



AGENDA NO: PC

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: Sean Green [REDACTED]
Sent: Monday, November 13, 2023 10:39 PM
To: Council; CFAC; Harbor Advisory Board; Ted Schiafone
Cc: City Clerk Distribution Group
Subject: 11/14/23 Council Meeting: CFAC-HAB ad hoc committee re: lease terms

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Council, CFAC, HAB, and Harbor Director Schiafone,

I wish to thank you for the recent creation of a joint CFAC-HAB ad hoc committee tasked with investigating our waterfront lease agreements in much greater depth than has been done in the past. Given the magnitude of our deferred maintenance and the untenable pattern of market conditions outpacing Tidelands rents in the later years of long-term leases, it's particularly important that we seek out new ways to draft multi-decade agreements such that City risk is minimized, leasehold rents are maximized, and enforcement mechanisms are in place to oversee site performance from origination through expiration.

For the committee's consideration, the list of questions below may help serve as additional pathways to pursue as you systematically investigate the important line items that determine the financial success or failure of individual lease sites and of our Harbor Fund as a whole. Special thanks to the ad hoc committee members for their willingness to ask hard questions and to present their findings and actionable recommendations to the relevant oversight boards and public in the near future.

Respectfully submitted,

Sean Green
Morro Bay, CA

Accuracy of 50-year forecasting. Morro Bay grants long-term master leases of 40+ years in exchange for present day investment; this formula has arguably failed us, as later years produce rents low relative to market rates and/or basic waterfront maintenance costs such that that the City is left to subsidize these costs or defer maintenance to dangerous levels. How might we swing the balance of this equation in Morro Bay's favor and avoid years of underperformance at the back end of long-term master leases?

Lease site appraisal process, valuation, and frequency. Appraisals play a major role in the success of a lease site from a City perspective. What are other jurisdictions doing to properly estimate present and future value of land, water, and structures? Have holdover appraisals (longer gaps between required appraisals) or appraisal waivers held down annual rents artificially over the years? How might we better approach valuation of our lease sites at initiation and periodically throughout a lease term so as to avoid rent revenues trailing far behind market conditions over time?

COL Period Duration. The RFP for 833 Embarcadero was published in 2016, and we're now almost in 2024. Eight years represents 20% of a 40-year lease. Similarly, 801 Embarcadero is three years into a COL agreement without an approved concept plan. Consider looking to comparable cities for ways to draft lease agreements that halve the time from COL agreement to grand (re)opening. Bonus years added to master lease agreement for early completion may be one idea. Revocation of COL should also remain a credible threat at key early stages.

TOT as a Harbor Fund revenue source. Tidelands Trust properties belong to the state of California; Morro Bay is simply the custodian of these state-owned lands. As such, all revenues on Tidelands Trust properties probably should belong to the Harbor Enterprise Fund, if treated as a true enterprise. Conversely, if Morro Bay re-routes waterfront TOT to the general fund, which we currently do, there seems to be a pretty good argument to roll the entire Harbor Fund into the general fund and eliminate the enterprise altogether. Is the waterfront to be treated as an enterprise or not?

Sales Tax as a Harbor Fund revenue source. Same considerations as TOT above.

Annual minimum rent as a backstop. What percentage of master lease sites consistently remit the annual minimum? What mechanisms can be inserted into future lease agreements to disincentivize high vacancy rates, inactive ownership, and/or bare minimum rents? Might we even consider small rent discounts or additional bonus months added to master lease term for reaching certain sales benchmarks that far exceed annual minimum rent? Current annual minimum rents at some sites seem to inaccurately account for asset value and revenue potential. Certainly, a site under redevelopment, or a year in which Highway 1 is closed year-round may be the exception when annual minimum rents are acceptable.

Application of percent sales. Almost all lease agreements now include percent sales calculations, which adds a layer of complexity that confuses some tenants and may be difficult to manage and enforce at the staff level. In a normal year, unless a lease site is under construction, every master lease site should be reporting sales in excess of minimum annual rents dictated by lease terms. Also, in a normal year, Harbor Fund total revenues should loosely correlate with sales tax and TOT trends; the less correlated HF is with sales tax and TOT, the more closely percent sales reports must be scrutinized. Any year that shows HF revenues lagging behind TOT and sales tax may indicate a miscalculation of percent sales. How can we confirm which sites are struggling with percent gross calculations, and what can we do to simplify the process for payers? Might we install a software platform such HDL has for TOT payers? Might we require tenants/subtenants to report sales directly to the City rather than to the master leaseholder? Might we consider eliminating percent sales from future lease agreements altogether and simply increase monthly base rents?

Reporting and collection of gross percent sales. Our current system may allow master leaseholds to require percent sales reporting and collection from tenants on a monthly basis yet withhold reports and payments to City, is that correct? In other words, Harbor staff currently creates annual budgets based on prior year performance (plus inflation), and then must wait 11+ months for the surprise numbers to be reported at year end. The IRS often requires quarterly payments, but if Morro Bay can survive with annual payments, fine. The more important piece for Harbor planning is for staff to receive more frequent sales reports, even if payments are withheld. If subtenants are required by master leaseholders to report and pay monthly percent sales, then perhaps those items may simply pass-thru the master leaseholder directly to Harbor staff. Or, at the very least, perhaps a quarterly reporting requirement of master lease sites may better allow staff to plan and manage annual budgets. The more we can limit guessing games over long periods of time, the better.

Frequency of third party audits. Harbor Lease Policy dictates frequency of appraisals and audits. Do we comply with our own policies? If not, how far have we lagged behind, and to what degree has this hurt the Harbor Fund over time? Financial compliance is generally determined by the internal controls in place to manage and enforce policies. We can write the most beautiful leases in the world and create the ideal policies, but unless we stand by our terms and oversee the process of carrying them out, financial compliance becomes less likely. Please ask what revenue gains have emerged from Morro Bay's current TOT audit and what revenues have been recovered in other jurisdictions after third party audits. Indeed, external audits cost money, but they often benefit the bottom line, not just in the period under audit, but through increased compliance in future years.

CPI calculation timing. Do we apply CPI universally at the same time every year? If not, might it simplify the process and lighten the load on staff to do so? Which CPI do we use, and is that the one that makes the most sense for our inventory? When CPI spiked, did rents follow suit, or did the city subsidize rent payments by applying a lesser CPI than market? Do some or all master lease agreements include specific CPI language that creates floors and ceilings? Do those CPI floors/ceilings generally protect master leaseholder, Morro Bay, or both? Is CPI a significant factor in the HF's performance over time?

Compliance with non-financial terms. Master lease sites typically involve CUPs and CDPs that specifically dictate things like coastal access, parking space requirements, public restroom hours and upkeep, landscaping, signage, and authorized structures. Who audits compliance with these terms? How frequently? If staff time is constrained, perhaps HAB can serve the audit function at no cost to the City? Other than code enforcement, what mechanisms are written into leases to maximize compliance with non-financial lease terms and minimize staff time needed to enforce?

Oversight of Tidelands Trust properties and the Harbor Enterprise Fund. Morro Bay's waterfront leases have no oversight board other than City Council, who may have too many responsibilities to properly oversee these leases. The Harbor Advisory Board has no real authority, serves no audit function, makes no policies, does not review RFPs for appropriateness nor master leases for compliance. Likewise, CFAC plays no role in waterfront master lease agreements. This lack of oversight leaves complete control in the hands of the harbor director, who has many competing responsibilities. Please consider ideas for oversight of waterfront leases that ease the pressure on Council and Harbor staff and improve long-term accountability of the Harbor Enterprise.

Transparency with respect to Harbor Fund leases. On the Harbor Department's web page, a handful of useful but outdated documents are viewable to the public, including current lease sites (2018). Might we update this document annually and maintain an archive of past years, possibly in spreadsheet format? Might Council and the public also benefit from a refresher course on Tidelands Trust history as was last presented in 2013? Our leasing policies and the Harbor Enterprise Fund are complex, but offering the public basic summaries of performance and policies may help assure stakeholders that effective management of master lease sites is an active, ongoing process.

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Sunday, November 12, 2023 10:51 PM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Yvonne Kimball; Dana Swanson
Subject: the agenda

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear City Council:

I cannot object strongly enough to the full day's agendas for this Tuesday's City Council meetings.

Your last meeting lasted 5 hours, with glazed eyes that said "just get me out of here." How is that giving proper attention to the people's business, particularly when it involved money!

This Tuesday's meetings begin at 3pm with the most important item of the day--"Phase 1 Implementation Strategy Recommendation for the WRF Recycled Water Program and Associated Contract Amendments"--at such an odd time in terms of the public not expecting a significant topic to be in the middle of the day, and which disregards working people. You are doing the people's business. Is this schedule to benefit the people or staff?

After what I assume will be a 2-hour joint meeting, the Regular Meeting contains 2 public hearings on zoning changes rolled into one and 4 major business items: each worthy of their own 1-hour vetting. As council members how will you stay fresh to make balanced judgments on issues that affect the public's pocketbook, a controversial public works project (roundabout), zoning standards, homelessness, goals, and procedures? This type of schedule is not fair to those of us in the audience or on zoom, let alone yourselves. If you take preparation seriously, when is there time to sleep in the next 48 hours?

Surely all of these items are not time sensitive. Council sets the schedule; council can add a meeting or continue items to December.

Sincerely,
Betty



AGENDA NO: A-3

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Monday, November 13, 2023 11:10 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Janeen Burlingame; Dana Swanson
Subject: agenda item a-3

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear City Council:

MV was awarded this contract in 2015 because it competed with the company had been the City's provider for several years. As part of the evaluation during this one-year extension, please consider going out for bid again in addition to evaluating RTA for comparison.

Sincerely,
Betty Winholtz



AGENDA NO: B-1

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Tuesday, November 14, 2023 1:11 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Scot Graham; Dana Swanson
Subject: agenda item b-1

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear City Council:

ZONING CODE

There are a 1/2 dozen or more **non-hosted hotels** from North Morro Bay to the Embarcadero. Yet, we have no definition of what non-hosted is in our zoning code. In reality, they operate like a cluster of Short Term Vacation rentals. Therefore, should non-hosted hotels meet hotel codes or STR codes? This is a gap in our code that creates a free-for-all for any developer, leaving the City with inconsistencies from project to project. **This was referred to the Downtown Design District sub-committee, but it is really a separate issue.**

Regarding fences and the case of increased reports of violations, the "Staff is recommending that all existing fences be grandfathered at their existing height, as of the date of adoption of this Ordinance 662. This would apply citywide and only to fences located on private property."

I suggest that the date for grandfathering be set at 2019. Beginning 2020 during the Shutdown, many people worked to improve their properties including fences. I can personally identify 4 new fences in a 2-block area where height violations occurred during the last 4 years. Otherwise, contemporary violators are being rewarded.

The suggested language on page 46 of 156 leaves out the 50% language for non-solid fences.

Regarding the Zoning Map: changes were made for consistency between Land Use and Zoning. The idea is to remove any legal non-conforming lots. For example, the Alder property is a motel that is legal under the current code (residential) but will not be legal under the new residential definition, so it is being changed to commercial even though it sits in the middle of residential.

The **El Moro School property** is currently zoned high density residential though it is a public facility; there are schools still on its campus. However, the inconsistency between use and zoning is not being changed. The school sits in the middle of residential where it is currently legal, but will not be conforming under the new zoning labels, just like the motel. **Why are the 2 properties not being treated the same? Secondly,** is it worth more as residential than public facility, so if the City wants to buy it, the school district can charge the City more for it?

OBJECTIVE DESIGN STANDARDS (ODS)

Elevators are not an extra charge to developers; they are a tool needed by their clientele and the fire department. If Council chooses to follow staff's recommendation to locally amend the CA Building Code instead, then do it now. **Agendize it tonight.**

Parapets are raised vertical borders around flat roofs. They are for looks. My neighborhood is made of flat roofs, as are other houses and buildings in town. If you make parapets a requirement, it creates a hazard for cleaning gutters and sweeping roofs. Functionality should trump "design" features. The code has other requirements for screening rooftops. **Please make parapets optional by eliminating.**

Sincerely,
Betty Winholtz



AGENDA NO: C-1

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
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Heather Goodwin

From: Francine Esposito <[REDACTED]>
Sent: Tuesday, November 14, 2023 12:09 PM
To: Council
Subject: Fwd: Round About

Some people who received this message don't often get email from coastalfranny@yahoo.com. [Learn why this is important](#)

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Sent from my iPhone

Begin forwarded message:

From: Francine Esposito <[REDACTED]>
Date: November 14, 2023 at 12:00:07 PM PST
To: council@morrobayca.gov
Subject: Round About

Sent from my iPhone

Begin forwarded message:

From: Francine Esposito <[REDACTED]>
Date: November 14, 2023 at 11:46:32 AM PST
To: council@morrobayca.gov
Subject: Round About

please add Tara Lees Antiques to this letter
805-776-5150
Shari McKelvy owner of Morro Fleece Works 805-772-9665

Sent from my iPhone

To The Morro Bay Council,
We want to again address our opposition to the Round About that is being planned by 3 people in Morro Bay on the city council. As the owner of Hwy 41 Antique Emporium and many residents.
We have concerns on the impact this will have for business and the people living here during construction and long term.
Compensation, construction children crossing from the High School etc.
THIS IS A TERRIBLE, money grabbing plan that could've fixed with a larger stop sign or caution light.
The space is too small and Morro Bay should not endure this unnecessary expense at a time when expenses are out of control.
I'm closing, I have not run into a single MB resident that thinks this is a good idea.
I have a few who agreed on such short notice to co sign this.
Respectfully, Francine Esposito

Hwy 41 Antique Emporium

805-771-8000

Linda Hunter

Reed & Allison Evans

Frank @ Dixie Patti

Karla Haeuser

Lori Simon

Janet Lewis

Plus a plethora of the community that did not have a chance to respond on this short notice.

Dana Swanson

From: GARY KURIS <[REDACTED]>
Sent: Monday, November 13, 2023 11:44 AM
To: Dana Swanson
Subject: Second try

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

TO: Mayor Wixom; Councilmembers Barton, Edwards, Ford, and Landrum

On the agenda this week is Item C-1: The staff recommends that you extend GHD Inc.'s consulting contract through January 2025. (For more preparatory work on that world-famous scene of automotive carnage and mayhem, the intersection of Main Street and Route 41.) I recommend that you don't.

Here's your chance to hit the brakes on yet another civic spending spree. The roundabout idea has been kicking around for years. In a time of fiscal stress, why the sudden urgency? Shaving a couple of seconds off a commute doesn't justify spending millions and disrupting life for months. What's really behind it all?

Maybe this. The roundabout is being promoted just as Vistra, a billion-dollar Texas corporation, is pushing to build its 24-acre battery plant (BESS to its friends) across the street from Morro Bay High School. Construction would inevitably entail fleets of heavy vehicles barreling in and out of town for years. The current configuration of Main and 41 doesn't allow for any barreling. Thus, no roundabout, no BESS.

Please show some gumption, reverse course, and pull the plug on a very dubious "improvement." Our little town doesn't need another infrastructure extravaganza more suitable for a city ten times its size. At the least, hold off spending one more dollar until we have a better idea of how our future is shaping up. The Central Coast is facing a time of anxiety and uncertainty. BESS, like the looming offshore wind farms and related industrialization, may never happen at all. Who knows? Morro Bay may even be allowed to remain Morro Bay.

Gary Kuris

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Tuesday, November 14, 2023 2:25 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Greg Kwolek; Dana Swanson
Subject: agenda item c-1

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Dear City Council,

The staff report states that the funding for the almost \$400,000 needed for this next phase, regardless of whether it goes to Caltrans or not, "will come from budgeted Development Impact Fees already set aside for this project." **How much money is in the Development Impact Fees fund; how much is already committed or spent; how much is in there right now?**

I would like to add some information to the **Background/Discussion:** While both Caltrans and SLOCOG "recognized the need to improve that intersection," Caltrans was not in favor of a roundabout. That's why it really didn't go anywhere. Also, there had been a proposal for a roundabout at San Jacinto/Main. Both roundabouts were taken "off the books" before 2010. Caltrans still wanted nothing to do with a roundabout at 41/Main when a new city council resurrected the proposal in 2016. Since then, cost is a major factor as to why the project "has been delayed several times."

My response to the benefits argument of transferring the project to Caltrans:

- "Significant reduction of City exposure to cost overruns" shouldn't be an issue since the City Council's motion was to cut the project if it got too expensive. Or, "exposure" can be eliminated by giving up the project.
- Giving the project to Caltrans frees up staff time, but doesn't having a seat at the table take staff time? Eliminating the project would free up staff time.
- "Potential return of funds," the same way sewer/water ratepayers have the potential for a refund on their \$41 on their bills?
- Saying that Caltrans is implementing City Council direction is barely true; the vote was split 3-2. In reality, 3 people decided for the whole town that we should suffer a roundabout at this location. By every measurement, the majority of the community is against a roundabout.
- A "Seat at the table" for implementation: is that the same way the City has a seat at the table with the windmills?

If the City wants to control this project, don't give it up. If Council understands the angst of the residents, eliminate it.

Sincerely,
Betty Winholtz



AGENDA NO: C-2

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
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PUBLIC REVIEW PRIOR TO THE MEETING**

Heather Goodwin

From: Jonathan King [REDACTED]
Sent: Monday, November 13, 2023 3:44 PM
To: Council
Subject: Proposed Ordinance 663

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Madam Mayor and Councilwomen,

I oppose the proposed ordinance 663 for the following reasons:

1. A very small subset of the homeless population habitually steals shopping carts. The store owners who provide carts and their customers are the victims of this on-going and habitual thievery. This proposed ordinance punishes the victims of these crimes by adding regulations and reporting requirements under threat of fines (that the owners will have no choice but to pass on to honest customers) while it ignores the criminals. I realize it is not in vogue to point out criminality by the homeless but stealing shopping carts is already a crime.
2. As I walk and drive around Morro Bay, I see these drug addled and/or psychotic homeless criminals openly pushing their stolen carts around town or dumping them at their "camps" (the Quintana human cesspools are examples). I often watch police officers on patrol drive right by them and take no action. I would suggest that instead of another virtue signal by the council (at the expense of honest business owners and tax paying customers) an order be given to the police chief to order her officers to enforce the laws as they relate to theft.
3. I agree that this problem poses a health and safety issue. One only needs to look at the sanitary conditions in the homeless camps to come to that understanding. The only way to alleviate this problem as it relates to the shopping carts is to attempt stop it at the source, not punish and harass the victims after the crimes have been committed. That requires proactive policing and "broken windows" law enforcement.
4. One final, if minor point. What makes the city staff and anyone on the council who supports this charade think that the thieves who steal shopping carts will not remove the signs identifying ownership that the ordinance will require business owners to place on their carts?

Respectfully Submitted,

Jonathan King
Morro Bay, CA

Dana Swanson

From: Juan Motime [REDACTED]
Sent: Monday, November 13, 2023 2:27 PM
To: Council
Subject: PUNISH STORES FOR THE DIRTBAGS THAT STEAL CARTS??

Some people who received this message don't often get email from tarter57@yahoo.com. [Learn why this is important](#)

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

YOU ARE TRULY A COUNCIL OF BLOND BIMBOS!!! ALL OF YOU NEED TO RESIGN NOW!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Tuesday, November 14, 2023 2:50 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Amy K. Watkins; Daniel McCrain; Dana Swanson
Subject: agenda item c-2

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Dear City Council:

I am so sorry this is a thinly veiled attempt to put some of the homeless clutter on Albertersons and Spencers with a financial penalty that is truly no fault of theirs.

Sincerely,
Betty Winholtz



AGENDA NO: C-3

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Tuesday, November 14, 2023 3:17 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Yvonne Kimball; Dana Swanson
Subject: agenda item c-3

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear City Council,

I appreciate the City Manager's recommendation to prioritize such a long list. Also, I appreciate her cautionary word to not add to the list.

My priorities would be:

Goal #1

1. Street paving
4. Fixing the AV equipment in the Vets Hall
9. Work through separation with Cayucos
15. Lila Kaiser parking lot
37. Bike path tree replacement

Goal #2

2. Abreast of windmill development
3. Grant writer
8. TOT audit

Goal #3

3. Local options, i.e. warming station
9. STR review

Goal #4

3. Joint meetings
6. Varying formats
8. Initiative (not sure how this is an action since it is a legal requirement)

Sincerely,
Betty Winholtz



AGENDA NO: C-4

MEETING DATE: November 14, 2023

**AGENDA CORRESPONDENCE
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Dana Swanson

From: Jeffrey Heller [REDACTED]
Sent: Sunday, November 12, 2023 6:35 PM
To: Dana Swanson
Subject: Agenda Correspondence, Item C-4, Reg. Council Mtg 11/14/23

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

C-4 addresses the issue of use of City owned spaces by council members for Town Halls, "listening sessions", etc.

I like the idea of having these events approved by the council in advance. I would also like each elected official to have a personal quota for events. For example--maybe each member would be allotted 2-4(?) events per year. So all members are treated equally in how many they can host. Also...since there is some staff and equipment time for these events--I think an annual budget line should be created for them and each member will have 1/5th of the annual budget allocated to their events.

Thank you councilmember Landrum for suggesting this important community outreach agenda item!

Jeff Heller
[REDACTED]

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Tuesday, November 14, 2023 3:28 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Yvonne Kimball; Dana Swanson
Subject: agenda item c-4

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear City Council,

I'm a little surprised at the two options only because they are in the negative, i.e. what can't be done. Perhaps that's the way it should be, so creativity is not limited. I do like the last sentence in Option 2. I look forward to Council's discussion.

Sincerely,
Betty Winholtz