has the flexibility to direct staff to utilize those available funds to fund one-time operating needs, capital projects, or pay down liabilities in accordance with this policy as defined in the purpose statement above.

Reserve levels below the minimum target reserves could leave the City exposed to operational risks. The City may only draw down the reserve levels with Council approval. The City Manager, in conjunction with the Administrative Services Department, will develop and implement plans to return cash accumulation reserves to their minimum target levels as quickly is reasonable given the financial circumstances facing the City, ideally within three years. This plan to replenish reserves is subject to approval by City Council, typically through the adoption of the annual budget.



## Reporting and Oversight

Reserve Levels will be monitored throughout the fiscal year and reported on as part of the annual budget development process. Updated fund balance and net positions will also be reported on annually in the audited Annual Comprehensive Financial Report (ACFR).

This Policy will be reviewed during the City's annual budget process, and updated, if needed, because of material changes in the risk exposures, changes in the industry, or new conditions that require changes.

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AGENDA NO: C-3

MEETING DATE: April 26, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** April 22, 2022

**FROM:** Scott Collins, City Manager

**SUBJECT:** Review and Discussion of Proposed Revisions to the City Council Policies & Procedures and Advisory Bodies Handbook and By-Laws as recommended by the Council Sub-Committee and Clarification regarding the Public Works Advisory Board's Review of the Water Reclamation Facility ("WRF") Project

## RECOMMENDATION

Staff recommends the City Council discuss proposed revisions to the City Council Policies & Procedures and Advisory Bodies Handbook & By-Laws and take the following actions:

1. Adopt Resolution No. 38-22 amending the City Council Policies & Procedures; and
2. Adopt Resolution No. 39-22 amending the Advisory Bodies Handbook & By-Laws; and
3. Direct the Public Works Advisory Body to review the WRF Quarterly Report and, to the extent possible, contract amendments related to the WRF Project. The Citizens Finance Advisory Committee's role related to WRF review will continue to include the following as directed by Council in December 2020: 1) Review debt service recommendations from staff including use of cash vs. other funding sources and analysis of impacts on rates; 2) Review of cash flow performance to ensure we maximize the use of funds (time use of money); and 3) Monitor compliance with drawdown requirements for WIFIA and WRF funding.

## ALTERNATIVES

The City Council may choose not to adopt the resolutions as presented and/or not provide recommended direction concerning PWAB, and direct staff accordingly.

## FISCAL IMPACT

There is no fiscal impact associated with the requested action.

## BACKGROUND

The City Council appointed Mayor Headding and Mayor Pro Tem Barton to a sub-committee to conduct the semi-annual review of the Council Policies & Procedures and Advisory Bodies Handbook & By-Laws. The revisions recommended by the sub-committee and other clean up recommended by staff is presented as red-line edits in the attached documents for City Council's review and discussion.

Alongside this sub-committee work, City staff also reviewed the current practices of advisory

Prepared By: DS

Dept Review: \_\_\_\_\_

City Manager Review: SC

City Attorney Review: CFN

bodies' review of the Water Reclamation Facility (WRF) program. As established by formal Council direction (December 2020), the Citizen Finance Advisory Committee (CFAC) is currently responsible for reviewing expenditures and revenues on the project through the WRF Quarterly Budget Report (WRF Quarterly Report). Council has also tasked CFAC with monitoring compliance with state and federal funding for the WRF, evaluating cash flow, debt, rates, and opportunities for best use of cash reserves in the Water and Sewer Funds and providing recommendations to City Council. The Public Works Advisory Board (PWAB), is responsible for reviewing the technical components of the WRF program, to include the indirect potable reuse project, while also at times reviewing change orders for WRF facility and conveyance systems prior to City Council review. Members of the community, Councilmembers and City staff have all had questions in the recent past about the somewhat confusing roles for these two advisory bodies with respect to the WRF program, and clarification is needed. Questions have also arisen about which body should review the WRF Quarterly Report. Based upon those questions, staff reviewed PWAB and CFAC roles with respect to the WRF program and provide recommendations to Council in the section below.

## **DISCUSSION**

The Council subcommittee and staff recommendations include the following and are provided as redline edits in Attachments 1 and 2 for Council review, discussion and adoption. Aside from minor edits for clarification and consistency with current practice, the notable revisions for Council consideration include the following:

### **Council Policies & Procedures.**

1. Section 1.3.7 (page 16). Clarification regarding handling of agenda correspondence in compliance with the Brown Act and *Sierra Watch v. Placer County* (2021)
2. Section 6.2.1 (page 47). Removal of Tourism Business Improvement District Advisory Board and clarification regarding the role of a Council liaison.

### **Advisory Bodies Handbook & By-Laws**

1. Removal of policy language related to the Tourism Business Advisory Board (page 4 & 33-36)
2. Revisions for consistency with current staff titles and responsibilities (page 8)
3. Clarification regarding process for advisory body members to add items to the Council approved work plan (page 9)
4. Clarification regarding meeting absences and process to request an excused absence (page 15 and By-Laws for each advisory body)
5. Clarification of roles & purpose of the Harbor Advisory Board ("HAB") and revised meeting schedule to provide opportunity for HAB input on the budget process (pages 21 & 23)
6. Clarification of the role and purpose of the Public Works Advisory Board (page 25)
7. Clarification of the role and purpose of the Recreation and Parks Commission (page 29)
8. Clarification on the role, purpose, and meeting schedule for the Citizens' Oversight/Finance Advisory Committee with further discussion below (page 41-43)

## **Citizens Oversight/Finance Advisory Committee**

Due to the increasing revenue collected with the passage of Measure E, combined with Measure Q, there is increasing complexity for the Measure E budget and expenditures compared to previous years. Revenues from the one and a half percent local tax are now projected to be over \$4 million per year, equivalent to roughly one-quarter of the City's General Fund. Thus, staff recommends that CFAC focus their efforts primarily on Measure E funds, as required by the Measure E initiative that voters approved and the implementing ordinance that Council adopted. To allow for sufficient time in the CFAC meeting calendar for the annual review of expenditures, semi-annual review of expenditures, and budget input on Measure E revenues, staff recommends that CFAC no longer review more routine finance reports such as quarterly investment reports or the Citywide midyear budget report, which are also required by law to be reviewed by City Council.

Consistent with the Government Finance Officers Association (GFOA) best practices, staff recommends that the City Council rather than CFAC be the reviewers of the annual audit and Annual Comprehensive Financial Report (ACFR), forming a Council audit sub-committee if desired. Specifically, the GFOA states that "Three main groups are responsible for the quality of financial reporting: the governing body, financial management, and the independent auditors. Of these three, the governing body must be seen as first among equals because of its unique position as the ultimate monitor of the financial reporting process....All members of the audit committee should be members of the governing body" (<https://www.gfoa.org/materials/audit-committees>). This is also consistent with the practices of all other cities in San Luis Obispo County.

These changes will allow CFAC to focus primarily on the increasingly complex Measure E review duties and take on special financial project review as assigned by Council in accordance with evolving Council goals and priority action items. These one-time assignments could include items such as WRF strategic financing input, input on addressing the City's unfunded pension liability, Council compensation, future potential capital financing input pending the completion of a capital needs assessment, and other needs that arise over time.

## **Advisory Body review related to the WRF Project**

As noted in the background section of this report, staff reviewed the current roles of CFAC and PWAB with regard to review of the WRF program. The purpose of that review is to ensure there is clarity in the assignments to CFAC and PWAB, and that the assignments make sense within the current status of the WRF program.

Staff recommends that PWAB take on the responsibility of reviewing the WRF Quarterly Report, as it lends itself to addressing any related technical or schedule components of the project that tend to arise when project expenses are discussed. This has been an issue with CFAC's review. CFAC is not as equipped to discuss the related technical components of the WRF, whereas PWAB is positioned to integrate those elements during review of the Quarterly Report. Staff also recommends underscoring the importance of bringing larger change orders on the WRF program to PWAB prior to Council review, when scheduling permits. Staff further recommends that CFAC no longer review the WRF Quarterly Report, but continue the following WRF program review efforts from time to time as a need for strategic financial input arises:

- Review debt service recommendations from staff including use of cash vs. other funding sources and analysis of impacts on rates;

- Review of cash flow performance to ensure we maximize the use of funds (time use of money); and
- Monitor compliance with drawdown requirements for WIFIA and WRF funding.

Those important tasks align with CFAC's role and expertise.

As the WRF is a short-term initiative, it is not referenced in either CFAC's or PWAB's "Purpose and Authority" in their respective by-laws section in the Advisory Bodies Handbook. Thus, City Council has assigned WRF review roles through prior motions, most recently in December 2020. City Council, can therefore, make the recommended change via motion as opposed to a change to the handbook.

### **CONCLUSION**

Staff recommends the City Council discuss proposed revisions to the City Council Policies & Procedures and Advisory Bodies Handbook & By-Laws and take the following actions:

1. Adopt Resolution No. 38-22 amending the City Council Policies & Procedures; and
2. Adopt Resolution No. 39-22 amending the Advisory Bodies Handbook & By-Laws; and
3. Direct the Public Works Advisory Body to review the WRF Quarterly Report and, to the extent possible, contract amendments related to the WRF Project. The Citizens Finance Advisory Committee's role related to WRF review will continue to include the following as directed by Council in December 2020: 1) Review debt service recommendations from staff including use of cash vs. other funding sources and analysis of impacts on rates; 2) Review of cash flow performance to ensure we maximize the use of funds (time use of money); and 3) Monitor compliance with drawdown requirements for WIFIA and WRF funding.

### **ATTACHMENTS**

1. Resolution No. 38-22 adopting the revised Council Policies & Procedures
2. Resolution No. 39-22 adopting the revised Advisory Body Handbook

**RESOLUTION NO. 38-22**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING THE CITY COUNCIL  
POLICIES AND PROCEDURES MANUAL**

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

**WHEREAS**, the Council Policies and Procedures Manual for the City of Morro Bay (the “Manual”) is a combination of City Council actions, policies, references, and information regarding the City Council; and

**WHEREAS**, to ensure all Councilmembers are familiar with and understand the City of Morro Bay’s philosophies and policies regarding serving on the City Council, on July 23, 2001, the City Council adopted Resolution 47-01 approving an early version of the Manual; and

**WHEREAS**, the Manual has been amended several times throughout the years; and

**WHEREAS**, at a Regular Meeting held January 25, 2022, the City Council directed a limited review of the Manual and established a subcommittee consisting of Mayor Heading and Mayor Pro Tem Barton to lead that review.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, that the City Council Policies and Procedures Manual is readopted, as attached hereto as Exhibit A.

**PASSED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 26th day of April 2022 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

# City of Morro Bay Council Policies and Procedures

## SCOPE

**This manual establishes the procedures for the conduct of all meetings of the City Council of the City of Morro Bay. The purpose of this manual is to provide City Council's meeting will be consistent with the Brown Act (Government Code Sections 54950 *et seq.*), and to establish procedures, which will be convenient for the public, and contribute to the orderly conduct of the City's business. The procedures herein are in addition to, and not in place of, Morro Bay Municipal Code (MBMC) 2.08 and any other applicable ordinances and statutes. In the event of conflict between this manual and applicable ordinances or statutes, the latter shall govern.**

### **Adopted by the City Council**

July 23, 2001, Resolution No. 47-01

### **Updated by the City Council**

August 12, 2002, Resolution No. 46-02  
November 13, 2003, Resolution No. 54-03  
June 24, 2004, Resolution No. 37-04  
November 14, 2005, Resolution No. 42-05  
May 22, 2006, Resolution No. 23-06  
May 14, 2007, Resolution No. 24-07  
October 8, 2007, Resolution No. 50-07  
November 10, 2008, Resolution No. 76-08  
February 22, 2010, Resolution No. 11-10  
June 14, 2010, Resolution No. 28-10  
September 27, 2010, Resolution No. 46-10  
January 25, 2011, Resolution No. 11-11

December 11, 2012, Resolution No. 64-12  
March 12, 2013, Resolution No. 19-13  
November 12, 2013, Resolution No. 53-13  
June 10, 2014, Resolution No. 36-14  
August 25, 2015, Resolution No. 58-15  
December 8, 2015, Resolution No. 74-15  
May 10, 2016, Resolution No. 30-16  
January 10, 2017, Resolution No. 01-17  
August 22, 2017, Resolution No. 45-17  
May 8, 2018, Resolution No. 26-18  
January 22, 2019, Resolution No. 10-19  
May 28, 2019, Resolution No. 39-19  
December 10, 2019, Resolution No. 104-19  
February 9, 2021, Resolution No. 08-21

RESOLUTION NO. 07-19

RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE  
IN ALL OF ITS MEETINGS

THE CITY COUNCIL  
City of Morro Bay, California

**WHEREAS**, on November 10, 2015, the City Council adopted Resolution No. 70-15 pledging to follow best practices of civility and civil discourse in all of its meetings, principles developed by the League of Women Voters; and

**WHEREAS**, on May 8, 2018, the City Council adopted Resolution No. 27-18 restating its commitment to the principles of civility and civil discourse in conducting business with appointed and elected officials, staff and citizens; and

**WHEREAS**, a healthy democracy respects the people's right to debate issues with passion; and not only tolerates disagreement but welcomes it; and

**WHEREAS**, honest debate helps refine ideas and create policies that benefit the greater good; and

**WHEREAS**, we, the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay, in order to ensure **civility** and **civil discourse** in all of our meetings, reaffirm and pledge our commitment to the following **best practices of civility** and **civil discourse**; and

**WHEREAS**, we pledge our commitment to **listen first**, making an honest effort to understand views and reasoning of others by listening to understand, not listening to find fault, allowing thoughtful discussion to lead to the best possible outcomes; and

**WHEREAS**, we pledge our commitment to **respect different opinions**, by inviting and considering different perspectives, allowing space for ideas to be expressed, opposed and clarified in a constructive manner; and

**WHEREAS**, we pledge our commitment to **show courtesy**, by treating all colleagues, staff and members of the public in a professional and courteous manner whether in person, online, or in written communication, especially when we disagree; and

**WHEREAS**, we pledge our commitment to **avoid rhetoric and refrain from making slanderous, profane or personal remarks intended to humiliate, malign, or question the motivation** of those whose opinions are different from ours in all our meetings; and

**WHEREAS**, we pledge our commitment to **speak truthfully** without accusation, and avoid distortion in all our meetings; and

**WHEREAS**, we pledge our commitment to **debate the policy not the person**, focusing on the issue, and not personalizing the debate or using other tactics that divert attention from the issue; and

**WHEREAS**, we pledge our commitment **against violence** and **incivility** in all their forms whenever and wherever they occur in all our meetings; and

**WHEREAS**, we commit ourselves to build a civil political community in which each person is respected and spirited public and political debate is aimed at the betterment of the City of Morro Bay and its people and not the disparagement of those with whom we disagree.

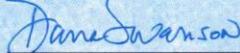
**NOW, THEREFORE, BE IT RESOLVED**, by the City Council, City of Morro Bay, California, that the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay shall promote the use of and adherence to the principles of **civility** and **civil discourse** in conducting business with appointed and elected officials, staff, and citizens.

**BE IT FURTHER RESOLVED**, the City Council directs this resolution pledging best practices of civility and civil discourse be brought forward in January of each year for re-affirmation by the City Council.

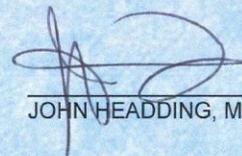
**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22<sup>nd</sup> day of January 2019 on the following vote:

AYES:            Heading, Addis, Davis, McPherson  
NOES:            Heller  
ABSENT:        None

ATTEST:



DANA SWANSON, City Clerk



JOHN HEADING, Mayor

**The above is to be readopted at the same time the policies are returned for adoption.**

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**CHAPTER ONE  
MEETING GUIDELINES & PROCEDURES**

**1.1 MEETING SCHEDULE**

**1.1.1 MEETINGS OF COUNCIL**

The Council shall provide by ordinance the time and place of holding meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary considerations when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

**1.1.2 REGULAR MEETINGS**

- 1.1.2.1 Regular meetings shall be held the second and fourth Tuesday of each month beginning at 5:30 p.m. In the event that a regular meeting of the Council shall fall on a legal holiday, that regular meeting shall be held at the same place and time on the next succeeding working day. A regular meeting can only be cancelled after polling the majority of the Council in favor of the cancellation.
- 1.1.2.2 Regular meetings shall be held in the Veterans Memorial Building, 209 Surf Street, in the City of Morro Bay.
- 1.1.2.3 Regular meetings shall be between the hours of 5:30 p.m. – 9:30 p.m. It shall be the policy of the City Council to complete meetings by 9:30 p.m., unless a majority of the Council elects to continue past the adjournment hour. If at the hour of 9:30 p.m. the City Council has not extended the time to adjourn the meeting or concluded its business, then the Council will review the balance of the agenda and determine whether to extend the meeting beyond the hour of 9:30 p.m., continue any remaining items, or adjourn the meeting to another date and time.

### **1.1.3 STUDY SESSIONS (Open to the public)**

- 1.1.3.1 The purpose of these meetings shall be for informal discussions between staff, advisory bodies or consultants, the public, and the City Council regarding specific programs, projects or policies. Council may provide direction, but no formal action will be taken during a Study Session. Study Sessions may be conducted in a variety of formats, including Public Workshops.
- 1.1.3.2 Study Sessions will be held at a time and place within the City limits and convenient to Council and advantageous for public participation.

### **1.1.4 SPECIAL MEETINGS**

- 1.1.4.1 Special meetings may be called by the Mayor or three City Council Members. Written notice of each special meeting must be given not less than twenty-four (24) hours before such meeting to each Member of the City Council not joining the call. Special meetings may be cancelled only by consent of a majority of the members of the Council not less than 24 hours before the date of the special meeting. Notice of such cancellation shall be given to all Council Members and written notice shall be posted for the public not less than 24 hours before the meeting.
- 1.1.4.2 Written notice must be given to the City Council and to the media twenty-four hours prior to each meeting, when requested.
- 1.1.4.3 A supplemental telephone call shall be made if necessary to notify each Council Member.
- 1.1.4.4 No business other than that announced shall be discussed.
- 1.1.4.5 Any special meeting held at a place other than the Veterans Memorial Building shall be open to the public. Such meetings shall be held within the City limits. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection.

### **1.1.5 CLOSED SESSION MEETINGS** (closed to the public)

- 1.1.5.1 Closed Session Meetings may be called by the Mayor or three City Council Members~~majority of the Council~~ and are regulated pursuant to the Brown Act. The most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the City or compromise the privacy interests of employees. Closed sessions should be conducted keeping those narrow purposes in mind.
- 1.1.5.2 No Council Member, employee of the City, or anyone else present shall disclose to any person the content or substance of any discussion which takes place in a closed session, unless authorized by a ~~four-fifths~~majority vote of the Council.

### **1.1.6 DESIGNATION AND USE OF COUNCIL CHAMBERS**

- 1.1.5.1 The Veterans Memorial Building shall be designated as the City's Council Chambers.
- 1.1.5.2 When a question arises regarding permission for any group to use the Council Chambers, the City Manager shall have authority to make the final decision. The following rules are established as a guide:
  - a. Use of the Council Chamber for regular meetings by City commissions, committees, and other advisory bodies shall take precedence over any other group or agency. To the extent possible, special meetings will be scheduled around other regularly scheduled non-City uses. In the event of a conflict, the City will give priority to rescheduling or relocating any use displaced by a City-related use.
  - b. Council chambers is available for other use on a first-come-first-serve basis, after City, City-affiliated and other regular uses are scheduled.
  - c. With the approval of the City Manager, and within the provisions of existing video production agreements, other local governmental agencies may use the Council Chamber for the purpose of live or video cablecasting public hearings and/or public meetings during regular or non-business hours.

## 1.2 AGENDA

### 1.2.1 ESTABLISHING THE COUNCIL AGENDA

The purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council Goals, Financial Plan and Budget, and also work programs, objectives, and business of the City as established by the present or earlier City Councils. Agenda items also include recommendations to the City Council from advisory bodies, land use and zoning actions or appeals, bid and purchasing procedures, and mandates from other levels of government. Staff shall work within the policy context established by the Council and will not arbitrarily place matters on the agenda that are outside the scope of existing work programs of the City, except as approved by the Mayor or a majority of the Council, and to inform and advise the Council of matters necessary to the proper operation and well-being of the City.

- a. Tentative Council Meeting Agenda - Every effort will be made to provide it to the City Council and staff before the close of business on the second Friday prior to the Council meeting.
- b. The full agenda packet for regular meetings of the City Council and all City Advisory Boards will be published a minimum of 120 hours (or five calendar days) prior to the meeting. Agenda packets for special meetings will be published a minimum of 48 hours (or two calendar days) prior to the meeting.

The process for determining the format and order of the agenda is based primarily on the order of business adopted by the City Council (see Section 1.2.7). The process for establishing the order of specific business and public hearing items is a collaborative one determined largely by anticipated public attendance (those matters involving greater audience attendance are usually scheduled ahead of other items). The City Manager shall meet with department heads on a regular basis, individually and as a group to discuss issues and to review upcoming agenda items.

In addition, the City Manager shall review the agenda materials with the Mayor, or in the Mayor's absence, the Mayor Pro Tempore. The final agenda is set subject to the approval of the Mayor (or Mayor Pro Tempore), after consultation with the City Manager.

### 1.2.2 PLACING AN ITEM ON THE AGENDA (COUNCIL MEMBER)

Any Council Member may request an item be placed on a future agenda by submitting a request, orally or in writing, to consider the matter and by discussing the request during the "Declaration of Future Agenda Items" section of the regular agenda. If a majority of the Council approves including that matter on an upcoming agenda, then staff will prepare a staff report ~~for the next available agenda~~, as determined by the City Manager, unless otherwise directed by the Council.

If only one other Council Member supports hearing the item, then an item will be listed on the next available agenda, as determined by the City Manager, unless otherwise directed by the Council. The Council Member who made the request for the agenda item shall be responsible for providing the Council report and the Council will take no action on the substance of the matter at that review, unless there is adequate public notice, and information is provided for the Council to make an informed decision. If no other Council Member supports hearing the item, then the item will not be placed on the agenda.

Pursuant to Section 1.2, the Mayor is responsible for establishing the Agenda and may place an item on the agenda without Council support. In such a situation, the Mayor, or Council Member who the Mayor is accommodating, shall be responsible for providing a Mayor or Council Report.

The Council has an approved strategic planning process to set the City's annual goals, objectives and action plans. In order to ensure that City staff has sufficient time and resources to accomplish these established priorities, adding future items to the workplan during the year is discouraged. Exceptions are warranted should unforeseen events occur that threaten the health, safety or financial wellbeing of the City and Council action is required. Should new items be recommended that are not part of the City Goal and Action Item plan nor meet the exception noted, the City Manager has the discretion to request that an action item be removed to allow sufficient time to address the added item.

### **1.2.3 PLACING AN ITEM ON THE AGENDA (ADVISORY BODIES)**

Recommendations made by advisory bodies, as part of their normal scope of duties and responsibilities, shall be timely placed on the City Council agenda by staff, who shall comply with the City's approved Council Agenda Preparation Policy. In the event an advisory body desires to bring a matter of special consideration to the City Council (new ideas or concerns, for example), it may request an item be placed on a future agenda by submitting a written request to the Council approved by a majority of the advisory body members and signed by the Chair. During Declaration of Future Agenda Items, any member of the Council may ask for consideration of the request and upon a majority of Council, a staff report will be prepared and approved by the City Manager or his/her designee.

### **1.2.4 PLACING AN ITEM ON THE AGENDA (THE PUBLIC)**

A member of the public may request an item be placed on a future agenda during the Public Comment period at the beginning of every Council meeting, or via other communication with Council Members. Any Member of the Council may ask for consideration of that request pursuant to those procedures set out in 1.2.2.

### **1.2.5 EMERGENCY ITEMS**

Emergency items may be placed on the agenda only in accordance with the Brown Act. Generally, only those matters affecting public health or safety may be considered emergency in nature. A four-fifth's vote of Council is necessary to add an emergency item.

### **1.2.6 RECONSIDERATION**

Reconsideration of issues previously acted upon is discouraged. However, in extraordinary situations, a request to reconsider an action taken by the City Council may be considered. The request must be presented by a Council Member who voted with the majority at the Council meeting at which the original vote was taken. The vote may be reconsidered during that meeting, but no later than the next Council meeting. Debate is limited to the question of whether there is a majority of the Council interested in reconsidering the matter. If a majority of the Council votes to reconsider an action, then the matter can be heard at that same meeting or placed on the next or future agenda, as directed by the Council. Notwithstanding the foregoing, as a governmental legislative body, the Council reserves the right to consider or reconsider any matter within its jurisdiction that a majority of the Council deems appropriate, particularly if new information becomes available or circumstances change.

### **1.2.7 ORDER OF BUSINESS** shall be as follows:

- 1.2.7.1 Establish Quorum and Call to Order
- 1.2.7.2 Moment of Silence
- 1.2.7.3 Pledge of Allegiance
- 1.2.7.4 Recognition (Certificates of Appreciation or other forms of recognition for residents and staff)
- 1.2.7.5 Closed Session Report
- 1.2.7.6 Mayor and Council Members Reports, Announcements and Presentations\*
- 1.2.7.7 City Manager Reports, Announcements and Presentations (City Manager, Director and Advisory Board Reports)
- 1.2.7.8 Presentations (Proclamations and Public Presentations)
- 1.2.7.9 Public Comment (generally for items not on the agenda)
- 1.2.7.10 Consent Agenda
- 1.2.7.11 Public Hearings
- 1.2.7.12 Business Items
- 1.2.7.13 Council Declaration of Future Agenda Items
- 1.2.7.14 Adjournment

\*Intended for reporting back to the full Council and the public on items, issues or meetings associated with other Council duties, *e.g.*, assignments to other official bodies, attendance at League of California Cities meetings, etc.

### **1.2.8 NOTIFICATION AND ADVERTISING**

The City will advertise all matters of significant neighborhood or community public interest that appear on a City Council or Planning Commission agenda where advertising is required by law. Said advertisements shall include location maps, project descriptions and posting of property, if required, written in plain English in order to fully inform all interested individuals. Similar information will appear on the City's website.

All advertising shall be accomplished in an economical manner. All affidavits of publication will be available to interested members of the public.

### **1.3 MEETING PROCEDURES**

#### **1.3.1 PRESIDING OFFICER**

1.3.1.1 The Mayor is the Presiding Officer and acts as Chair at Council meetings.

1.3.1.2 In the absence or incapacity of the Mayor, the Mayor Pro Tempore will serve as Presiding Officer.

1.3.1.3 In the absence of both the Mayor and Mayor Pro Tempore, a majority of the quorum shall select one of the Council Members present to act as Chair for the meeting.

1.3.1.4 Seating arrangement of the Council:

The Mayor, ~~with the approval of individual Council Members,~~ shall establish seating arrangements for regular Council meetings.

1.3.1.5 Signing of City Documents:

The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature, except where the City Manager, or other designee, has been authorized by Council to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature may be used.

#### **1.3.2 QUORUM**

A majority of the Council Members shall constitute a quorum for the transaction of business.

#### **1.3.3 DISCUSSION RULES**

### 1.3.3.1 Procedure Order

For discussion of items on the agenda, the following order is followed:

- a) Presentation of the Staff Report
- b) Council Member Questions
- c) Public Comments
- d) Council Member Discussion/Decision and Motion(s)

### 1.3.3.2 Obtaining the floor:

1.3.3.2.1 A City Council Member or staff shall first address the Presiding Officer and gain recognition, or the Presiding Officer may call upon Council Members to ask if they desire to ask questions or provide comments.

1.3.3.2.2 Comments and questions ~~should~~ shall be limited to the issue before Council.

1.3.3.2.3 Cross-exchange between Council Members and public should be avoided.

### 1.3.3.3 Questions to Staff:

A Council Member shall, after recognition by the Presiding Officer, address questions to the designated staff member. Questions shall be limited to the specific agenda item being considered. Council Members are encouraged to provide questions to staff prior to meetings.

### 1.3.3.4 Interruptions:

1.3.3.4.1 Once recognized, a Council Member shall not be interrupted while speaking except to make a point of order or personal privilege.

1.3.3.4.2 If a Council Member is called to order while speaking, then the individual shall cease speaking until the question of order is determined.

1.3.3.4.3 Upon being recognized by the Mayor, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

### 1.3.3.5 Limitation on Discussion:

No Council Member shall speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members ~~are encouraged to should~~ discuss items during the decision-making process as opposed to during Council Member questions.

#### 1.3.3.6 Tabling Procedure:

The purpose of the Motion to Lay on the Table also known as a Motion to Table is to enable the City Council, by majority vote and without debate, to lay a pending question aside temporarily when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed. The Motion shall not be used to cut off debate and shall only be used when it is necessary to suspend consideration of a main motion ~~in order to deal with another matter that has come up unexpectedly and which must be dealt with before the pending motion can be properly addressed~~ as per the reasons mentioned above.

#### 1.3.3.7 Right of Protest:

A Council Member is never required to state reasons for dissent, but is encouraged to for purposes of public/Council discernment.

#### 1.3.3.8 Rules of Procedure:

~~The Council shall determine its own rules of procedure.~~ Morro Bay Municipal Code Section 2.08.100 provides the proceedings of the Council shall be governed by Robert's Rules of Order, revised edition.

#### 1.3.3.9 Council Minutes:

If a Council Member wishes a stated opinion to be entered in the minutes, then he/she should precede the statement with "for the record," or request the City Clerk to enter it into the record following the statement.

### **1.3.4 PARLIAMENTARY PROCEDURE**

Parliamentary procedure consists of those rules in effect according to City Council policy (State law and Robert's Rules, to the extent applicable to a public legislative body). The following summarizes the most frequently used actions.

#### 1.3.4.1 Council Members and staff shall:

1.3.4.1.1 Work earnestly to preserve appropriate order and decorum during all meetings.

1.3.4.1.2 Side conversations, disruptions, interruptions or delaying efforts are discouraged.

1.3.4.2 ~~Persons~~Members of the public and/or Council Members demonstrating rude, boisterous, or profane behavior will be called to order by the Presiding Officer. If such conduct continues, then the Presiding Officer may call a recess, request the removal of such person(s) from the Council Chamber, adjourn the meeting, or take such other appropriate action as permitted by the Brown Act.

1.3.4.3 Only the City Council, staff, Designated Representatives, and those authorized by the Presiding Officer shall be permitted to sit at the Council or staff tables.

1.3.4.4 Enforcement of order:

1.3.4.4.1 The Police Chief or his/her designee shall act as the Sergeant-at-Arms.

1.3.4.4.2 Any Council Member may request the Presiding Officer to enforce the rules of protocol. Upon motion and majority vote, the Presiding Officer shall be required to do so.

### **1.3.5 BEHAVIOR AND CIVIL DISCOURSE POLICY**

The City encourages the willingness to speak up and to listen within a framework of respect and understanding. Toward that end, the Council has adopted Resolution No. 07-19, a Resolution of the City Council of the City of Morro Bay, California, Pledging to Follow Best Practices of Civility and Civil Discourse in All of Its Meetings, both on the part of any public comment as well as any comments from the members of the City Council. Those principles were crafted by the League of Women Voters of San Luis Obispo County, and are memorialized on Page 7 of this document.

### **1.3.6 VOTING PROCEDURES**

1.3.6.1 ~~When present, all Council Members shall vote, unless precluded by a conflict of interest.~~ If a Council Member, who is present at a meeting and not precluded from voting due to a conflict of interest, ~~fails to vote~~abstains, that ~~failure~~abstention will be construed as a vote on the prevailing side. If there is a tie vote,

not counting the Council Member who ~~failed to vote~~abstained, then there is no prevailing side.

- 1.3.6.2 No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three non-abstaining Council Members.
- 1.3.6.3 A conflict of interest shall be declared whenever appropriate and in compliance with State law and the Council Member will disclose the nature of the conflict of interest, step down and shall not make, participate in making, or influence the decision.
- 1.3.6.4 A vote may not be changed by a Council Member after the vote announcement by the Presiding Officer or City Clerk; provided, that with the consent of the City Council a correction of the vote may be made.
- 1.3.6.5 The City Clerk shall restate the motion prior to the vote or request the Presiding Officer to restate the motion, if required for Council or public clarification.
- 1.3.6.6 Voice voting is the preferred method for recording Council votes.
- 1.3.6.7 A roll call vote may be taken at the discretion of the Presiding Officer. The City Clerk will call the roll for the roll call vote in the following manner: 1) Council Members in alphabetical order by last name; 2) Mayor Pro Tem; and, 3) Mayor last. The City Clerk shall state for the record the name of any Council Member who is recused or has abstained.
- 1.3.6.8 General consent votes may be taken at the discretion of the Presiding Officer, if there are no negative votes or objections by Council Members.
- 1.3.6.9 Upon the request of any Council Member, the ayes and noes shall be taken and recorded on any vote.
- 1.3.6.10 The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council.
- 1.3.6.11 Following the vote, the Presiding Officer or City Clerk shall announce whether the questions have been carried or defeated.

1.3.6.12 Tie votes: If a tie vote occurs, then the Council is required to continue the item by majority vote or make motions until an action receives three affirmative votes.

1.3.6.13 The Presiding Officer may publicly explain the effect of the vote for the audience or may direct a member of the staff to do so.

### **1.3.7 PUBLIC COMMENT**

Members of the public may address the City Council in a variety of ways. Written comments on agenda items are encouraged. As a courtesy to the Council, citizens are encouraged to present written comments at least one day prior to the meeting. Comments may be hand-written or ~~e-mailed~~submitted via email to [council@morrobayca.gov](mailto:council@morrobayca.gov). This provides the Council with a greater opportunity to review and consider issues and/or concerns expressed in written communications prior to a meeting. Comments received before ~~12 Noon~~10:00 a.m. on the day of the meeting will be distributed to City Council Members ~~at the meeting and~~published on the City website. Written material distributed at the meeting will be made a part of the public record. If the material is too voluminous for Council to review during the meeting or is new material not previously considered, then Council may at its discretion continue the item to a future meeting. The following are guidelines for providing public comments:

1.3.7.1 During Public Comment period, at the beginning of every meeting, members of the public may address the City Council on items that are not on the printed agenda or that are on the agenda when the individual cannot be present when the item is considered per the agenda. For Consent Items, Public Hearing Items, and Business Items, the Presiding Officer will invite comments from the public in support of, or in opposition to each specific Agenda Item following the staff report and any questions from Council to Staff. Those individuals desiring to speak may be asked to fill out a speaker's slip, but a speaker cannot be required to fill out a speaker's slip. They are located on the table at the entrance to the Council Chambers (Veterans Hall).

1.3.7.2 Individuals desiring to speak shall:

1.3.7.2.1 Address the Council from the podium after giving name and City of residence. Speakers may decline to provide their name if so desired. Speakers shall direct their comments to the Council, not the audience.

1.3.7.2.2 Limit comments to three minutes or to the interval specified by the Presiding Officer. To provide an opportunity for all to speak during a meeting, the

maximum time permitted for each speaker to speak on a particular matter may be reduced by the Presiding Officer when a large number of speakers wish to address the Council on that matter. The Presiding Officer, with the majority of Council Members, may reopen the public comment period to hear additional public comment. Council Members may ask questions of anyone present without reopening the public comment period. Speakers may speak only once on a given issue and may not cede their time to another speaker.

1.3.7.2.3 Each person addressing the City Council shall do so in an orderly manner, and the Council respectfully requests that speakers refrain from making repetitious, slanderous or irrelevant remarks, or engaging in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the Council meeting. Any person who so disrupts the meeting may, at the discretion of the Presiding Officer or a majority of the City Council present, be subject to ejection from that meeting.

1.3.7.2.4 Persons addressing the Council shall address the Council as a whole and shall not engage in a dialogue with individual Council Members, City staff or members of the audience. No questions shall be asked of a Council Member or a member of City staff without first obtaining permission of the Presiding Officer. The Presiding Officer shall determine whether, or in what manner, an answer will be provided. Any person violating this rule while addressing the Council shall be called to order by the Presiding Officer.

1.3.7.3 Except as otherwise permitted by the Brown Act, action may not be taken on issues not listed on the agenda. Staff may be asked to follow-up on such items.

1.3.7.4 Council Members actions

1.3.7.4.1 Council Members may question the person addressing the Council at the conclusion of the person's comments or upon expiration of the person's time to speak.

- 1.3.7.4.2 Council Members shall not engage the person addressing the Council in a dialogue with the City Council or City staff but shall confine communication to a question and answer format conducted through the Presiding Officer.
- 1.3.7.4.3 If a member of the audience has addressed the Council on matters which are not on the agenda, then Council Members shall refrain from extended discussion of the matter. If a Council Member so wishes, then the Council Member may seek to have the City Manager place the matter on the next agenda in accordance with this policy.
- 1.3.7.5 Upon violation of the rules of order and decorum established in Section 1.3.2 – 1.3.7 of this manual, the procedure to enforce the rule shall be as follows:
  - 1.3.7.5.1 Warning: The Presiding Officer shall request a person who is violating the rules of decorum cease such conduct. If, after receiving a warning from the Presiding Officer, the person persists in disturbing the meeting, the Mayor shall order the person to leave the City Council meeting. If the person does not leave the meeting, then the Presiding Officer may order any law enforcement officer who is on duty at the City Council meeting as sergeant-at-arms to remove the person from the City Council chambers.
  - 1.3.7.5.2 Removal: Any law enforcement officer who is serving as sergeant-at-arms at the City Council meeting shall carry out the orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum. Upon instruction of the Presiding Officer, it shall be the duty of the sergeant-at-arms to remove from the City Council meeting any person who is disturbing the proceedings of the City Council.
  - 1.3.7.5.3 Resisting Removal: Any person who resists removal by the sergeant-at-arms may be charged with a violation of the rules of order and decorum, as well as any other applicable ordinance or law.
  - 1.3.7.5.4 Motion to Enforce: If the Presiding Officer fails to enforce the rules of order and decorum set forth in Section 1.3.2 – 1.3.7, then any Member of the City

Council may move to require the Presiding Officer to do so, and an affirmative vote of a majority of the City Council shall require the Presiding Officer to do so. An affirmative vote of a majority of the Council may appeal to the entire Council the ruling of the Presiding Officer that a person be removed from the meeting, in which event the decision of the Council majority shall govern and conclusively determine such question. If the Presiding Officer fails to carry out the will of the majority of the City Council, then the majority may designate another Member of the City Council to act as the Presiding Officer for the limited purpose of enforcing the rules of order and decorum established in Section 1.3.2 - 1.3.7.

- 1.3.7.5.5 Clearing the Room: If a meeting of the City Council is disturbed or disrupted in such a manner as to make infeasible or improbable the restoration of order, then the Presiding Officer or a majority of the City Council may exercise the authority granted in the California Government Code section 54957.9 by ordering the meeting room cleared and continuing in session in the manner authorized by Section 54957.9 of the Government Code.

### **1.3.8 CONSENT ITEMS**

Consent Items are the first items on the agenda. Only items that are routine, relate to implementation of approved budget items or to City operations, or are items to be later set for public hearing are to be placed on the Consent Agenda. Items of significant neighborhood or community public interest should be heard as a Public Hearing or Business Item, and not placed on the Consent Agenda.

- 1.3.8.1 Minor Questions. A Council Member may ask questions on any item without it being pulled from the Consent Agenda. When a Council Member has a minor question for clarification concerning a Consent Item that will not involve extended discussion, the item may be pulled for clarification at the beginning of the meeting and the questions will be addressed along with the rest of the Consent Agenda. There should be no objections at this time. Council Members are encouraged to seek clarifications prior to the meeting (whenever possible).
- 1.3.8.2 No Vote. When a Council Member wishes to pull an item simply to register a dissenting vote, a request should be made that the item be pulled for separate vote without discussion.

Such items will also be handled at the beginning of the meeting along with the rest of the Consent Agenda.

1.3.8.3 Any item may be pulled by a Council Member for discussion. A member of the public may request the Council to pull an item for discussion during the initial public comment period, but the discretion to pull that item will remain with the Council.

1.3.8.4 Pulled items shall be heard at the close of the Consent Agenda, unless a majority of the Council chooses another time.

### **1.3.9 NOTICED PUBLIC HEARINGS**

During the pendency of any Public Hearing that is a quasi-judicial proceeding, no Council Member or Planning Commissioner shall engage in an *ex parte* communication with any "Interested Party" who intends to influence the decision of the Council or Commission in a proceeding, unless the Council Member or Commissioner discloses the *ex parte* communication on the Council or Commission's record. "Interested Party" means any individual with an interest in the quasi-judicial proceeding that is greater than the general interest of the public as a whole. The term includes, but is not limited to, parties involved in the proceeding, parties that may be significantly affected by the decision, and nonprofit or public interest organizations and associations with a special interest in the matter regulated. A member of the public at large who expresses a casual or general opinion about a pending proceeding would not necessarily be an "Interested Party."

Matters, which are required to be heard in a noticed Public Hearing, shall be conducted in the following manner:

1.3.9.1 Time for Consideration: Matters noticed to be heard by the City Council shall commence in the order provided in the agenda. Public hearings are the first order of business following the Consent Calendar.

1.3.9.2 Continuance of Hearing: Any hearing being held or noticed or ordered to be held by the City Council may, by order or notice of continuance, be continued or re-continued to any subsequent meeting.

1.3.9.3 Conduct of Hearings: When a matter for Public Hearing comes before the City Council, the Presiding Officer may:

1.3.9.3.1 Call for a report on noticing from the City Clerk.

1.3.9.3.2 Call for a report on written communications received by the City pertaining to the item being heard.

1.3.9.3.3 Request that staff present the staff report and any other relevant evidence. Presentation of the staff report prior to the formal opening of the Public Hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the Public Hearing.

The Presiding Officer shall then recognize the applicants, appellants and their representatives in the cause, who shall be permitted to speak first during the public comment portion of the applicable matter for not more than 10 minutes, or the time allowed by the Presiding Officer, to present evidence related to the matter under consideration. The applicants, appellants and their representatives shall address the Council from the lectern after giving their names and the names of the applicants/appellants they are representing, if different.

The Presiding Officer shall then recognize members of the public. No person may speak without first being recognized by the Presiding Officer. City Council Members who wish to ask questions of the speakers or each other during the Public Hearing may do so. Council Members should be mindful the purpose of the Public Hearing is to obtain testimony, and not to debate the merits of the item under consideration. Council Members should avoid debate and expressions of personal opinion until after the close of the public testimony portion of the Public Hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons. For Public Hearings, when 10 or more members of the public desire to speak, the Presiding Officer may request speaker slips to be completed and delivered to the Clerk before the item is considered. Comments shall then be allowed first by those submitting a slip and in the order received by the Presiding Officer. Comments from the public shall be limited to three minutes per speaker for Public Hearings, unless the City Council affirmatively decides otherwise. For Public Hearings that have the potential to be appealed to the California Coastal Commission, members of the public who desire to receive notice of any further proceedings shall write their name and address on the interested parties list at the back of the room.

The Presiding Officer shall then close the public testimony portion of the Public Hearing. After the public testimony portion of the Public Hearing is closed, no member of the public shall be permitted to address the Council or the staff, except at the discretion of the Presiding Officer or the majority of the Council. Council Members may still, however, ask questions of

staff or members of the public. Upon conclusion of Council deliberations and immediately prior to a motion, the Presiding Officer shall formally close the public hearing, which can be accomplished by the Presiding Officer declaring the matter is being brought back to the Council for discussion or other manner to clearly indicate the hearing portion of the matter has concluded. Upon formal closing of the public hearing, no additional public testimony shall be solicited or received without reopening the hearing.

- 1.3.9.4 Evidence. All persons interested in the matter being heard by the City Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the City Clerk or appropriate City department, as part of the official record of the proceeding. Prior to declaring the public hearing open, the Presiding Officer may establish a time limit for the entire public hearing and establish time limits for the presentation of each individual speaker.

#### **1.3.10 BUSINESS ITEMS**

Business Items follow Consent Items and Public Hearings (if any) on the agenda. Business Items can include new matters or matters continued from one or more earlier meetings. Opportunity for public comment as discussed in Section 1.3.7, above, will be provided for each Business Item.

### **1.4 MEETING COVERAGE**

The purpose of cablecasting meetings of the Morro Bay City Council is to enhance the awareness and education of the general public regarding the actions and deliberations of the City Council.

- 1.4.1 Coverage of City Council meetings shall be gavel-to-gavel; whether presented to the public live or taped, Council coverage is not to be edited or subjected to editorial comment.
- 1.4.2 All City Council meetings shall be cablecast or taped for broadcast, except for meetings or portions of meetings which are closed to the public, or when the majority of the Council directs otherwise.
- 1.4.3 Cameras used for the gavel-to-gavel coverage shall be operated only by City employees, firms, or persons authorized by the City.
- 1.4.4 Cameras shall be operated so that they are primarily focused on the officially recognized speaker, and on any visually displayed information they may be showing.

- 1.4.5 “Reaction” shots will not be permitted.
- 1.4.6 The City Clerk’s minutes shall remain the official record of Council proceedings. Other recordings are for convenience and occasionally used when a verbatim transcript is required in legal proceedings. Audio recordings have a 2-year retention and video recordings have a 10-year retention. Meeting minutes are permanent.
- 1.4.7 As soon as reasonably possible following each Council meeting, but not later than the second regular meeting after, the City Clerk shall include a copy of the minutes, thereof, as a Consent Item for the agenda of a regular Council meeting.



**CHAPTER TWO  
COUNCIL SALARY, BENEFITS AND REIMBURSEMENTS**

Council salary, financial benefits and reimbursements are established by Council action and in conformance with State law, the MBMC, and duly adopted and effective resolutions. Below is a description of the same but may not include all that are applicable.

**2.1 SALARIES FOR MAYOR AND COUNCIL MEMBERS**

Compensation for services rendered by the Mayor and Council Member, in an official capacity, shall be provided in accordance with State law and the MBMC. The Citizens Finance Advisory Committee will be asked every 4 years, starting with 2020, to provide the Council a recommendation on whether any changes should be made to that compensation.

**2.2 RETIREMENT, MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**

The Mayor and Council Members are required to participate in P.A.R.S. retirement. The City shall pay a contribution to P.A.R.S. equal to 1% of salary. The City shall pay, in full, the cost of the Mayor's and Council Members' participation in lowest cost medical plan (self-only), dental, vision, and life insurance.

**2.3 PROFESSIONAL DEVELOPMENT**

The Mayor and each Council Member shall be reimbursed for normal and customary business expenses as follows:

**2.3.1 BUSINESS TRAVEL EXPENSE AND CONFERENCE REGISTRATION**

The Mayor and each Council Member shall be reimbursed for normal and incidental expenses and for costs of professional development and educational conferences designed to improve understanding of and proficiency in municipal affairs. Such reimbursement shall be for out-of-county expenses only and shall be reimbursed in accordance with accepted City Travel Guidelines.

2.3.1.1 Authorized Expenses. City funds, equipment, supplies (including letter head), titles, and staff time must only be used for authorized City-business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this section are met:

- Communicating with representatives of regional, state and national government on City-adopted positions.

- Attending educational seminars designed to improve official's skill and information levels.
- Participating in regional, state and national organizations whose activities affect the City's interests.
- Recognizing service to the City (i.e. thanking a longtime employee with a retirement gift or celebration of nominal value and cost).
- Meetings such as those listed above for which a meeting stipend is expressly authorized under this section.

All other expenditures require prior approval by the City Council, including international and out-of-state travel.

2.3.1.2 Expenses Not Eligible for Reimbursement.

- The personal portion of any trip.
- Political or charitable contributions or events.
- Family expenses, including partner's expenses, when accompanying official on City-related business.
- Entertainment expenses, including theater, movies, sporting events (including gym, massage and/or golf related expenses) or other cultural events.
- Alcohol/personal bar expenses.
- Except as provided in 2.4.2 and .3, personal automobile expenses.
- Personal losses incurred while on City business

**2.4 CITY BUSINESS AND MILEAGE REIMBURSEMENT**

The Mayor and each Council Member shall be reimbursed as follows:

**2.4.1 CITY BUSINESS**

For costs incurred in connection with official City business, the Mayor and Council Members shall be reimbursed for in-county expenses, including meals, tickets, periodicals, dues, subscriptions, and similar miscellaneous expenses, if receipts for those expenses are provided.

**2.4.2 MILEAGE**

For official travel within the County of San Luis Obispo, reimbursement shall be made upon submittal of an official mileage expense form.

### **2.4.3 TRANSPORTATION**

When attending conferences or meetings that are of such distances it is more economical to take commercial air fare, if an official drives his/her car to such meetings, then commercial air fare will be paid and not automobile mileage. Government and group rates must be used when available.

- 2.4.3.1 Airfares that are reasonable and economical shall be eligible for purposes of reimbursement.
- 2.4.3.2 Automobile mileage is reimbursed at IRS rates in effect at the time of travel. Those rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls which are also reimbursable.
- 2.4.3.3 Car Rental rates that are reasonable and economical shall be eligible for purposes of reimbursement.
- 2.4.3.4 Taxi and shuttle fares may be reimbursed, including a 15% gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

### **2.4.4 LODGING**

Lodging expenses will be reimbursed or paid for when travel on official City-business reasonably requires an overnight stay. If such lodging is in connection with a conference, then lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, then reimbursement at the IRS rate in effect at the time of travel shall apply.

### **2.4.5 MEALS**

Actual expenses shall be reimbursed subject to the maximum per diem for the mean as set by the IRS rate in effect at the time of travel. (Cal. Gov't. Code 53232.2) and Publication 1542 at [www.irs.gov](http://www.irs.gov)). The City will not pay for alcohol/personal bar expenses.

#### **2.4.6 MISCELLANEOUS EXPENSES**

Officials will be reimbursed for actual telephone, fax, and parking expenses incurred for City-business. Telephone bills should identify which calls were made for City-business.

#### **2.4.7 CASH ADVANCE POLICY**

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten working days prior to the need for the advance with the following information:

1. The purpose of the expenditures.
2. The benefits of such expenditures to the residents of the City.
3. The anticipated amount of the expenditures(s) (for example, hotel rates, meal costs, and transportation expenses).
4. The dates of the expenditure.

Any unused advance must be returned to the City within five working days after the official's return, along with an expense report and receipts documenting how the advance was used. In the event the City Manager is uncertain as to whether a request complies with this policy, the official must seek resolution from the City Council.

#### **2.4.8 CREDIT CARD USE POLICY**

For travel expenses the preference is for Council Members either to (i) submit a reimbursement request upon return (with the proper forms completed and receipts attached) or (ii) request a payment advance for travel, whenever it is not possible to have expenditures charged directly to the City or utilize the City Clerk/City Manager's credit cards for travel and accommodation arrangements. If an advance is made, then receipts are required for all expenditures, as is return of the unspent portions of the advance. It is understood there may be circumstances where a Council Member cannot prepay for expenditures. In such cases, with approval through the City Manager, a credit card will be ordered in the Council Member's name. The credit card may only be used for authorized expenditures during the authorized travel.

#### **2.4.9 EXPENSE REPORT CONTENT AND SUBMISSION DEADLINES**

All cash advance expenditures and expense reimbursement requests must be submitted on an expense report form provided by the City. That form shall include the following advisory:

“All expenses reported on this form must comply with the City's policies relating to expenses and use of public resources. The

information submitted on this form is a public record. Penalties for misusing public resources and violating the City's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability. “

Expense reports must document that the expense in question met the requirements of this Policy. Officials must submit their expense reports within 10 working days after an expense has been incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation within 10 calendar days after travel may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging or travel, the non-attending official shall submit a written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision of the City Manager may be appealed to the City Council.

#### **2.4.10 REPORTS TO CITY COUNCIL**

At the next regular City Council meeting, the Mayor and City Council shall briefly report on the meetings attended by that person at City-expense. If multiple officials attended, then a joint report may be made.

#### **2.4.11 COMPLIANCE WITH LAWS; VIOLATION**

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All City expenditures are public records subject to disclosure under the Public Reports Act and other applicable laws. Use of public resources or falsifying expense reports is a violation of this Policy and may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the City's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

### **2.5 GENERAL PROCEDURES AND LIMITATIONS**

Appropriate budgetary practices and accounting controls shall be established to ensure expenditures and reimbursements are in compliance with approved budget allocations. The Mayor and each Council Member is expected to plan business activities so as to stay within budget. When exceptional circumstances require additional amounts be allocated to accounts, formal Council action shall be required.

### **2.5.1 ACCOUNTING**

An account shall be established in the name of the Mayor and each Council Member with all expenditures charged to the individuals. Receipts shall be submitted within the fiscal year.

### **2.5.2 REIMBURSEMENT LIMITATION**

The City's adopted Travel Guidelines shall govern all expenditures for non-local professional development and conferences. Those guidelines include all non-local official meals, tuition or fees, transportation to meeting sites, materials and telephone usage.

### **2.5.3 SPECIAL EXPENSES**

For occasions when the Mayor or a Council Member is designated by the City Council to represent the City at special meetings, reimbursement shall be made from the appropriate Travel Expense Account.

### **2.5.4 HONORARIUM**

The Mayor and Council Members are not permitted, by law, to receive an honorarium as a result of his/her participation in a meeting or conference. The Mayor or Council Members may receive income for personal services provided at a meeting or conference, if those services are customarily provided in connection with the practice of her/his *bona fide* business or profession, unless the sole or predominate activity of the business or profession is making speeches. If the Mayor or Council Member receives such income, then the amount of that income shall be deducted from the amount normally provided by the City for that meeting or conference if the City paid for the Mayor or Council Member's attendance at such meeting or conference.

### **2.5.5 OTHER GUIDELINES**

Any other travel-related issue not specifically governed in this resolution shall be adjudicated in accordance with the City of Morro Bay Travel Expense Reimbursement Policy.

**CHAPTER THREE  
COUNCIL POWERS & APPOINTMENTS**

**3.1 MAYOR - POWER AND DUTIES**

- 3.1.1 The Mayor shall preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor shall be entitled to, ~~and must~~ vote when present; but shall possess no veto power.
- 3.1.2 The Mayor shall be recognized as the official head of the City for all ceremonial purposes.
- 3.1.3 The Mayor may order flags flown on City property to be lowered to half-staff in mourning for any member of the community designated to have made significant contributions to the City of Morro Bay, in accordance with recognized customs or practices not inconsistent with State and Federal law.
- 3.1.4 The Mayor is authorized to sign letters of appreciation to persons and organizations. Copies of those signed letters shall be provided to the Council Members, as soon as feasible.
- 3.1.5 The Mayor will, at times, receive written communications from recognized organizations or entities whose fundamental purpose is to support cities, such as the League of California Cities, etc. Those communications may be seeking City support for a position the specific organization is taking. Because of the often short time limits for submitting responses to those communications, the Mayor is authorized, at no cost to the City to submit the requested communication consistent with the subject entity's recommendation. At the discretion of the Mayor, other written communications supporting previously agreed upon policy issues by the Council, may be sent. A copy of that letter will be provided to the Council at the same time it is transmitted to the addressee. Any Member of the Council can request an agenda item be placed on an upcoming agenda to discuss that communication. The Council can also determine whether to admonish the Mayor for not carrying out the intent of this provision.
- 3.1.6 When the Mayor is a member of another legislative body, he/she may take actions on matters before that other body as she/he determines appropriate, as long as she/he makes it clear his/her position is that of the Mayor and not the entire City or Council, unless, at a duly agendized public meeting, a majority of the Council has provided direction on the position the Mayor is to take on a matter
- 3.1.7 The Mayor shall exercise such other powers and perform such other duties as may be prescribed by law or ordinance or by resolution of the Council, except as limited by law.

### **3.2 APPOINTMENT OF MAYOR PRO TEMPORE**

The appointment of the Mayor Pro Tempore shall be for a one-year term and shall be made at the first meeting in January. For appointment as Mayor Pro Tempore, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Mayor Pro Tempore. If there are two Council Members who have not yet held the position, then the Council Member receiving the highest number of votes in the most recent election shall be appointed Mayor Pro Tempore. If all have held the position, then the Council Member who has held it the least number of times shall be appointed Mayor Pro Tempore. If all Council Members have held it for the same number of years, then the Council Member for whom it has been the longest period of time since holding the position shall be appointed Mayor Pro Tempore.

### **3.3 FILLING COUNCIL VACANCIES**

#### **3.3.1 SPECIAL ELECTION**

Measure “R” codified as Ordinance 527 requires the City Council to immediately call a special election to fill any vacant seat on the Council, including the Mayor’s seat. The special election shall be held on the next established election date, as specified in California Elections Code, which is not less than 114 days from the call of the special election. The City Council may appoint an elector who is a registered voter in the City of Morro Bay to fill such vacancy prior to the special election. The appointee shall hold office only until the date of said special election. (Reso. 76-08)

#### **3.3.2 LIMITATION OF COUNCILMEMBER WHO RUNS FOR MAYOR BEFORE COMPLETING REGULAR TERM**

A sitting Council Member is disqualified from nomination for election to the office of Mayor in the next election if the remainder of their Council term after the next election cannot be filled by a vote of the electors on or prior to that election date.

### **3.4 GENERAL POWERS OF THE COUNCIL**

Subject to the provisions of law and the delegation of power to any person, officer, Board, or Commission, the Council shall have the power in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and that are not specifically forbidden by the Constitution and laws of the State of California.

### **3.5 ADMINISTERING OATHS: SUBPOENAS**

Each Member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State.

### **3.6 LIMITATIONS**

No Member of the Council shall be appointed to or serve as a voting Member of any City Board, Committee, or Authority, whether composed of citizen volunteers, City employees, or a combination of both. This is not to be construed as prohibiting Members of the Council from serving on Committees or Subcommittees of the Council itself, or of agencies representing other local, state or federal government.

### **3.7 METHOD OF ACTION BY COUNCIL**

All action by the Council shall be taken only by means of ordinance, resolution, or oral motion duly made and passed.

Ordinances shall become a part of the MBMC and so remain until amended or voided. All municipal laws relating to taxation or to possible criminal action against an offender shall be in the form of ordinances.

Resolutions shall be serially numbered and filed sequentially in the office of the City Clerk.

Oral motions shall be recorded only in the minutes of any regular or special meeting of the Council.

### **3.8 ORDINANCES**

The consideration and adoption of ordinances shall be in accordance with relevant state law. Ordinances not legally required to have a public hearing shall be set for a public hearing if the subject matter is controversial or of a special nature. In addition, a majority of the City Council may direct the consideration of an ordinance will be set for public hearing.

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three Members of the Council.

### **3.9 ACCEPTANCE OF GRANTS OR DEEDS**

The Mayor and Mayor Pro Tempore of the City of Morro Bay are hereby authorized to accept and consent to the recording of any deed or grant conveying any interest in or easement upon real property to the City of Morro Bay.

### **3.10 LEGISLATIVE ACTION PROGRAM**

The City has a legislative program to strengthen local government, promote City goals, and defend the City against legislative actions by state and federal governments that would weaken local government or take away traditional revenue sources. In order to respond promptly and proactively to fast-paced legislative changes, City staff is authorized to take positions on legislation provided the positions are consistent with the Legislative Actions of the City Council, or resolutions or recommendations of the League of California Cities. The Council limits its official communication as a body of the whole in support or opposition to issues impacting the City specifically or local governments generally.

### **3.11 AMICUS CURIAE PARTICIPATION**

The City is frequently requested to join as *amicus curiae* (friend of court) in cases of statewide significance to cities. Because of the often short time limits for filing *amicus curiae* briefs, the City Attorney may authorize the City's name being added to such briefs, at no cost to the City, if the Legal Advisory Committee of the League of California Cities has urged participation. The City Council will be advised of that action within 7 days after the City Attorney's decision.

### **3.12 ACTIONS AS A MEMBER OF ANOTHER LEGISLATIVE BODY**

When a Council Member is a member of another legislative body, he/she may take actions on matters before that other body as she/he determines appropriate, as long as she/he makes it clear his/her position is that of the individual Council Member and not the entire City or Council, unless, at a duly agendized public meeting, a majority of the Council has provided direction on the position that Member is to take on a matter.

### **3.13 COUNCIL SUB-COMMITTEES**

From time to time it may be desirable for the City Council to appoint a sub-committee of the whole to address a particular issue. That is especially the case if the issue requires additional work or research. Per the Brown Act, sub-committees must consist of less than a quorum of the body and serve for a limited purpose and time. Therefore, the City Council sub-committees may consist of two members. Sub-committees shall report back to the full Council for discussion before any formal action can be taken on the pertinent issue. Establishing a subcommittee requires the body to define the purpose, parameters, and duration of the sub-committee. The City Clerk will keep the list of sub-committees and defined description as a record with Council liaison assignments for review annually.



## **CHAPTER FOUR THE BROWN ACT AND EMAIL**

### **4.1 APPLICABILITY AND PENALTIES**

The entire City organization conducts its business in compliance with the Ralph M. Brown Act, California Government Code sections 54950 *et seq.* (the “Act”). The intent of the Act is to ensure deliberations and actions of local public agencies are conducted in open and public meetings. The law provides for misdemeanor penalties for any members of a legislative body who violates the Act. In addition, violations are subject to civil action. A current copy of the Act will be provided to all Council Members assuming office, but the provisions that most directly affect the Council are summarized in this Chapter.

### **4.2 MAJOR PROVISIONS**

#### **4.2.1 APPLICABILITY**

The Act applies to Council, City staff and all bodies that advise Council.

#### **4.2.2 MEETINGS**

Other than closed sessions, all meetings shall be open and public. All meetings shall follow the requirements of the Act.

#### **4.2.3 AGENDAS**

Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements. Note: Morro Bay has by resolution established a longer period of posting prior to a regular meeting (120 hours or 5 days.)

#### **4.2.4 ACTIONS**

No action shall be taken on any item not appearing on the posted agenda.  
Exceptions:

- 4.2.4.1 An emergency situation exists, (determined by a majority of the Council).
- 4.2.4.2 The need to take action arose subsequent to the agenda being posted (determined by 4/5 of the Council or if less than 4/5 are present, then by unanimous vote) and that action must be taken before the next regular Council meeting or special meeting can be scheduled and properly noticed.

4.2.4.3 The item was continued to another meeting that was scheduled and posted within five days after the original agenda.

#### **4.2.5 PUBLIC INPUT**

The public has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council. The City has the right to establish time limits on speakers and the total time allocated for a particular issue.

#### **4.2.6 PUBLIC DISRUPTIONS**

A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible;" the press may remain unless they participate in the disruption.

#### **4.2.7 CORRESPONDENCE**

All writings distributed for discussion or consideration at a public meeting are public records. If a member of the public desires written materials to be fully considered by the Mayor and City Council, then that member is encouraged to submit that written material regarding agenda items to the ~~City Clerk~~City Council via email at [council@morrobayca.gov](mailto:council@morrobayca.gov) -no later than ~~12 Noon~~10:00 a.m. the day of the meeting so that it may be included with agenda correspondence and published on the City website. Written material distributed at the meeting will be made a part of the public record. If the material is too voluminous for the Mayor and Council to review during the meeting or is new material not previously considered, the Council may, at its discretion, continue the item to a future meeting.

#### **4.2.8 CLOSED SESSIONS MAY BE HELD TO DISCUSS:**

4.2.8.1 Real Property. The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session. All Real Property transactions shall be held in closed session prior to final decision in open session and Council shall be provided with a copy of the draft real property agreement.

4.2.8.2 Litigation pending or a significant exposure to litigation, or the decision to initiate litigation; the litigation or title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiation or effectuate service of process.

4.2.8.3 Compensation (salaries and benefits) of employees; to review its position and instruct designated representatives.

4.2.8.4 Personnel: The appointment, employment, evaluation of performance, or dismissal, of a public employee, or to hear a complaint against an employee, unless the employee requests a public hearing.

#### **4.3 SPECIAL MEETINGS**

Special Meetings may be called by the Mayor or a majority of the Council, with strict notification requirements delivered to the media and Council 24 hours before the time of the meeting.

#### **4.4 EMERGENCY MEETINGS**

Emergency meetings may be called without the normal 24-hour notice and posting requirements if prompt action is required due to the disruption or threatened disruption of public facilities. Only work stoppages, crippling disasters or other activities that severely impair the public health and/or safety qualify for emergency meetings.

#### **4.5 ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT AND THE BROWN ACT**

City email is no less a part of “official city business” than any other written correspondence, and there is no expectation of privacy for City email messages. Good judgment and common sense should therefore prevail at all times regarding its appropriate use.

City email is subject to the requirements of the Brown Act and is subject to disclosure under the Public Records Act. The Brown Act does not prohibit the use of email to make individual contacts between Members of the Council, or the public or staff. However, great care should be taken to avoid the use of email to contact a majority of the Council, either individually or serially, “in a connected plan to engage in collective deliberation on public business.”

City emails are generally intended to fulfill the same general function as ordinary daily verbal communications among City Council and City staff and are generally considered “transitory” documents (work-in-progress), and therefore are generally not subject to records retention requirements. For file management and storage purposes, such City email messages should only be retained for as long as needed. In most instances this means deleting messages as you have read them, and shortly after you have sent them.

Some email messages, including any attachments thereto, can be considered official city records, because the content relates in a substantive way to the conduct of the public’s business. Emails that qualify as public records need to be retained by the City. However, they are not retained through the City e-mail system. Those emails

should be printed as a hard copy or saved electronically in a folder outside the e-mail system, in accordance with the City's records retention policy. Generally, the sender of the email should be the person responsible for printing and filing it accordingly, but persons responsible for a particular program or project file shall be responsible for retaining all e-mail they send or receive related to that program or project.

It is the responsibility of individual City Council Members, employees and their department heads to determine if email is an official City-record that must be retained in accordance with the City's record retention policy. The City Attorney will assist in making such a determination. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of business are generally not considered to be official City records subject to disclosure. City Council Members and employees are encouraged to delete documents that are not otherwise required to be kept by law or whose preservation is not necessary or convenient to the discharge of your duties or the conduct of the city's business.

Periodically, the City receives requests for inspection or production of documents pursuant to the Public Records Act, as well as demands by subpoena or court order for such documents. In the event such a request or demand is made for e-mail, and the City Council Members or employees having control over such e-mail, once they become aware of the request or demand, shall use their best efforts, by any reasonable means available, to temporarily preserve any e-mail that is in existence until it is determined whether such e-mail is subject to preservation, public inspection or disclosure. The City Clerk shall be contacted regarding any such emails within the City Council Member or employee's control.

Council Members are assigned a City electronic messaging account, such as an email account. To the extent feasible, City issued accounts shall be used to conduct City business. Limited use of a private device for public business is permissible, but ~~discouraged~~not encouraged, and public records on such devices are subject to the Public Records Act.

Electronic communications regarding City business may be subject to the City's official records retention policies and the Public Records Act, *even if those electronic communications are or were created, sent, received or stored on a Council member's personal electronic messaging account or device.* To the extent a Council Member uses private, non-City electronic messaging accounts or devices, in compliance with State law they will be asked to locate any such electronic communications on those non-City accounts or devices and provide the communications to the City Clerk in the event a Public Records Act request is made seeking the communication(s).

If a Council Member receives an electronic message regarding City business on his/her personal electronic messaging account or device, or circumstances require such person to conduct City business on a personal account or device, then the

Council Member is strongly encouraged to either: (a) copy (“cc”) any communication from the Council Member’s personal electronic messaging account to his/her City electronic messaging account; or (b) forward the electronic communication to his/her City account as soon as feasible after the original creation or transmission of the electronic communication. That practice facilitates efficient and prompt responses to Public Record Act requests.

#### **4.6 OTHER PROVISIONS**

The Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Since State law constantly changes, it is important to ensure you have the latest information. Please check with the City Attorney and/or the City Clerk for more information.



## **CHAPTER FIVE COUNCIL/STAFF RELATIONSHIPS AND CONDUCT**

### **5.1 INTENT**

The City Council as a whole retains full power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, workloads and schedules, departmental priorities, and the conduct of City business.

This chapter addresses the relationship and conduct between the Mayor and Council Members and staff with the intent of the Mayor and Council to: 1) affirm governing shall be by will of the collective Council, and 2) establish guidelines for Mayor, Council and staff to ensure orderly, consistent and open City government.

### **5.2 GUIDELINES FOR COUNCIL MEMBERS**

The Mayor and Council shall recognize the primary functions of staff are to execute Council policy and actions taken by the Council, and to keep the Mayor and Council informed.

#### **5.2.1 REQUESTS FOR INFORMATION**

The Mayor, individual Council Members, as well as the Council as a whole, shall be permitted complete freedom of access to any information requested of staff, and shall receive the full cooperation and candor of staff in being provided with any requested information, when the law allows that access.

The Mayor and Council Members shall make routine requests for information through the appropriate department head, who shall then advise the City Manager of such requests. Complex or comprehensive requests for information shall be made through the City Manager.

#### **5.2.2 DIRECTION TO STAFF**

The Mayor and Council Members shall make requests for work to be done by City staff through the City Manager. The Mayor and individual Council Members shall make no attempt to pressure or influence staff decisions, recommendations, workloads, schedules and departmental priorities, except as part of budgetary and goal setting priority sessions and with approval of the Council as a whole.

A Council Sub-committee may be given authority by the full Council to work in conjunction with the City Manager, and his/her designated staff on a particular project or issue. In those instances, any work products will be brought back to the full Council for consideration and action.

### **5.3 GUIDELINES FOR STAFF**

Staff shall recognize its primary function is to execute Council policy and to keep the Mayor and Council informed. Staff shall present the Mayor and Council with all relevant information, as well as alternatives, in an objective, succinct manner. The City Manager and staff are committed to treating the Mayor and each Council Member equally.

### **5.3.1 TIMELY RESPONSE**

City staff will make every effort to respond in a timely and professional manner to all requests made by the Mayor and individual Council Members for information or assistance; provided, that in the judgment of the City Manager the request is legally permitted (after consultation with the City Attorney) and not of a magnitude, either in terms of workload or policy, which would require that it more appropriately be assigned to staff through the collective direction of the City Council. In terms of making that judgment, the following guidelines should be considered: The request should be specific and limited in scope so staff can respond without altering other priorities and with only minimal delay to other assignments; the request should only impose a "one-time" work requirement, as opposed to an on-going work requirement; and the response to the request should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person, or a single staff person working on the issue in excess of 1-2 hours).

### **5.3.2 DIRECTION FROM COUNCIL**

Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management superiors as may be the case. Staff is directed to reject any attempts by the Mayor or individual Council Members to unduly influence or otherwise pressure them into making, changing or otherwise suppressing staff decisions or recommendations, or changing departmental work schedules and priorities. Staff shall report such attempts to influence them in confidence to the City Manager, who may inform the Council as a whole of such attempts.

### **5.3.3 STAFF SUPPORT TO INDIVIDUAL COUNCIL MEMBERS**

An exception to the above guidelines may be staff work required in support of a Council Member designated by the City Council to represent the City in an intergovernmental role (*e.g.*, Membership on Joint Powers Authority), or relative to a special assignment (*e.g.*, a special task force).

As noted, above, when a Council sub-committee has been duly authorized by the full Council, staff members may provide information and assistance to the sub-committee, which will report back to the full Council.

### **5.3.4 INFORMATION DISTRIBUTION**

In the interest of treating all members of the Council equally, in cases where a staff response to the Mayor or an individual Council Member request involves written material, the City Manager will provide copies of the material to all other Council Members.

### **5.3.5 SIGNIFICANT INFORMATION**

Any information, service-related needs, or policy positions perceived as necessary by the Mayor or individual Council Members, which cannot be fulfilled per the above guidelines, should be raised by the Mayor or individual Council Member under the "Declaration of Future Agenda Items" category of a regularly scheduled City Council meeting. If so directed by the collective action of the Council, then staff will proceed to complete the work within Council established deadlines.

## **5.4 USE OF CITY LETTERHEAD**

Staff will not prepare correspondence representing the Mayor or a Councilmember's personal point of view or a dissenting point of view from an official City policy or Council position. If a Councilmember uses her/his title, position, or City letterhead to express a personal opinion, then the letter shall state "I am writing this letter on behalf of myself" and, the official City position must also be stated clearly so the audience understands the difference/relationship between the official City position and the viewpoint of the Mayor or that Councilmember. If a letter is written on behalf of the majority of the City Council, then the letter shall state "I am writing this letter on behalf of the City Council." A copy of any and all correspondence developed by or for the Mayor or a Councilmember on City letterhead shall be provided to the City Manager and the entire City Council.



## **CHAPTER SIX ADVISORY BOARD PROCEDURES**

### **6.1 COUNTY OR REGIONAL REPRESENTATION**

Annually, the Mayor shall make appointments to a variety of County and/or regional committees and boards. One Member of the Council shall serve as a voting representative and one Member shall serve as alternate. (See 6.5 for appointment procedures). To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.

### **6.2 OTHER COUNCIL REPRESENTATION, SUBCOMMITTEES**

#### **6.2.1 COUNCIL LIAISON ASSIGNMENTS**

The City Council shall assign a Council liaison to each of the following advisory bodies: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, the Citizens Finance Advisory Committee, and the Planning Commission ~~and Tourism Business Improvement District Advisory Board~~. Council liaisons will also be appointed to the special purpose advisory bodies.

The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members should either attend advisory body meetings or watch the meeting broadcasts and present information regarding advisory body meetings to the Council during Council announcements ~~and maintain communication with the advisory body on a regular basis~~.

Council Members ~~should be sensitive to the fact they~~ are not participating members of the advisory body, but are there rather to create a linkage between the City Council and the advisory body. In interacting with advisory bodies, Council Members are to reflect the views of the Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.

### **6.3 ROLE OF ADVISORY BODY MEMBERS AT COUNCIL MEETINGS**

#### **6.3.1 INTENT**

A majority of advisory body members may attend a public Council meeting. However, none of those members may speak regarding any matter within that member's advisory body's subject matter jurisdiction while a majority of members of that advisory body are ~~is~~ present. An advisory body may direct one of its members to appear at a public Council meeting to express that advisory body's perspective on a particular matter reviewed by the advisory body or answer questions from the Council.

### **6.3.2 COUNCIL AGENDA REPORTS**

- 6.3.2.1 Recommendation Differences. For those occasions when the City Manager recommendation differs from an advisory body recommendation, the difference should be clearly noted and the recommendations from the advisory body should be included in the staff report.
- 6.3.2.2 The City Council will meet as determined necessary by the majority of Councilmembers with each of its advisory bodies or the chair of the advisory body.

### **6.3.3 COUNCIL MEETINGS**

- 6.3.3.1 Advisory bodies will provide written or oral reports to the City Council as requested by the Council and in accordance with the Brown Act.

## **6.4 ROLE OF CITY STAFF PERSONS**

Staff support and assistance may be provided or made available, but advisory bodies do not have supervisory authority over City employees, nor the ability to direct staff's work. While they may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately to the City Manager, who is responsible to the Council. The members are responsible for the constructive participation with the advisory body and the chairperson is responsible for committee compliance with applicable policies and procedures.

Staff support includes preparation of a summary agenda in conjunction with the Chairperson, and preparation of agenda reports providing a brief background of the issue, a list of alternatives, recommendations, fiscal impact (if any), and appropriate backup material, if necessary. Members of advisory bodies are volunteers and should be treated with respect and courtesy. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues within their charge. Sometimes members of advisory bodies may request information not related to their area of service. Staff members should, in that case, provide the same level of information and assistance as would be accorded any citizen. If in the judgment of staff, the request goes beyond that standard, then the matter will be turned over to the City Manager. A staff person will be assigned to serve as Secretary, taking minutes as needed.

It is important that advisory bodies wishing to communicate with the City Council do so through adopted or approved Council agenda procedures. Staff members shall assist the advising body to insure appropriate review and that City and State legislation is complied with.

## **6.5 APPOINTMENT PROCEDURES**

The following procedures shall be the policy of the City Council in regard to appointment of volunteer citizens to the various advisory bodies of the City.

### **6.5.1 PURPOSE**

The purpose of establishing these procedures shall be to insure well-qualified, responsible and willing citizens are given the opportunity to serve the City and participate in the governing of their community. These procedures will apply to all appointments and reappointments to standing advisory bodies. All Advisory Body Members serve at the pleasure of the City Council.

## **6.6 PROCESS**

### **6.6.1 QUALIFICATIONS**

6.6.1.1 The applicant must be a resident and registered voter of the City at the time and during the entire term of appointment, unless excepted by State law or Council-approved special requirements in advisory committee by-laws.

6.6.1.1.1 The applicant must be at least 18 years of age at the time of appointment; provided, that the Council may appoint one area high school student to an advisory body, if allowed by the Advisory Body By-Laws and they meet the other qualification requirements.

6.6.1.1.2 Elected Officials, Officers and Employees of the City of Morro Bay shall not be considered for appointment, unless otherwise approved unanimously by the City Council.

### **6.6.2 TERMS**

6.6.2.1 The term of office for each appointee to an advisory body shall be a maximum of four years unless excepted by State law or Council-approved special requirements in advisory committee by-laws. The terms are staggered so that in no event, will all terms on any committee expire in the same year. Incumbents may apply for subsequent terms of service. Terms of Office will expire on January 31, of the specified year.

6.6.2.2 Persons appointed to fill the remainder of a vacated office term may reapply to serve on the same advisory body.

- 6.6.2.3 Mid-term appointment to a vacant seat shall not preclude the appointee from serving additional terms.
- 6.6.2.4 As a general policy, an applicant shall not be appointed to serve on more than one advisory body, except that a member may also serve on one technical or special-purpose committee at the same time. If appointed to another committee, then he/she will be expected to resign from one body upon being appointed to another. The City Council retains the discretion to make exceptions to this policy.

### **6.6.3 PROCESS**

- 6.6.3.1 Applications are obtained and filed with the City Clerk's Office.
- 6.6.3.2 Prior to November 30, of each year, the City Clerk shall advise the City Council of the terms that are due to expire on each advisory board. The City Clerk shall also notify each advisory member whose term is due to expire. Each of these members shall be given the opportunity to apply for reappointment.
- 6.6.3.3 The City Clerk shall then place an advertisement in the local newspaper, inviting citizens to apply for consideration as an appointment to an advisory board, with instructions regarding the application process.
- 6.6.3.4 It is recommended that applicants attend at least one meeting of the advisory body applied for prior to the interview with the City Council.
- 6.6.3.5 The City Council shall, in a noticed public meeting, interview qualified applicants. In making appointments, the Council shall strive for a representative cross-section of both lay and professional knowledge. The Council will act by separate motion on each appointment made. If there are multiple openings for a specific advisory body, the start and end dates for the respective openings will be communicated to applicants.
- 6.6.3.6 In the event there are more qualified applicants than openings for an advisory body, the City Council at its sole discretion may appoint qualified applicant(s) on an alternate or standby status for an interim 3-6-month period. Any such applicant designated as an alternative advisory body member would not participate in advisory body meetings, but could subsequently be appointed as a regular advisory body member if a vacancy occurs within the stated 3-6-month period.

- 6.6.3.7 The applications of those not appointed will be held for up to one year for consideration in the event of future vacancies.
- 6.6.3.8 Candidates not appearing for interview before the City Council will be considered for appointment only upon a finding of the City Council by motion the absence arose from excusable neglect or personal difficulties.

**RESOLUTION NO. 39-22**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING THE ADVISORY BODIES HANDBOOK AND BY-LAWS**

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

**WHEREAS**, to ensure all Advisory Board Members are familiar with and understand the City of Morro Bay's philosophies and policies regarding serving on an Advisory Board, and to establish consistency throughout the by-laws for all commissions and advisory boards, the City of Morro Bay adopted the Advisory Boards Handbook and By-Laws on August 12, 2002; and

**WHEREAS**, the Advisory Boards Handbook and By-Laws for the City of Morro Bay is a composite of the City Council actions, policies, references, and information regarding the City Advisory Boards; and

**WHEREAS**, the Handbook has been amended several times throughout the years; and

**WHEREAS**, at a Regular Meeting held January 25, 2022, the City Council directed a limited review of the Manual and established a subcommittee consisting of Mayor Heading and Mayor Pro Tem Barton to lead that review.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, that the Advisory Bodies Handbook and By-laws is readopted, as attached hereto as Exhibit A.

**PASSED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 26<sup>th</sup> day of April 2022 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

CITY OF MORRO BAY  
ADVISORY BODIES  
HANDBOOK  
AND  
BY-LAWS

Date: ~~February 9, 2021~~ April 26, 2022 Draft

Approved by Resolution No. 28-18  
Revised by Resolution No. 60-18 on August 14, 2018  
Revised by Resolution No. 105-19 on December 10, 2019  
Revised by Resolution No. 07-20 on January 28, 2020  
Revised by Resolution No. 90-20 on October 13, 2020  
Revised by Resolution No. 07-21 on February 9, 2021

### *Mission Statement*

*The City of Morro Bay provides essential public services and infrastructure to maintain a clean and healthy place for residents and visitors to live, work and play.*

## **INTRODUCTION**

Welcome and thank you for your interest in serving on one of the City's Advisory Bodies. By serving on one of Morro Bay's Advisory Bodies, you can help plan and guide the City's future. It is important that members of the Advisory Bodies understand the functions and responsibilities of being a member. We hope you find serving on the City's advisory body personally satisfying, and in the process gain invaluable knowledge and experience.

The Morro Bay Municipal Code empowers the City Council to form boards and commissions to assist the City Council in legislating and managing the affairs of the City. From time to time citizen advisory committees are appointed to meet a specific topic, project, or need. Their varied roles provide significant opportunities for formulating City policy and for creating public forums for meaningful community participation.

Consistent with the City's Mission Statement, advisory bodies can help the City achieve its mission and purpose, which is to preserve and enhance the citizens of Morro Bay's quality of life. This Handbook shall serve as a guide to assist you in the sometimes-complex, but often rewarding, process of serving on one of the City's Advisory Bodies. These advisory bodies assist the City Council in making better-informed decisions by formulating new ideas, gathering information, receiving public testimony and comments, analyzing complex issues, and making recommendations on specific projects and broad policies.

Advisory Bodies advise the City Council and the City Manager on matters within their area of responsibility and interest; help focus attention on specific issues and problems within their scope of responsibilities, and recommend action and alternatives for Council consideration; act as channels of communication among City government, the general public, and interest groups; and balance community wants with municipal responsibility and resources.

At times, your role may be challenging and complex. Public opinion can be sharply divided, questions may overlap, and sometimes the province of one body may also be the territory of another. Therefore, we have created this handbook to assist you with some of the fundamental aspects of your new responsibility.

Much of the information in this handbook comes from City policy, such as the Morro Bay Municipal Code and the City Council Policies and Procedures Manual. In addition, State Law governs certain responsibilities of advisory body members. The material presented is intended to: (1) Give interested persons an understanding of why the City's advisory bodies have been established and how they function within the overall governmental framework and, (2) Summarize the roles, relationships and responsibilities of each advisory body member.

Each Advisory Body within the City has its own ~~By-Laws~~, which are included in this Handbook for your ease of reference. The sections of the Handbook are divided as follows:

1. General Information on Advisory Bodies
2. How Our City Government Works
3. How Advisory Bodies Work
4. The Brown Act
5. Political Reform Act of 1974 (Conflict of Interest)
6. Advisory Body By-Laws

We hope this Handbook will answer many of your questions, get you off to a good start, and contribute to your satisfaction in serving the citizens of the City of Morro Bay.

# 1. General Information on Advisory Bodies

## A. Background

Advisory bodies are authorized by both the Morro Bay Municipal Code and the City Council. They provide an opportunity for interested residents to participate in the governing of their community under guidelines and procedures established by the Council. Advisory bodies can improve the quality of City government by providing the Council with resources to make better-informed decisions. They can serve as the “eyes and ears” of the Council for issues and matters that otherwise might not receive attention. Other benefits include improvement in the lines of communication between the public and the Council, greater opportunities for discussion of public issues, and more citizen involvement in City government. There is considerable variety in the purpose or responsibility of these bodies. Advisory bodies have been created by the City Council to serve the City of Morro Bay’s unique needs.

The authority of an advisory body will depend upon its specific purpose. Each has a specific focus and will make recommendations to the Council on issues related to that specific field. Decisions made by an advisory body may be appealed to the Council. The Council may not always accept the recommendation of an advisory body because of additional information available or a need to balance the recommendation with policy or community priorities.

Generally, advisory bodies are empowered only to make recommendations to the Council or to the City staff, unless specifically authorized by law or Council to do otherwise. There should be two-way communication so that advisory bodies are aware of the long-term goals Council has adopted, and the advisory body is able to present new ideas to the Council. Advisory body members are encouraged to attend and/or watch Council meetings.

Members of the advisory bodies are volunteers who are appointed by the City Council and serve at the pleasure of the City Council. There is no compensation or benefits for members, except for Planning Commission, whose responsibilities are greater and meetings more frequent. All members are expected to attend scheduled advisory body meetings and all meetings shall be conducted in accordance with Robert’s Rules of Order, City Council Policies and Procedures Manual and State Law.

Currently, the City of Morro Bay has ~~five~~<sup>six</sup> advisory bodies:

- Harbor Advisory Board
- Public Works Advisory Board
- Recreation and Parks Commission
- ~~Tourism Business Improvement District Board~~
- Planning Commission
- Citizens’ Oversight Committee/Finance Committee

From time to time, a special advisory body may be created by the Council to provide input on a specific issue or project. The City Council shall establish a mission statement and goals for the specific advisory body. These bodies meet for a limited duration and only meet when specific actions need to be taken in support of the Council adopted purpose. They are terminated by the Council once the work of the special advisory body is completed or the issue is resolved.

## B. Application/Selection Process and Membership Qualifications

The City of Morro Bay encourages participation of a wide variety of its citizens through service on an advisory body. Applicants will be sought from all segments of the community, representing various interests and groups.

### 1) The Application/Selection Process

- All recruitment for advisory body members is open, ~~and~~ published in a local newspaper and on the City website.
- The City accepts applications from interested persons throughout the year.
- Each application is carefully reviewed by the City Council.
- Appointment of qualified applicants is made by the City Council in a special, publicly held meeting. If there are multiple openings for a specific advisory body, the specific term for the specific openings will be communicated to applicants.
- In the event the City Council determines some or all of the applicants are not qualified to serve on the advisory body for which they are applying, the City Council may elect not to make an appointment and extend the recruitment period.
- In the event there are more qualified applicants than openings for an advisory body, the City Council at its sole discretion may appoint qualified applicant(s) on an alternate or standby status for an interim 3-6-month period. Any such applicant designated as an alternative advisory body member would not participate in advisory body meetings, but could subsequently be appointed as a regular advisory body member if a vacancy occurs within the stated 3-6-month period.
- Members serve at the pleasure of the City Council.
- Incumbents are considered for reappointment at the conclusion of their terms.
- Terms are four years, commencing on February 1<sup>st</sup>, and the terms are staggered.
- Applications may be obtained from the City Clerk's office at City Hall. Information on vacancies and/or specific recruitment periods may be requested by phoning the City Clerk. An official application form must be completed for each position.
- Fill out a separate form for each advisory body in which you are interested. It is to your advantage to tailor each application to the specific board or commission for which you are applying. Emphasize different aspects of your background to match those needed for a particular advisory body.
- Emphasize your talents. Clearly indicate how your particular talents, skills, training, or experience will benefit the advisory body for which you wish to be considered.
- Become familiar with the appropriate advisory body. Attend meetings, talk with advisory body members, or read documents they have developed to acquaint yourself

with their work. Talk with the department head responsible for staffing the specific advisory body in which you are interested.

## 2) Qualifications for Service

Advisory body members may be required to wear "different hats" at different times. The ability to suitably perform the varied roles requires specialized skills and knowledge. Qualification for service can be divided into four general areas:

### ◆ **LONG-RANGE INTEREST IN THE COMMUNITY**

The ability to conceive and be concerned with the impact of current decisions on future citizens is paramount. Advisory body members are required to analyze issues, to listen to public comment through formal hearings or informal discussion, to interpret and apply mandates of the General Plan, and to analyze all the pertinent data before arriving at objective decisions which will be in the best interest of the community as a whole.

### ◆ **FAIRNESS, COMMON SENSE, HONESTY AND GOOD CHARACTER**

Keeping the public interest in mind, an advisory body member will be called upon to use every day good sense in balancing the need of public and private groups. Controversial issues do arise, and the ability to make decisions based on merit rather than personalities is a must. Other traits include imagination, flexibility and the ability to act in a judicial vs. legislative capacity.

### ◆ **KNOWLEDGE OF THE COMMUNITY MARKETPLACE, PROCESS, OBJECTIVES, AND LAWS**

A first-hand knowledge of economic systems, the general operation of government, and a basic understanding of the legal process is important. This knowledge will be of tremendous value, especially on the Planning Commission where members are required to conduct public hearings, analyze and receive testimony and make meaningful decisions.

### ◆ **TIME TO SERVE IN APPOINTED CAPACITY**

The amount of time an advisory body member devotes to his/her duties varies with each advisory group. Before making a personal commitment, a prospective applicant should honestly evaluate whether he/she has adequate free time to attend the meetings, to review and be familiar with meeting materials, and to communicate with the public as well as with department staff.

### 3) Other Requirements

Members of all advisory bodies are required to file the State of California Statements of Economic Interest (Form 700). Additionally, advisory body members are required to refrain from participation in matters where they have the potential for conflict of interest. (See Section 5 for the City's policy on Conflict of Interest)

Advisory body members are also required to attend periodic trainings, including Ethics Training and Sexual Harassment Training as well as others which may be mandated.

## 2. How Our City Government Works

The City of Morro Bay is a general law city and became incorporated in 1964; it operates under the laws of the State of California.

The City Council, City Manager, City Clerk and City Attorney are integral to the day-to-day operations of the City. As such, we have included a summary of the City government's main function for your information and reference.

### A. City Council

The City Council is elected by a majority vote by the citizens of Morro Bay. The City Council is the governing body of the City and is made up of the Mayor and four council members. The Mayor is elected for a two-year term and the Council Members are elected for staggered four-year terms. Mayoral and City Council elections are held in November of even-numbered years. Regular Council meetings are held in the Council Chamber at the Morro Bay Veterans' Hall according to the established calendar ~~in the Council Chamber at the Vet's Hall~~. In addition, special meetings and study sessions are held from time to time. The Mayor is the official spokesperson for the Council. The City Council is accountable to the citizens of Morro Bay. The decisions of the City Council are reached by a majority vote.

The City Council formulates policy, approves programs, appropriates funds and establishes local taxes and assessments. The City Council enacts local laws (ordinances) and regulations for governing of the City. The local ordinances adopted by the City Council are compiled in the City's Municipal Code.

## B. City Manager

The City Manager is the administrative head of the government of the City. The City Manager is appointed by the City Council, and serves at its pleasure. The City Manager's duties include implementation of policies and procedures initiated by the City Council. The City Manager also is responsible for all City personnel, except ~~as to~~ the City Attorney, and serves as a liaison to each advisory body, unless otherwise noted in the Advisory Body By-Laws. The following positions report to the City Manager: City Clerk, Assistant City Manager/Administrative Services Director (Treasurer/~~Finance Director~~), Chief of Police, Fire Chief, Community Development Director, Public Works Director, Harbor Director, and Recreation Services and Parks-Manager, ~~and Tourism Manager~~.

## C. City Clerk/~~Risk Manager~~

The City Clerk's duties include, but are not limited to: recording, writing and maintaining Council proceedings, conducting municipal elections, publishing ordinances and resolutions and other official City documents, storing and indexing official documents and City records for retrieval, administering Conflict of Interest disclosures, and serving as the custodian of the seal of the City. ~~The City Clerk also serves as the City's Risk Manager, coordinating activities related to coverage documents; processing all claims related to the City's property, liability and workers' compensation insurance; and implementing policies and programs to reduce the City's exposure to risk.~~

## D. City Attorney

The City Attorney is appointed by the City Council. The City Attorney is the legal counsel for the City and advises the City Council and City officials, officers and employees (in their official capacity) in legal matters, attends all Council meetings and some board meetings, represents the City in legal actions and proceedings, and retains, supervises and monitors outside legal counsel. The City Attorney also approves all bonds and contracts made by the City, prepares ordinances and resolutions as required by the Council and prosecutes violations of the Morro Bay Municipal Codes and ordinances.

# 3. How Advisory Bodies Work

## A. Understanding Your Role and Scope of Responsibility

Advisory Bodies are groups of volunteers that provide input for City Council consideration on matters that impact policy and issues of community importance. After appointment by the Council and being sworn in as a City officer, the City Clerk will provide new advisory body members with useful information about the City, including this handbook. In addition, the City staff member who supports your advisory body will schedule an orientation appointment with you. That will be your opportunity to learn more about the scope of responsibility of the advisory body to which you have been appointed. Additional trainings may be held periodically.

1) Council Liaison Member(s)

Each year the Council selects two of its members (one regular and one alternative) to be “Liaison Members” to each advisory body. The Council Liaison can be called upon to facilitate the flow of information between the Council and that advisory body. The Liaison Member may also attend advisory body meetings and present information regarding advisory body meetings to the Council during Council announcements.

2) Preparing for Your Role

It will be helpful to review the City’s Mission Statement, the City’s website, and your advisory body’s by-laws. Meeting with your advisory body chair and getting to know fellow advisory body members, staff and the Council Liaison will also help you to learn more about your role and to understand expectations. Ask about upcoming issues. Advisory Body Members are required to attend various ~~Also attend~~ training programs and workshops offered to you by the City.

3) Advisory Body Work Plans

To ensure advisory bodies are assisting the Council on key issues of community concern, the Council and each advisory body establish a work plan. The work plan is derived from the goals and action items approved by the Council. The City Council will ask each advisory body for input into the work plan as part of the two-year City Goal and Action Item plan process. Once the Action Item plan is adopted by the Council, the advisory body will be informed of the specific topics and issues that the advisory body will be addressing for the given period of time. Other issues may arise during the year that the Council may ask an advisory body to consider and on which to make recommendations. If the advisory body ~~body~~ desires to add an item to its work plan during the year, the scope must be defined in a motion and receive support by a majority of the advisory body members. Staff will evaluate the required time, resources and impacts on and relation to Council approved goals and work plan then present the request and analysis to the # ~~must first seek~~ City Council for consideration and approval. Likewise, if it desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.

4) Advisory Body Sub-Committees

From time to time it may be desirable for the majority of an advisory body to appoint a sub-committee to address a particular issue related to adopted work plan items. That is especially the case if the issue requires additional work or research. Establishing a sub-committee requires the body to define purpose, parameters and duration of the subcommittee. The number of sub-committee members depends on the size of the advisory body. Per the Brown Act, sub-committees must consist of less than a quorum of the body. Therefore, for a five-member body, sub-committees may consist of two members. Seven-member bodies may have sub-committees composed of two or three members. Sub-committees report back to the full body for discussion before any formal action can be taken on the issue. Staff should be consulted before considering the creation of a sub-committee to determine the impact on staff time.

#### 5) Advisory Body/Staff Relationship

The proper channel to contact City staff on items of consideration is through the designated City staff person providing support to your advisory body. Staff support and assistance is provided, but advisory bodies do not have supervisory authority over City employees, nor the ability to direct staff's work. While they may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately to the City Manager, and who is responsible to the Council. The advisory body members are responsible for the functions of the advisory body and the Chair is responsible for committee compliance with the policies outlined in this Handbook.

Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, fiscal impact (if any), and recommendations and appropriate backup materials, as necessary. To improve the efficiency of advisory body meetings, when possible, advisory body member questions for staff regarding agenda items should be made in advance of the meeting. Advisory body members should be mindful of staff's time in making requests for information. The request should be channeled through the assigned staff member/advisory body's chairperson, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a "one-time" work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).

#### 6) Advisory Body/City Council Relationship

Advisory bodies are occasionally requested to make special reports or recommendations to the Council on specific subjects. Any recommendations or reports from an advisory body should be in written form.

An advisory body does not have authority to speak for the City. If the body wishes to recommend a statement be made, then it shall be submitted to and receive approval of the Council. An advisory body shall not sponsor or co-sponsor a public forum, meeting or survey without the prior approval of the Council. Individual advisory body members should avoid making public comments on Council actions or public policies that might appear to represent the official position of their advisory body. When an advisory body wants to make a specific recommendation to the City Council, the formal process of making a motion, seconding the motion, discussing it and a vote by each advisory body member present should occur. Advisory body actions are then conveyed to the Council in the form of official advisory body minutes, by e-mail to the full Council or by the Council Liaison. The Chair of an advisory body is the spokesperson for the group. A summary of advisory body discussions pertinent to issues before the City Council shall be incorporated into staff reports.

If a member of an advisory body appears before the Council (or another advisory body) in a capacity other than as representative of their/his/her body, then it should be explained in advance

that any statements made are not to be construed as representing the opinions or recommendations of the advisory body. The member should state that ~~they/he/she are~~ speaking as a member of the public. That member must take care not to make comments at a Council (or other advisory body) meeting about a matter within that member's advisory body's subject matter jurisdiction if a majority of that advisory body are present at that meeting.

#### 7) Resignation

If an advisory body member finds it necessary to resign, then a letter of resignation stating the effective date of the resignation shall be directed to the Council through the City Clerk, with a copy forwarded to the Chair of the advisory body.

#### 8) Removal from Office

As noted, advisory body members serve at the pleasure of the Council and may be removed without cause by Council action in an open public meeting. Violation of City policies or the policies contained in this Advisory Bodies Handbook will result in a warning, reprimand, or removal.

### B. Advisory Body Meeting Procedures and Conduct

#### 1) Parliamentary Procedures

All advisory body meetings shall be conducted in accordance with City practices and policies. Robert's Rules of Order, Newly Revised, shall also be used as a guide in conducting meetings. Questions should be directed to the appropriate City staff. A quorum shall be stated in individually adopted advisory body bylaws or procedures.

The order of business of advisory body meetings follows the City Council's procedures:

- a) Establish Quorum and Call to Order
- b) Moment of Silence
- c) Pledge of Allegiance
- d) Committee Members Announcements and Presentations
- e) Public Comment Period – Members of the audience wishing to address the committee on items not on the agenda or items on the agenda if they are unable to stay for the entire meeting
- f) Consent Calendar
- g) Public Hearing (for Planning Commission)
- h) Business Items
- i) Future Agenda Items
- j) Notification of Next Meeting and Adjournment

For discussion of items on the agenda, the following order is followed:

- A. Presentation of the Staff Report
- B. Advisory Member Questions
- C. Public Comments
- D. Advisory Member Discussion
- E. Recommendation(s) as Needed

Consistent with City Council practice for receiving public comments on agenda items, advisory bodies are encouraged to limit public comments to three minutes per speaker to ensure that everyone who wishes to be heard has the opportunity to do so. The Chair, with the consensus of the advisory body, may allow additional brief testimony from speakers who have already commented on the same agenda item; however, speakers should not be allowed to yield their time to another speaker.

## 2) Behavior and Civil Discourse Policy

The City of Morro Bay encourages the willingness to speak up and to listen within a framework of respect and understanding. Toward that end, the Council has adopted Resolution No. ~~27-1807-19~~, a Resolution of the City Council of the City of Morro Bay, California, Pledging to Follow Best Practices of Civility and Civil Discourse in All of Its Meetings, both on the part of any public comment as well as any comments from Advisory Body Members (see following page). That resolution was crafted by the League of Women Voters of San Luis Obispo County.

RESOLUTION NO. 27-18

RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE  
IN ALL OF ITS MEETINGS

THE CITY COUNCIL  
City of Morro Bay, California

WHEREAS, on November 10, 2015, the City Council adopted Resolution No. 70-15 pledging to follow best practices of civility and civil discourse in all of its meetings, principals developed by the League of Women Voters; and

WHEREAS, a healthy democracy respects the people's right to debate issues with passion; and not only tolerates disagreement but welcomes it; and

WHEREAS, Honest debate helps refine ideas and create policies that benefit the greater good;

WHEREAS, we, the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay, in order to ensure **civility** and **civil discourse** in all of our meetings, reaffirm and pledge our commitment to the following **best practices of civility** and **civil discourse**; and,

WHEREAS, we pledge our commitment to **listen first**, making an honest effort to understand views and reasoning of others by listening to understand, not listening to find fault, allowing thoughtful discussion to lead to the best possible outcomes; and

WHEREAS, we pledge our commitment to **respect different opinions**, by inviting and considering different perspectives, allowing space for ideas to be expressed, opposed and clarified in a constructive manner; and

WHEREAS, we pledge our commitment to **show courtesy**, by treating all colleagues, staff and members of the public in a professional and courteous manner whether in person, online, or in written communication, especially when we disagree; and

WHEREAS, we pledge our commitment to **avoid rhetoric intended to humiliate, malign, or question the motivation** of those whose opinions are different from ours in all our meetings; and

WHEREAS, we pledge our commitment to **speak truthfully** without accusation, and avoid distortion in all our meetings; and

WHEREAS, we pledge our commitment to **debate the policy not the person**, focusing on the issue, and not personalizing the debate or using other tactics that divert attention from the issue; and

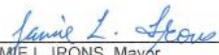
WHEREAS, we pledge our commitment **against violence** and **incivility** in all their forms whenever and wherever they occur in all our meetings; and

WHEREAS, we commit ourselves to build a civil political community in which each person is respected and spirited public and political debate is aimed at the betterment of the City of Morro Bay and its people and not the disparagement of those with whom we disagree.

NOW, THEREFORE, BE IT RESOLVED, by the City Council, City of Morro Bay, California, that the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay shall promote the use of and adherence to the principles of **civility** and **civil discourse** in conducting business with appointed and elected officials, staff, and citizens.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of May 2018 on the following vote:

AYES: Irons, Davis, Headding, Makowetski, McPherson  
NOES: None  
ABSENT: None

  
JAMIE L. IRONS, Mayor

ATTEST:  
  
DANA SWANSON, City Clerk

RESOLUTION NO. 07-19  
RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE  
IN ALL OF ITS MEETINGS  
THE CITY COUNCIL  
City of Morro Bay, California

**WHEREAS**, on November 10, 2015, the City Council adopted Resolution No. 70-15 pledging to follow best practices of civility and civil discourse in all of its meetings, principles developed by the League of Women Voters; and

**WHEREAS**, on May 8, 2018, the City Council adopted Resolution No. 27-18 restating its commitment to the principles of civility and civil discourse in conducting business with appointed and elected officials, staff and citizens; and

**WHEREAS**, a healthy democracy respects the people's right to debate issues with passion; and not only tolerates disagreement but welcomes it; and

**WHEREAS**, honest debate helps refine ideas and create policies that benefit the greater good; and

**WHEREAS**, we, the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay, in order to ensure **civility** and **civil discourse** in all of our meetings, reaffirm and pledge our commitment to the following **best practices of civility and civil discourse**; and

**WHEREAS**, we pledge our commitment to **listen first**, making an honest effort to understand views and reasoning of others by listening to understand, not listening to find fault, allowing thoughtful discussion to lead to the best possible outcomes; and

**WHEREAS**, we pledge our commitment to **respect different opinions**, by inviting and considering different perspectives, allowing space for ideas to be expressed, opposed and clarified in a constructive manner; and

**WHEREAS**, we pledge our commitment to **show courtesy**, by treating all colleagues, staff and members of the public in a professional and courteous manner whether in person, online, or in written communication, especially when we disagree; and

**WHEREAS**, we pledge our commitment to **avoid rhetoric and refrain from making slanderous, profane or personal remarks intended to humiliate, malign, or question the motivation** of those whose opinions are different from ours in all our meetings; and

**WHEREAS**, we pledge our commitment to **speak truthfully** without accusation, and avoid distortion in all our meetings; and

**WHEREAS**, we pledge our commitment to **debate the policy not the person**, focusing on the issue, and not personalizing the debate or using other tactics that divert attention from the issue; and

**WHEREAS**, we pledge our commitment **against violence** and **incivility** in all their forms whenever and wherever they occur in all our meetings; and

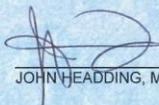
**WHEREAS**, we commit ourselves to build a civil political community in which each person is respected and spirited public and political debate is aimed at the betterment of the City of Morro Bay and its people and not the disparagement of those with whom we disagree.

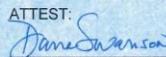
**NOW, THEREFORE, BE IT RESOLVED**, by the City Council, City of Morro Bay, California, that the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay shall promote the use of and adherence to the principles of **civility** and **civil discourse** in conducting business with appointed and elected officials, staff, and citizens.

**BE IT FURTHER RESOLVED**, the City Council directs this resolution pledging best practices of civility and civil discourse be brought forward in January of each year for re-affirmation by the City Council.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22<sup>nd</sup> day of January 2019 on the following vote:

AYES: Headding, Addis, Davis, McPherson  
NOES: Heller  
ABSENT: None

  
\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:  
  
\_\_\_\_\_  
DANA SWANSON, City Clerk

The Chair (or presiding officer in the event the Chair is absent) of each advisory body is responsible for ensuring that all of its members as well as members of the general public adhere to these practices. The presiding officer strives to preserve appropriate order and decorum during all meetings. Speakers should be encouraged to address the advisory body and not the audience and discouraged from clapping, shouting or booing.

Persons demonstrating rude, boisterous, or profane behavior will be called to order by the presiding officer (chairperson or vice chairperson). If such conduct continues, then the presiding officer may call a recess, request the removal of such person(s) from the meeting, adjourn the meeting, or take such other appropriate action permitted by the Brown Act.

### 3) Quorum Requirements

A quorum constitutes the majority or more than half of the total established members of the advisory body. A quorum must be in attendance for any discussion or action to take place. The quorum must be present for the entire meeting and if a member leaves during the meeting that results in the absence of a quorum, the meeting must be adjourned.

If vacancies exist on an advisory body, then those positions still count when determining a quorum. For example, if two positions are vacant on a seven-member body, and two members are absent there is not a quorum and no meeting can be held.

### 4) Meeting Absences

Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible a minimum of seven days in advance and the absence shall be counted in that member's attendance record. An advisory body member may include a written request that the absence be excused; Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted said request must be submitted in advance and formally approved at a regular meeting of the advisory body. Attendance requirements are contained in each advisory body's by-laws, but generally speaking missing the unexcused absence of two~~three~~ consecutive regular meetings or 25% of the regular meetings during any calendar year period; ~~without formal consent of the City Council,~~ shall constitute the resignation of the absent member. An advisory body member determined to have not met the attendance requirements herein may submit a written request to the City Council to have the previous absences excused.

The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members' attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.

### 5) Chair Responsibilities

The Chair's main role is to provide the advisory body with direction and to set the tone for meetings. The job involves balancing the need to keep the meeting moving while also ensuring all members of the advisory body and the public are involved in the meeting. The Chair is responsible for ensuring the meeting follows parliamentary procedures, as described above.

#### 6) Reconsideration of Issues

City Council Policies & Procedures discourage reconsideration of issues once a decision has been made. Decisions can be revisited if a majority of Council Members chooses to do so. For advisory bodies, once the City Council has made a decision on an issue an advisory board should not attempt to reconsider that issue or make an alternative recommendation to Council.

## 4. The Brown Act

This is a brief review of the Brown Act, also known as the "open meeting law." A more detailed Brown Act and Political Reform Act Booklet is available to the advisory body through the City Attorney's office.

### A. Purpose

The general purpose of the Brown Act is to aid in the conduct of the people's business. The pPeople, in delegating authority, do not give their public servants the right to decide what is good for the pPeople to know and what is not for the pPeople to know. Therefore, it is the intent of the Brown Act the actions and deliberations of all local agencies be taken openly, including deliberations and collective discussion involving the examination, weighing and reflection on the reasons for or against a choice. It also includes the exchange of facts preliminary to the ultimate decision.

Generally, all meetings of City boards, commissions, committees and groups are to be open and public and all persons are to be permitted to attend any meeting. Under certain *strict* circumstances, closed session meetings are permitted.

A "meeting" is defined as a gathering of a majority (quorum) of the advisory body to discuss items within the body's subject matter jurisdiction or to conduct other business of the body. It should be noted the Brown Act generally prohibits any action or discussion of items not on the posted agenda. The Brown Act also requires regular meeting agendas allow for two types of public comment: general public comment where the public can comment on any item that is within the subject matter jurisdiction of the body that is not listed on the agenda and public comment that is specific to items on the advisory body's agenda. In Morro Bay, separate public comment is allowed on each item on the posted agenda prior to deliberation.

Keeping in mind all discussion of issues by an advisory body must be made in a public meeting, one of the most common violations of the Brown Act involves serial meetings. This occurs when any communication among a majority of the members on matters within the advisory

body's subject matter jurisdiction occurs outside of a meeting. A common example of a serial meeting is when one member calls a second member who then calls a third member, and so on to share ideas among a majority of the advisory body. Another common occurrence involves e-mails. For example, a staff member sends out via e-mail a document, and one member recommends a revision and copies fellow advisory body members. It is good practice to send e-mail responses to the sender only.

Brown Act compliance is absolutely required. We encourage you to carefully review the Brown Act Booklet which is available through the City Attorney's Office which describes in detail the Brown Act.

#### B. Electronic Mail (e-mail), the Public Records Act and the Brown Act

You will be issued a City e-mail once you are appointed to an advisory body. City e-mail is no less a part of "official City business" than any other written correspondence; and there is no expectation of privacy for City email messages. Good judgment and common sense should, therefore, prevail at all times regarding its appropriate use. City e-mail is subject to the requirements of the Brown Act and is subject to disclosure under the Public Records Act.

The Brown Act does not prohibit the use of e-mail to make individual contacts between members of an advisory body, the City Council, or the public or staff. However, great care should be taken to avoid the use of e-mail to contact a majority of the Council or your advisory body, either individually or serially, "in a connected plan to engage in collective deliberation on public business."

City e-mails are generally intended to fulfill the same general function as ordinary daily verbal communications among advisory body members, City Council and City staff and are generally considered "transitory" documents (work-in-progress), and, therefore, are generally not subject to records retention requirements. For file management and storage purposes, such City e-mail messages should only be retained for as long as needed. In most instances this means deleting messages as you have read them, and shortly after you have sent them.

Some email messages, including any attachments thereto, can be considered official city records, because the content relates in a substantive way to the conduct of the public's business. Emails that qualify as public records need to be retained by the City. However, they are not retained through the City e-mail system. Those e-mail public records should be printed as a hard copy or saved electronically in a folder outside the e-mail system, in accordance with the City's records retention policy. Generally, the sender of the e-mail should be the person responsible for printing and filing it accordingly, but persons responsible for a particular program or project file shall be responsible for retaining all e-mail they send or receive related to that program or project.

It is the responsibility of individual advisory body members to determine if e-mail is an official City-record that must be retained in accordance with the City's record retention policy. The City Attorney will assist in making such a determination. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of

business are generally not considered to be official City records subject to disclosure. Advisory body members are encouraged to delete documents that are not otherwise required to be kept by law or whose preservation is not necessary or convenient to the discharge of your duties or the conduct of the City's business.

Periodically, the City receives requests for inspection or production of documents pursuant to the Public Records Act, as well as demands by subpoena or court order for such documents. In the event such a request or demand is made for e-mail, and advisory body members have control over such e-mail, once they become aware of the request or demand, shall use their best efforts, by any reasonable means available, to temporarily preserve any e-mail that is in existence until it is determined whether such e-mail is subject to preservation, public inspection or disclosure. The City Clerk shall be contacted regarding any such emails within the advisory body member's control.

Advisory board members will typically be assigned a City electronic messaging account, such as an email account. To the extent feasible, City issued accounts shall be used to conduct City business. Limited use of a private device for public business is permissible, but not encouraged, and public records on such devices are subject to the Public Records Act.

Electronic communications regarding City business may be subject to the City's official records retention policies and the Public Records Act, even if those electronic communications are or were created, sent, received or stored on an advisory board member's personal electronic messaging account or device. To the extent an advisory board member uses private, non-City electronic messaging accounts or devices, in compliance with State law they will be asked to locate any such electronic communications on those non-City accounts or devices and provide the communications to the City Clerk in the event a Public Records Act request is made seeking the communication(s).

If an advisory board member receives an electronic message regarding City business on his/her personal electronic messaging account or device, or circumstances require such person to conduct City business on a personal account or device, then the advisory board member is strongly encouraged to either: (a) copy ("cc") any communication from the advisory board member's personal electronic messaging account or device to his/her City electronic messaging account; or (b) forward the electronic communication to his/her City account as soon as feasible after the original creation or transmission of the electronic communication. That practice facilitates efficient and prompt responses to Public Record Act.

## 5. Political Reform Act (Conflicts of Interest)

### A. Background

The Political Reform Act (Government Code sections 81000, et seq.) was approved by the voters of the State of California and is intended to prevent conflicts of interest by requiring public officials to disclose certain personal financial interests which could foreseeably cause conflicts. In addition, a public official may be required to disqualify himself/herself from making, participating

in, or attempting to influence any government decision which will affect any of his/her financial interests, not just those that are required to be disclosed. The City's Brown Act and Political Reform Act Booklet explains in more detail what a conflict of interest is, and when the law requires disqualification. In addition, the Fair Political Practices Commission is available for advice.

Under the Political Reform Act, no public official may make, participate in making, or in any way attempt to use ~~his or her~~their official position to influence a governmental decision if ~~he or she~~they knows or has reason to know that ~~he or she~~they ~~has~~have a financial interest. (Government Code Section 87100). A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of ~~his or her~~their economic interests. (Government Code Section 87103; 2 Cal. Code of Regs. Section 18700 (a)).

The term "financial interest" denotes a conclusion that a public official has a financial interest in a decision if it is concluded that it is reasonably foreseeable that the decision will have a material financial effect on ~~his or her~~their economic stake greater than that of other citizens. The term "economic interest" is a label applied to the particular types of stakes recognized by the Act as potential sources of a conflict of interest. There are specific types of economic interest recognized by the Act, as such, we direct you to carefully review the Brown Act and Political Reform Act Booklet which is available from the City Attorney's Office and/or visit the Fair Political Practices Commission Web page for more detailed information.

## B. City Policy Regarding Conflicts of Interest

Because the City of Morro Bay is a small, closely knit community it is imperative the citizens have trust and confidence in City government. Therefore, the City has adopted this public policy to prevent any possibility of conflict that may arise.

Generally stated, any elected or appointed official has a conflict of interest if he or she has a financial interest in a project before the City and/or when compensation is received from anyone seeking approvals from the City. There are some exceptions but, generally, elected or appointed officials are prohibited from voting on projects where a conflict exists. A conflict of interest also occurs when officials live within a certain distance from a project (usually less than 500 feet ~~but context matters and the City Attorney should be consulted~~). Even if a legal conflict does not exist, it may be inappropriate to participate in a decision for personal reasons to avoid even the appearance of a conflict of interest. As an example, there could be a conflict if your good friend has a matter before your board, and you do not feel it would be appropriate for you to voice an opinion in your "City" capacity. While the latter case is not defined by the Fair Political Practices Commission as a conflict, it could be perceived as a conflict, and then stepping down is appropriate.

It is the policy of the City, in addition to strictly adhering to the Fair Political Practices Commission rules, all elected and appointed officials conduct themselves in a manner that does not raise a reasonable perception or belief that there is a conflict of interest or an abuse of your position. All advisory body members should avoid the appearance of conflict at all costs.

If you step down from the dais and refrain from voting on an issue, then you are not precluded from speaking as an individual on matters affecting your personal interests. Your presentation, however, must be made from the floor, at the microphone with the rest of the public. You should state for the record you are speaking as an *individual*. Many times in the past, Council Members and advisory body members have stepped down from their official position at the dais when projects are presented in which there may be the potential for conflict of interest. That provides the opportunity to present your views as an *individual* on ~~any~~ matters affecting your personal interests before any City body.

## 6. ADVISORY BODY BY-LAWS

The City Council has approved the rules and regulations (referred to herein as By-Laws) to set forth their purpose, procedures, and specific issues such as their functions, meeting dates, officers, vacancies and budgets.

All advisory body meetings will be conducted in strict compliance with the City Council Policy and Procedures and State Law and with guidance from Robert's Rules of Order, all as described in this Handbook.

Attached hereto are the applicable By-Laws for all of the City of Morro Bay's Advisory Bodies.

**CITY OF MORRO BAY  
HARBOR ADVISORY BOARD  
BY-LAWS**

**PURPOSE AND AUTHORITY**

The Harbor Advisory Board is established to review, advise, and recommend to the City Council on items pertaining to the City Harbor. These include, but are not limited to:

- A. Use, control, promotion and operation of vessels and watercraft within the harbor, docks, piers, slips, utilities and publicly-owned facilities as a part of the City's Harbor, and water commerce, navigation, or fishery in the Harbor.
- B. Review and recommend rules and regulations pertaining to any of the matters listed in subsection A of this section.
- C. Review and recommend rates, tolls, fees, rents, charges or other payments to be made for use or operation of the Harbor.
- ~~C.D.~~ Review and comment on various issues and initiatives on the Harbor and adjacent areas affecting the Harbor as deemed appropriate by the City Council or staff.
- ~~D.E.~~ The Board shall make reports and recommendations to the various city boards, commissions or the City Council on matters relating to activities within the ~~H~~Harbor. When requested to do so, the Board will review items referred by other city boards, commissions, ~~or~~ the City Council or staff. Resulting reports and recommendations will be included in presentations before the City Council.
- ~~E.F.~~ Provide a channel of communication from the individuals, businesses, and groups who live ~~or~~ have businesses or use and recreate on the ~~H~~Harbor to the City Council.

**APPOINTMENT**

The Harbor Advisory Board shall be comprised of seven voting members, four of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Harbor Advisory Board members shall serve at the pleasure of the City Council. The City Council will attempt to select members from the following categories:

- Morro Bay Commercial Fishermen's Association
- Waterfront Leaseholders
- Marine Oriented Business
- Recreational Boating
- Representative of South Bay/Los Osos
- Two Members at Large

~~However, t~~The City Council and Harbor Advisory Board, however, recognize the importance of the Morro Bay Commercial Fisherman’s Association (MBCFO) seat, and acknowledge that it is often difficult for commercial fishermen serving on the HAB to meet the attendance requirements due to the nature of their business. As such, up to two (2) Alternate MBCFO members to the Primary member may be appointed by the City Council in the same manner and fashion as regular appointments in order to stand-in for the Primary member in the event of the Primary member’s absence.

### **TERMS OF OFFICE**

Members shall serve, without compensation, for a period of four (4) years commencing February 1<sup>st</sup> in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members’ terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

### **QUALIFICATIONS**

Four of the seven members must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

### **ABSENCE FROM MEETINGS**

Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible a minimum of seven days in advance and the absence shall be counted in that member’s attendance record. An advisory body member may include a written request that the absence be excused; Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted said request must be submitted in advance and formally approved at a regular meeting of the advisory body. The unexcused Aabsence from ~~two~~three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any -calendar year period, ~~without the formal consent of the City Council~~, shall constitute the resignation of such absent member. An advisory body member determined to have not met the attendance requirements herein may submit a written request to the City Council to have the previous absences excused and the position will be declared vacant.

The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members’ attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.

## ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chair and Vice-Chair who shall hold office for a period of one year. The Chair shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chair, duties of the office shall be performed by the Vice-Chair. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Harbor Advisory Board.

## PROCEDURE

Regular meetings shall be held monthly on a regular schedule, except in the months of January, ~~April, and~~ July and November. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. If the Board desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.

The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended. In instances where there is no business coming before the Board in a given month, the Chair and assigned staff person may agree to cancel the meeting. Cancellation shall occur at least 120 hours or five days before the scheduled meeting and all members and the public shall be duly notified.

These advisory board meetings will be conducted in strict compliance with the policies and procedures outlined in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Harbor Advisory Board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, fiscal impact (if any), recommendations and appropriate backup materials, as necessary. To improve the efficiency of advisory body meetings, ~~When possible, advisory body member questions for staff regarding agenda items should be made in advance of the meeting. Advisory body members should be mindful of staff's time in making requests for information. The request should be channeled through the assigned staff member~~ advisory body's chairperson, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a "one-time" work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).

Communication between the Harbor Advisory Board Members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

**QUORUM**

A majority of voting members shall constitute a quorum.

**CITY STAFF**

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Harbor Advisory Board business and shall attend the Harbor Advisory Board meetings.

**BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.

# CITY OF MORRO BAY PUBLIC WORKS ADVISORY BOARD BY-LAWS

## PURPOSE AND AUTHORITY

The Public Works Advisory Board is established to review, advise and recommend to the City Council on items pertaining to:

- Water, Wastewater, and Storm-water
- Public parks, Streets, and City-owned trees;
- Recycling, and Solid Waste;
- Cable Television, Telecommunications;
- Trees, Traffic, Parking, Transportation, and Transit; and
- and other issues related to ~~Public City-owned assets~~ ~~Services Department responsibilities.~~

Additionally, staff will periodically present to the board on progress of the capital improvement plan and projects as well as the annual maintenance program, and the Board may provide recommendations to City Council on these items.

The Board shall make reports and recommendations to the various city boards, commissions or the City Council on the above matters. When requested to do so, it will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

## APPOINTMENT

The Public Works Advisory Board shall be comprised of seven voting members, all of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. The Public Works Advisory Board members shall serve at the pleasure of the City Council.

## TERMS OF OFFICE

Members shall serve, without compensation, for a period of four years commencing February 1<sup>st</sup> in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

## QUALIFICATIONS

A member must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

## ABSENCE FROM MEETINGS

Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible a minimum of seven days in advance and the absence shall be counted in that member's attendance record. An advisory body member may include a written request that the absence be excused; Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted said request must be submitted in advance and formally approved at a regular meeting of the advisory body. The unexcused Aabsence from twothree consecutive regular meetings or twenty-five (25) percent of the regular meetings during any -calendar year period, without the formal consent of the City Council, shall constitute the resignation of such absent member. An advisory body member determined to have not met the attendance requirements herein may submit a written request to the City Council to have the previous absences excused, and the position will be declared vacant.

The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members' attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.

## ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chair shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chair, duties of the office shall be performed by the Vice-Chair. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Advisory Board.

## PROCEDURE

Regular meetings shall be held every month on a regular schedule, except in the months of July, November and December. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. If the Board desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.

The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended. In instances where there is no business coming before the Board in a given month, the Chair and assigned staff person may agree to cancel the meeting. Cancellation shall occur at least 120 hours or five days before the scheduled meeting and all members and the public shall be duly notified.

These advisory board meetings will be conducted in strict compliance with the policies and procedures outlined in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Public Works Advisory Board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow “Robert’s Rules of Order.”

Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, fiscal impact (if any), recommendations and appropriate backup materials, as necessary. To improve the efficiency of advisory body meetings, ~~When possible~~, advisory body member questions for staff regarding agenda items should be made in advance of the meeting. Advisory body members should be mindful of staff’s time in making requests for information. The request should be channeled through the assigned staff member~~advisory body’s chairperson~~, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a “one-time” work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).

Communication between the Public Works Advisory Board members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

## **QUORUM**

A majority of voting members shall constitute a quorum.

## **CITY STAFF**

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to the Public Works Advisory Board business and shall attend the Public Works Advisory Board meetings.

## **BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.



## CITY OF MORRO BAY RECREATION AND PARKS COMMISSION BY-LAWS

### PURPOSE AND AUTHORITY

The Recreation and Parks Commission is established to provide the following:

- A. Act in an advisory capacity to the City Council in all matters pertaining to parks and public recreation and to cooperate with other governmental agencies and civic groups in the advancement of sound recreation and parks planning and programming. The ~~Board-Commission~~ shall make reports and recommendations to the various city boards, ~~commissions-committees~~ or the City Council on the above matters. When requested to do so, will review items referred by other city boards, ~~commissions-committees~~ or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.
- B. Formulate policies on recreation services, parks and open space for approval by the City Council.
- C. Recommend to the City Council the development of recreational areas, parks, facilities, open spaces, programs, and improved recreation services.
- D. Recommend to the City Council the adoption of rules, regulations and standards concerning recreation and parks in respect to organization, personnel, areas and facilities, program and financial support.
- E. Advise the Recreation ~~and Parks~~Services Manager in the preparation of the ~~annual parks maintenance, park improvement and~~ recreation budgets and long-range recreation and parks facilities improvements.
- F. Hold public hearings and meetings to conduct investigations and surveys for the purpose of securing facts and data concerning parks and public recreation.

### APPOINTMENT

The Recreation and Parks Commission shall be comprised of five voting members, four of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Commissioners shall serve at the pleasure of the City Council.

## TERMS OF OFFICE

Members shall serve, without compensation, for a period of four (4) years commencing February 1<sup>st</sup> in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

## QUALIFICATIONS

Four of the five members must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements. Unless otherwise approved in accordance with Council Policies and Procedures, section 6.6.1, each member must (i) be at least 18 years of age at the time of appointment and (ii) not be an Elected Official, Officer, or Employee of the City of Morro Bay. (See Council Policies and Procedures, Section 6.6.1.)

## ABSENCE FROM MEETINGS

Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible a minimum of seven days in advance and the absence shall be counted in that member's attendance record. An advisory body member may include a written request the absence be excused; Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted said request must be submitted in advance and formally approved at a regular meeting of the advisory body. The unexcused Aabsence from twothree consecutive regular meetings or twenty-five (25) percent of the regular meetings during any -calendar year period, without the formal consent of the City Council, shall constitute the resignation of such absent member. An advisory body member determined to have not met the attendance requirements herein may submit a written request to the City Council to have the previous absences excused and the position will be declared vacant.

The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members' attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.

## ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chair who shall hold office for a period of one year. The Chair shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chair, duties of the office shall be performed by the Vice-Chair. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one

member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Commission.

## PROCEDURE

Regular meetings shall be held every other month on odd numbered months on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. If the Commission desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.

The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended. In instances where there is no business coming before the Board in a given month, the Chair and assigned staff person may agree to cancel the meeting. Cancellation shall occur at least 120 hours or five days before the scheduled meeting and all members and the public shall be duly notified.

All Commission meetings will be conducted in strict compliance with the policies and procedures outlined in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Commission shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, fiscal impact (if any), recommendations and appropriate backup materials, as necessary. To improve the efficiency of advisory body meetings, ~~When possible~~, advisory body member questions for staff regarding agenda items should be made in advance of the meeting. Advisory body members should be mindful of staff's time in making requests for information. The request should be channeled through the assigned staff member ~~advisory body's chairperson~~, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a "one-time" work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).

Communication between the Commission members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

## QUORUM

A majority of voting members shall constitute a quorum.

**CITY STAFF**

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Commission business and shall attend the Commission meetings.

**BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.

**~~CITY OF MORRO BAY  
TOURISM BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD BY LAWS~~**

---

**~~PURPOSE AND AUTHORITY~~**

~~The Morro Bay Tourism Business Improvement District (MBTBID) Advisory Board (the "Board") advises the City Council on the administration and use of the MBTBID assessment funds. The Board recommends projects to the City of Morro Bay to promote tourism to directly benefit the City's lodging industry.~~

~~The primary purpose of the MBTBID is to increase occupancy and room nights across all lodging types (motels, hotels, bed and breakfasts, and short term vacation rentals) that pay the business improvement assessment, along with transient occupancy tax (TOT) within the City while placing particular emphasis on marketing that positively impacts the lodging.~~

**~~APPOINTMENT~~**

~~The Board shall be comprised of seven voting members. Appointments and the filling of vacancies shall be made by the City Council. The Board members shall serve at the pleasure of the City Council. Because of the diversity among assessment district members represented by the Board including local, regional and national lodging industry interests, it is neither practical nor advisable to limit Board membership to City residents. Accordingly, membership on the Board shall be exempt from residency requirements otherwise applicable to other City advisory boards. In addition, a member of the Board may not sit on any other City advisory board.~~

**~~TERMS OF OFFICE~~**

~~Members of the Board shall serve, without compensation, for a period of four years. Appointments shall be made in such a manner such that no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only. If a vacancy is within the last 6 months of a term, then it will be held over to the normal interview process.~~

**~~QUALIFICATIONS~~**

~~Effective February 1, 2020, the Board shall consist of five members from the Morro Bay lodging industry, one vacation rental representative and two members from the community at large. On January 31, 2023, or when a community member at large seat becomes available, whichever occurs first, the number of community at large seats will be reduced to one and the total number of board members will return to seven.~~

~~The five members from the lodging industry shall consist of three members representing hotels “at large” (no specific number of rooms), and two other positions shall give preference to a member representing lodging rooms of less than 22 rooms and one member representing 50 or less rooms (single hotel or cumulative representation), respectively. If no preferential applicant from a small or large hotel—as defined above—applies, then the seat shall be made available to applicants on an “at large” hotelier representative basis.~~

~~The vacation rental representative shall either own or manage a permitted vacation rental property within the City.~~

~~The community “at large” member(s) shall be residents and registered voters of the City during the term of appointment.~~

~~Each member must be at least 18 years of age at the time of appointment and may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)~~

## **FUNCTIONS AND DUTIES**

~~The functions and duties of the Board shall include, but not be limited to, the following:~~

- ~~1. Plan a comprehensive program to promote tourism to the City of Morro Bay and prepare an annual marketing program consistent with industry goals and objectives.~~
- ~~2. Develop advertising and promotional programs and projects to benefit the lodging industry in Morro Bay~~
- ~~3. Present an annual assessment report to the City Council regarding the implemented promotional programs and projects.~~
- ~~4. Perform any other lawful tasks as directed by the Council.~~

## **ABSENCE FROM MEETINGS**

~~Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible in advance and the absence shall be counted in that member’s attendance record. Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted in advance and formally approved at a regular meeting of the advisory body. Absence from three consecutive regular meetings or twenty five (25) percent of the regular meetings during any calendar year period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members’ attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.~~

## **ORGANIZATION**

~~At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chair and Vice Chair who shall hold office for a period of one year. The Chair and Vice Chair of the Board as well as any presiding officers shall be hoteliers. The Chair shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chair, the Vice Chair shall perform duties of the office. If both the Chair and Vice Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Board.~~

## **PROCEDURE**

~~Regular meetings shall be held monthly on a regular schedule, except in the months of July, November and December. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. If the Board desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.~~

~~The Chair may close meetings to public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended. In instances where there is no business coming before the Board in a given month, the Chair and assigned staff person may agree to cancel the meeting. Cancellation shall occur at least 120 hours or five days before the scheduled meeting and all members and the public shall be duly notified.~~

~~These advisory board meetings will be conducted in strict compliance with the policies and procedures contained in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the advisory board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."~~

~~Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, recommendations and appropriate backup materials, as necessary. When possible, advisory body member questions for staff regarding agenda items should be made in advance of the meeting. Advisory body members should be mindful of staff's time in making requests for information. The request should be channeled through the advisory body's chairperson, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a "one time" work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).~~

~~Communication between the Board members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.~~

#### ~~QUORUM~~

~~A majority of voting members shall constitute a quorum.~~

#### ~~CITY STAFF~~

~~The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to the Board business and shall attend the Board meetings.~~

#### ~~BY-LAW AMENDMENTS~~

~~All amendments to the By-Laws shall be approved by the City Council.~~

**CITY OF MORRO BAY  
PLANNING COMMISSION  
BY-LAWS**

**PURPOSE AND AUTHORITY**

The Planning Commission is established in accordance with the provisions of Government Code Sections 65100, *et seq.* The functions of the Planning Commission shall be as follows:

- A. To develop and periodically review; a general plan and recommend its adoption or any revisions to the City Council;
- B. To maintain and implement the general plan after its adoption by the City Council;
- C. To develop specific plans as may be necessary to implement the general plan;
- D. To periodically review the capital improvement program of the City for its consistency with the general plan, and forward recommendations to the City Council;
- E. Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.
- F. Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it;
- G. To perform such other functions as the City Council may direct.

The Planning Commission shall:

- A. In addition to the duties and responsibilities set forth by state laws and local ordinances, the Planning Commission shall act in the public interest and serve in an advisory capacity to the City Council on all matters pertaining to the planning function;
- B. Cooperate with other City boards, committees and commissions, governmental agencies and civic groups in the advancement of sound planning, both within and without the City;
- C. Formulate policies on planning services for recommendation to the City Council;
- D. Upon request of the City Council, a joint meeting with the Planning Commission and the City Council may be held to discuss matters requiring joint deliberation.
- E. Recommend to the City Council the adoption of standards with respect to organization, personnel, facilities, programs and financial support of the planning commission;
- F. Disseminate to the public information concerning the policies and functions of the Planning Commission.

## APPOINTMENT

The Planning Commission shall consist of five voting members and they shall be qualified electors and residents of the City. Appointments and the filling of vacancies shall be made by the City Council. Commissioners shall serve at the pleasure of the City Council.

## TERMS OF OFFICE

Terms shall be for a period of four years; vacancies shall be filled for the unexpired term only. Two-year short terms may be established to stagger terms. Expiration dates of specific terms shall be established by resolution of the City Council.

## QUALIFICATIONS

A member must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

## ABSENCE FROM MEETINGS

Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible a minimum of seven days in advance and the absence shall be counted in that member's attendance record. An advisory body member may include a written request the absence be excused; Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted said request must be submitted in advance and formally approved at a regular meeting of the advisory body. ~~A~~The unexcused absence from two-three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any calendar year period, without the formal consent of the City Council, shall constitute the resignation of such absent member ~~and the position will be declared vacant.~~ An advisory body member determined to have not met the attendance requirements herein may submit a written request to the City Council to have the previous absences excused.

The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members' attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.

## ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chair and Vice-Chair who shall hold office for a period of one year. The Chair shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chair, duties of the office shall be performed by the Vice-Chair. If both the Chair and Vice-Chair are absent, then the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Commission.

## PROCEDURE

Regular meetings shall be held twice a monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. If the Commission desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.

The Chair may close meetings to public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended. In instances where there is no business coming before the Board in a given month, the Chair and assigned staff person may agree to cancel the meeting. Cancellation shall occur at least 120 hours or five days before the scheduled meeting and all members and the public shall be duly notified.

All Commission meetings will be conducted in strict compliance with the policies and procedures contained in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Commission shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, fiscal impact (if any), recommendations and appropriate backup materials, as necessary. To improve the efficiency of advisory body meetings. ~~When possible, advisory body member questions for staff regarding agenda items should be made in advance of the meeting. Advisory body members should be mindful of staff's time in making requests for information. The request should be channeled through the assigned staff member~~ advisory body's chairperson, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a "one-time" work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).

Communication between the Commission Members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

## **QUORUM**

A majority of voting members shall constitute a quorum.

## **CITY STAFF**

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Commission business and shall attend the Commission meetings.

## **BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.

**CITY OF MORRO BAY  
CITIZENS' OVERSIGHT COMMITTEE  
ACTING IN THE CAPACITY OF A CITIZENS' FINANCE  
ADVISORY COMMITTEE**

**PURPOSE AND AUTHORITY**

The Citizens' Oversight Committee was established in accordance with the provisions of Morro Bay Municipal Code Section 3.226.120 as a result of Measure Q, and subsequently Measure E, which resulted in 1.5% general purpose local retail transactions and use tax. The functions of the Citizens' Oversight Committee shall be to meet at least once per year as required by ordinance and to semi-annually review revenues and expenditures from the tax proceeds collected as a result of Measure EQ and present its findings and conclusions to the City Council no later than the last day of the sixth month following the end of each City fiscal year.

The Citizens' Oversight Committee shall perform the following duties:

1. Review an annual revenue and expenditure report of the City relative to activities funded with the one and a half cent Measures Q and E general purpose local transactions and use tax monies.
2. Review a semi-annual revenue and expenditure report of the City relative to activities funded with the one and a half cent Measures Q and E additional general purpose local transactions and use tax monies.
3. Present its findings and conclusions to the City Council for its review no later than February 28<sup>th</sup> each year.

When the committee is acting in the capacity of a Citizens' Finance Advisory Committee, its purpose is to provide citizen input to the City Council ~~and staff~~ regarding specified financial policy ~~or process~~ issues, ~~including audits, such as City financial budgets, contract expenditures and financial reports or other items designated by City Council.~~ In addition, the Committee's role is to help promote citizen participation with, and understanding of, governmental financial information and processes, ~~such as the financial documents, audits, and budgets, as well as the financial condition of the City.~~

The Citizens' Finance Advisory Committee shall perform the following duties:

- ~~Annual review of independent financial audit, with recommendations, as appropriate.~~
- ~~Review the 10 Year Financial Forecast document to determine long term financial sustainability, and make recommendations, as appropriate.~~
- 4. Review the proposed City annual budget and the mid-year budget report prior to or in coordination with its presentation to the City Council, (time permitting), and make recommendations for City Council consideration, as appropriate, with particular emphasis on the budget for Measure Q and E funds.

~~2. Review and provide comments on routine quarterly financial reports (when possible) prior to presentation to the City Council.~~

~~3-5. Undertake special financial projects, as directed by the City Council, City Manager or City Treasurer.~~

~~4. Acting as the Citizens Oversight Committee it shall review a semi-annual expense report of the City relative to activities funded with the 1/2 cent Measure Q additional general purpose local sales tax monies and present its findings and conclusions to the City Council for its review no later than December 31<sup>st</sup> each year.~~

## APPOINTMENT AND TERMS OF OFFICE

The Committee shall have ~~five~~<sup>seven</sup> citizen-members appointed by the City Council for staggered four-year terms. Appointees shall be residents of the City; however, no member of the Committee shall be an elected official. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

## QUALIFICATIONS

All Committee Members must be residents and registered voters of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

## ABSENCE FROM MEETINGS

Because of quorum requirements, when an absence is anticipated, the individual advisory body member is responsible for notifying the Chair and the staff responsible a minimum of seven days in advance and the absence shall be counted in that member's attendance record. An advisory body member may include a written request the absence be excused; Approval for excused absences shall be the responsibility of the advisory body. Said excuses should be submitted; said request must be submitted in advance and formally approved at a regular meeting of the advisory body. The unexcused ~~A~~absence from ~~two~~<sup>three</sup> consecutive regular meetings or twenty-five (25) percent of the regular meetings during any calendar year period, ~~without the formal consent of the City Council,~~ shall constitute the resignation of such absent member ~~and the position will be declared vacant.~~ An advisory body member determined to have not met the attendance requirements herein may submit a written request to the City Council to have the previous absences excused.

The assigned staff person responsible for taking the minutes will be responsible for monitoring advisory board members' attendance and conveying pertinent information to the City Clerk/Deputy City Clerk. City Council shall be notified when a member is determined to have not met the attendance requirements of the advisory body.

## ORGANIZATION

At the first regular meeting every two years wherein newly appointed members are seated, the members shall elect a Chair and Vice-Chair who shall hold office for a period of two years. The Chair shall preside over meetings, appoint appropriate sub-committees if needed, and direct the affairs of the Committee. In the absence of the Chair, the Vice-Chair shall perform duties of the office. If both the Chair and Vice-Chair are absent, then the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Committee.

## PROCEDURE

Regular meetings shall be held monthly at 3:00pm on ~~a regular schedule~~ the third Tuesday of ~~the~~ the months of January, February, ~~April~~, May, August, and October ~~November and December~~, with the following primary focus for each scheduled meeting:-

<u>Meeting Date</u>	<u>Primary Agenda Focus</u>
<u>January</u>	<u>Measure Q&amp;E Annual Report - prior year (required by ordinance)</u>
<u>February</u>	<u>Measure Q&amp;E Semi-Annual Report – current year (required by ordinance)</u>
<u>May</u>	<u>City Budget Input – Measure Q&amp;E Focus (at Council direction)</u>
<u>August</u>	<u>Finance-related Council priority item (at Council direction)</u>
<u>October</u>	<u>Finance-related Council priority item (at Council direction)</u>

The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. If the Committee desires to change its meeting times, dates, or location, it must also seek prior approval from the Council.

The Chair may close meetings to public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended. In instances where there is no business coming before the Board in a given month, the Chair and assigned City staff person may agree to cancel the meeting. Cancellation shall occur at least 120 hours or five days before the scheduled meeting and all members and the public shall be duly notified.

All Committee meetings will be conducted in strict compliance with the policies and procedures contained in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Committee shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow “Robert’s Rules of Order.”

Staff support includes preparation of a summary agenda and preparation of agenda reports providing a brief background of the issue, a list of alternatives, fiscal impact (if any), recommendations and appropriate backup materials, as necessary. To improve the efficiency of advisory body meetings, ~~When~~ when possible, advisory body member questions for staff regarding

agendized items should be made in advance of the meeting. Advisory body members should be mindful of staff's time in making requests for information. The request should be channeled through the ~~assigned staff member~~~~advisory body's chairperson~~, be specific and be limited in scope so staff can respond without altering other priorities and with minimal delay to other assignments. The request should only impose a "one-time" work requirement and should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person working on the issue in excess of 1-2 hours).

Communication between the Committee Members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

#### **QUORUM**

A majority of voting members shall constitute a quorum.

#### **CITY STAFF**

The City ~~Administrative Services~~~~Finance~~ Director/Treasurer shall be responsible for preparing agendas, reports, and minutes pertaining to Committee business and shall attend the Committee meetings.

#### **BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.



AGENDA NO: C-4

MEETING DATE: April 26, 2022

# Staff Report

**TO:** Honorable Mayor & City Council **DATE:** April 21, 2022

**FROM:** Greg Kwolek – Public Works Director  
Paul Amico – Water Reclamation Facility (WRF) Program Manager

**SUBJECT:** Water Reclamation Facility (WRF) Program Quarterly Report Draft Format

## RECOMMENDATION

Staff recommends the City Council provide feedback and approve the draft format of the WRF program quarterly report.

## DISCUSSION

The WRF quarterly report is a document produced quarterly by the WRF project management team to provide status updates on schedule, budget, contract management, cashflow, key activities, and critical path items as they relate to the WRF program. Staff recently received feedback from the WRF Subcommittee regarding the length, clarity, and pertinence of the information presented in the WRF program quarterly report and recommended a variety of changes to its format. In response, staff worked with the Carollo project team to revise the format with the goal of enhancing its consistency and readability to improve accessibility of key information for the City Council, advisory boards, and the general public. Staff is requesting feedback and approval on the attached draft format of this report. If approval is received, the next quarterly report will be developed in this new format and presented at a City Council meeting in May.

## FISCAL IMPACT

There are no formal estimates of the fiscal impact of approving this report; however, staff expects the new, simpler quarterly report format will require less billable time to develop and less staff resources to review.

## ATTACHMENT

1. Draft Quarterly Report Format

01181.0001/743380.1

Prepared By:   GK  

Dept Review:   GK  

City Manager Review:   SC  

City Attorney Review:   JP



City of Morro Bay  
Water Reclamation Facility Program

QUARTERLY REPORT  
ENDING [MONTH/YEAR]

**DRAFT REPORT OUTLINE/TEMPLATE  
FOR DISCUSSION ONLY**

REPORTING PERIOD  
[DATE] through [DATE]



TOC will be formatted to fit on a single page

## Executive Summary

“Our Water” is the City of Morro Bay’s program to plan and build water and wastewater infrastructure for a sustainable future for the environment, our economy and the community. This report summarizes key accomplishments and challenges during the 3<sup>rd</sup> quarter (Q3) of the 2022-23 fiscal year (FY23). It includes information and data on the overall program budget and the status of the individual program components.

### Progress During Q3 FY23

The Water Reclamation Facility (WRF) and Conveyance Facilities are anticipated to be completed and operational by December 2023, which will achieve compliance with the State’s Time Schedule Order that requires full operation of the WRF by February 2023. The Recycled Water Facilities (RWF) component of the program is anticipated to be completed by Spring 2025.

### Budget Status

The current program budget is \$144.5M and \$xxx.xM has been spent to date. The WRF is approximately 85% complete and the Conveyance Facilities are approximately 70% complete. The RWF are approximately yy% complete.

### Key Accomplishments

<< this section will summarize at a very high level the accomplishments for each of the components and the program overall in concise, plain language >>

### Challenges and Upcoming Activities

<< same as above >>

Preview for the next quarterly report: we will discuss the ongoing discussions and negotiations with FBV on the delay claim they will be filing for us not having the pipelines ready for when they want sewage to start up the biological process and to complete the WRF by the substantial completion date.

## Section 1 – Program Management Summary

### 1.1 Purpose of the Quarterly Progress Report – Reporting Period: [Date] to [Date]

The Water Reclamation Facility (WRF) program quarterly progress report describes current budget status, funding agency reimbursements, planning/design and construction activities, and project component schedules. Abbreviations used throughout this quarterly progress report are found in Appendix A.

### 1.2 Program Budget

Table 1 shows the current program budget.

Table 1 WRF Program Budget

Program Component	Baseline <sup>(1)</sup>	FY-21/22	Prior Quarter	Current Quarter	Current Percent Change from Baseline
<b>WRF Plant</b>					
Conveyance Facilities					
Recycled Water Facilities					
General Project					
<b>Total</b>					

Notes:

(1) Baseline budget established 4<sup>th</sup> Quarter of Fiscal Year 2017/2018.

Table 2 shows the initial and current contract values by project component.

Table 2 Project Component Contract History

Project Component	Contractor	Initial Contract Value	Current Contract Value	% Change
<b>WRF Plant</b>		<b>\$67,234,512</b>	<b>\$76,697,995</b>	<b>14.1</b>
Design/Build	Filanc Black & Veatch	\$67,234,512	\$76,697,995	14.1
<b>Conveyance Facilities</b>		<b>\$32,854,240</b>	<b>\$33,707,986</b>	<b>2.6</b>
Design	Waterworks Engineers	\$1,360,565	\$2,214,311	62.7
Construction (Anvil Builders)	Anvil Builders	\$31,493,675	\$31,493,675	0
<b>Recycled Water Facilities<sup>(5)</sup></b>		<b>\$351,000</b>	<b>\$933,650</b>	<b>166.0</b>
Planning and Modeling	GSI	\$351,000	\$933,650	166.0
Construction	TBD	--	--	--
<b>General Project</b>		<b>\$293,000</b>	<b>\$13,233,472</b>	<b>4416.5</b>
Program and Construction Management	Carollo Engineers <sup>(1)</sup>	\$293,000	\$11,808,401	3930.2

City Contracts <sup>(2)</sup>	--	\$1,425,071	--
<b>Total</b>	--	<b>\$124,573,103</b>	--

Notes:

- (1) Program management costs include permitting, public outreach, funding support, and construction oversight/management.
- (2) Initial City Contract values for previous and/or inactive consultants (such as MKN, Black & Veatch, ESA, and Kestrel) are unknown. Current contract values include previous or inactive consultants plus active consultants including Far Western, GSI, Bartle Wells Associates, Kevin Merk & Associates, etc.

### 1.3 Cashflow Projections and Actual Expenditures

Figure 1 shows cashflow projections and actual expenditures through the current period.

*(Figure showing cashflow projects and actual expenditures to be included)*

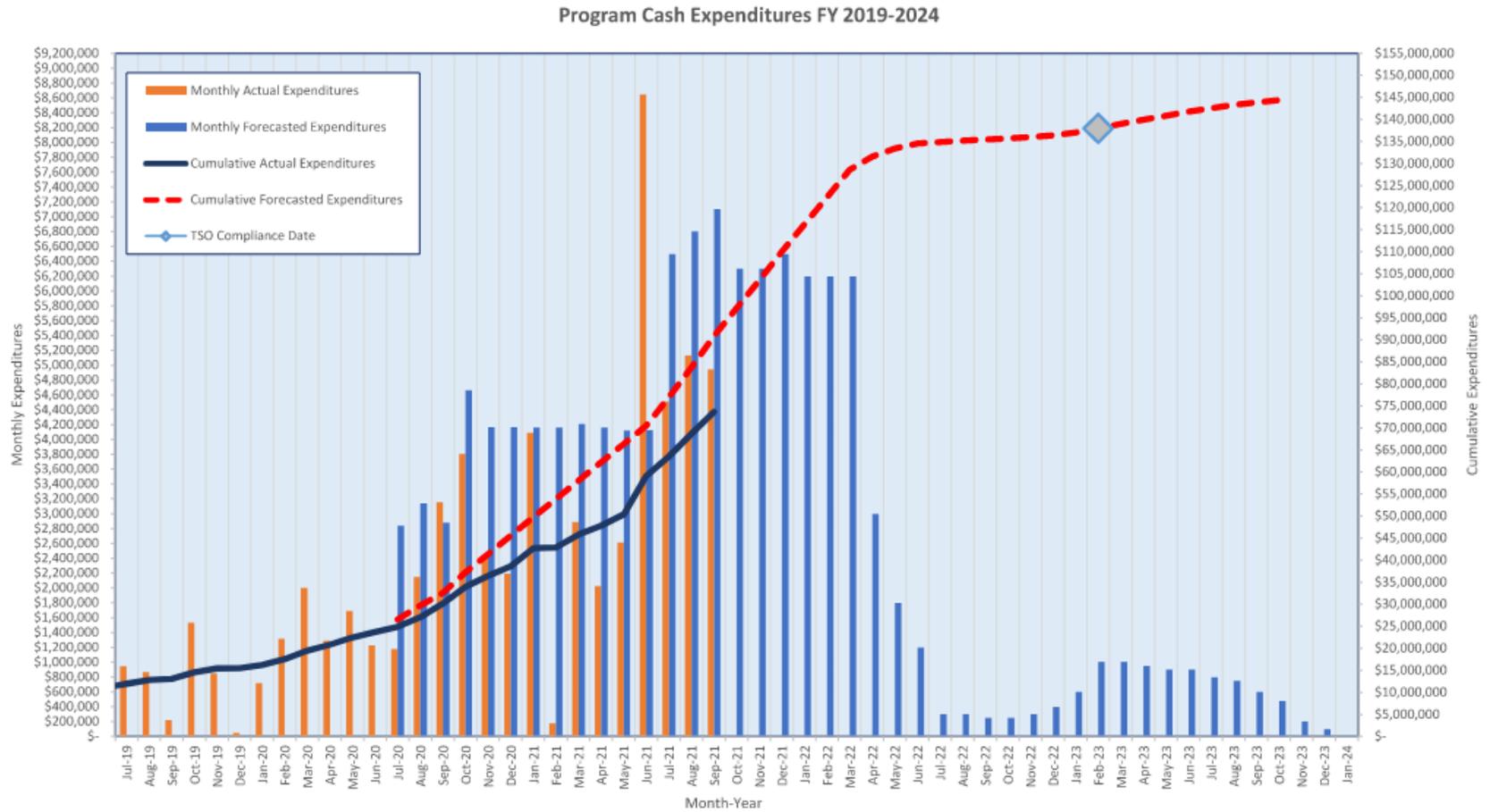


Figure 1 Program Cash Actual and Forecasted Expenditures

Table 3 lists actual expenditures for each program component and the percent of the budget expended.

Table 3 WRF Program Expenditures

Program Component	Previous	Current Quarter	Total To Date	Baseline Budget <sup>(1)</sup>	Percent Budget Expended
WRF Plant					
Conveyance Facilities					
Recycled Water Facilities					
General Project					
<b>Total</b>					

Notes:

(1) Baseline budget established 4<sup>th</sup> Quarter of Fiscal Year 2017/2018.

### 1.4 Program Funding

Table 4 lists WRF program funding sources.

Table 4 WRF Program Expenditures

Funding Agency	Funding Type	Amount Financed	Initiation Date	Terms	Comments <sup>(1)</sup>
<b>Total</b>					

Notes:

(1) Column may be deleted if no additional information is needed.

Appendix C provides detailed information on funding reimbursements.

### 1.5 Program Schedule Overview

In June 2018, the City received a Time Schedule Order (TSO) from the RWQCB that requires the City to achieve full operation of the new WRF by February 2023. The key milestones included in the TSO are included in Appendix D, and the overall program schedule is shown in Figure 2.

*(Simplified Gantt chart showing key milestones and identifying critical path activities to be included here)*

Figure 2 Program-Wide Summary Schedule

## Section 2 – WRF Project

### 2.1 Construction Progress Summary

Major accomplishments during <<reporting period>> include:

Planned activities for the <<next reporting period>> include: *(the activities described here will be based on key challenges and will describe how the project management team is responding and addressing those challenges)*

### 2.2 Project Photographs

The following photos show progress during <<reporting period>>



*Describe photo for the WRF Project.*



Describe photo for the WRF Project.

### 2.3 Contract Amendment Summary

Table 6 contains a summary of the contract amendments for the WRF project component. Each amendment included multiple change orders to address changes in scope from the original proposal. A detailed summary of each amendment is provided in Appendix F.

Table 6 WRF Project Contract Amendment Summary

Amendment No.	Council Approval Date	Amount (\$)
1		1,636,060
2		63,937
3		5,992,218
4		835,097
5		(195,945)
6		1,132,117
<b>Total</b>		<b>9,463,483</b>

### 2.4 Project Schedule

Figure 3 shows the WRF construction and startup schedule.

*(Simplified Gantt chart showing key activities for the upcoming period and identifying the critical path to be included here)*

Figure 3 WRF Project Component Schedule

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## Section 3 – Conveyance Facilities Project

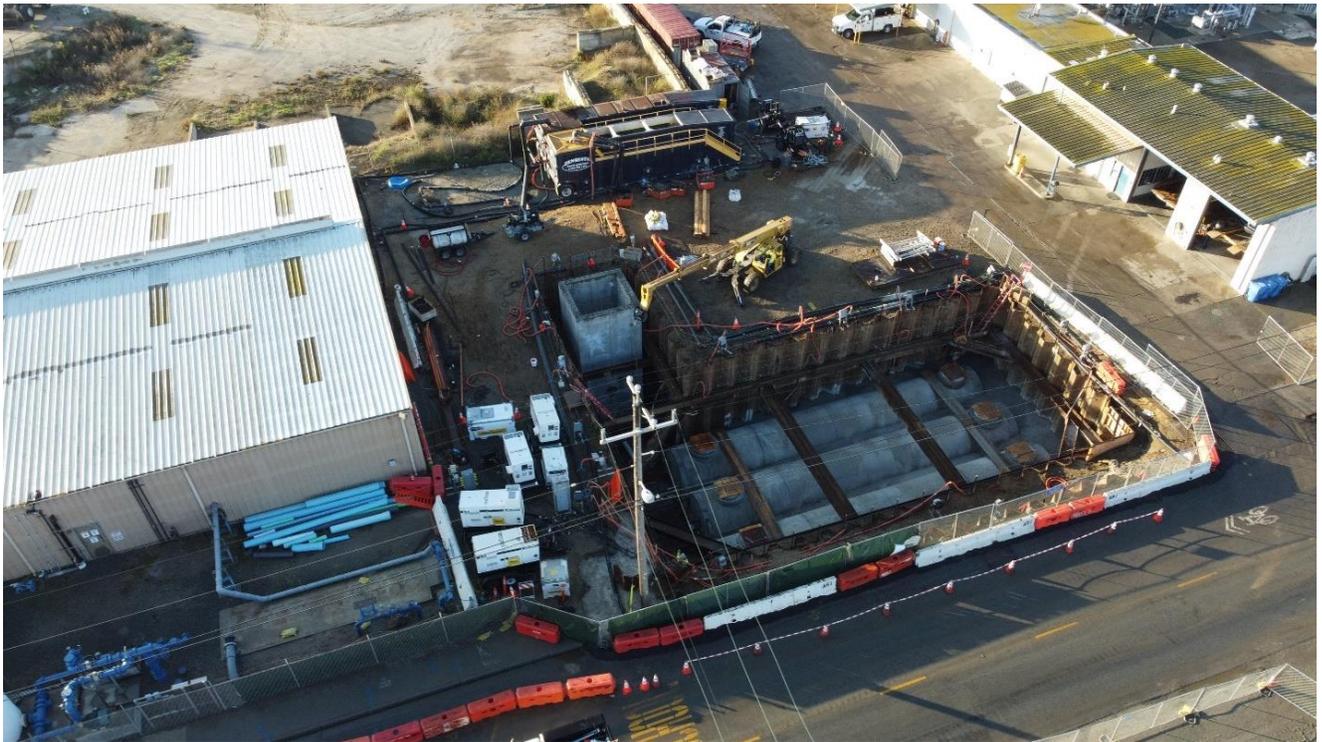
### 3.1 Construction Progress Summary

Major accomplishments during <<reporting period>> include:

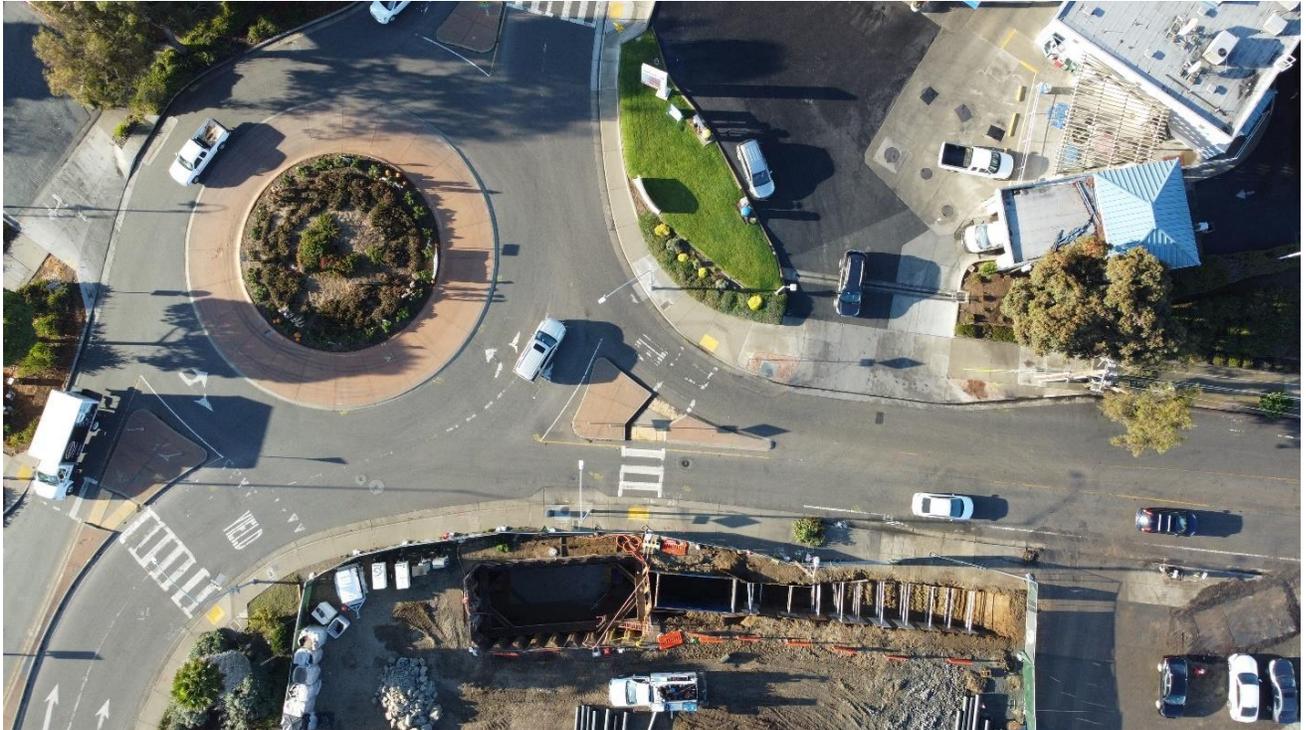
Planned activities for the <<next reporting period>> include: *(the activities described here will be based on key challenges and will describe how the project management team is responding and addressing those challenges)*

### 3.2 Project Photographs

The following photos show progress during <<reporting period>>



*Describe photo for the Conveyance Facilities Project.*



*Describe photo for the Conveyance Facilities Project.*

### 3.3 Change Order Summary

Table 7 contains a summary of the contract amendments for the Conveyance Facilities project component. Each amendment included multiple change orders to address changes in scope from the original proposal. A detailed summary of each amendment is provided in Appendix G.

Table 7 Conveyance Facilities Contract Amendment Summary

Amendment No.	Council Approval Date	Amount (\$)
1		
2		
3		
<b>Total</b>		

### 3.4 Project Schedule

Figure 4 shows the Conveyance Facilities construction and startup schedule.

*(Simplified Gantt chart showing key activities for the upcoming period and identifying the critical path to be included here)*

Figure 4 Conveyance Facilities Project Component Schedule

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## Section 4 – Recycled Water Facilities Project

### 4.1 Project Progress Summary

The Recycled Water Facilities component of the WRF program is currently in the planning and pre-design phase.

Major accomplishments during <<reporting period>> include:

Planned activities for the <<next reporting period>> include: *(the activities described here will be based on key challenges and will describe how the project management team is responding and addressing those challenges)*

### 4.2 Project Photographs

The following photos show progress during <<reporting period>>



*Describe photo for the Recycled Water Facilities Project.*

### 4.3 Project Schedule

Figure 5 shows the Conveyance Facilities construction and startup schedule.

*(Simplified Gantt chart showing key activities for the upcoming period and identifying the critical path to be included here)*

Figure 5 [Recycled Water Facilities Project Component Schedule](#)

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# *Appendices*

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