

City of Morro Bay

City Council Agenda

Mission Statement

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

**REGULAR MEETING – AUGUST 9, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall 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.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS OF JUNE 28, 2010 AND JULY 12, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO 42-10 AMENDING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD BY-LAWS IN RELATION TO MEMBER DESIGNATION; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 42-10.

A-3 APPROVAL OF A LEASE AGREEMENT WITH THE COUNTY OF SAN LUIS OBISPO FOR USE OF THE PROPERTY LOCATED AT 625 HARBOR STREET FOR A FREE PUBLIC LIBRARY; (ADMINISTRATION)

RECOMMENDATION: Approve the lease agreement with the County of San Luis Obispo.

A-4 PROCLAMATION DECLARING THE MONTH OF AUGUST 2010 AS THE "MONTH OF THE DAHLIA" AND AUGUST 27 AND 28, 2010 AS "DAHLIA DAZE"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 ORDINANCE NO. 560 AMENDING TITLE 13 - PUBLIC UTILITIES, CHAPTER 13.12 (SEWERS) TO ADD SECTION 13.12.215, COLLECTION OF PAST-DUE ACCOUNTS – INTRODUCTION AND FIRST READING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve first reading/introduction of Ordinance No. 560 by number and title only.

B-2 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 561 AMENDING MORRO BAY MUNICIPAL CODE SECTION 2.12.090 OF THE MORRO BAY MUNICIPAL CODE REGARDING CITY MANAGER'S POWER OF APPOINTMENT OF CITY OFFICERS AND EMPLOYEES; (CITY ATTORNEY)

RECOMMENDATION: Approve first reading/introduction of Ordinance No. 561 by number and title only.

- B-3 HEARING TO CONSIDER PUBLIC TESTIMONY REGARDING THE PROPOSED INCREASE IN ASSESSMENT TO THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT; (CITY ATTORNEY)

RECOMMENDATION: Direct staff to return with a draft Ordinance increasing the Morro Bay Tourism Business Improvement District Assessment from 2% to 3% for first reading and introduction at the September 13, 2010 City Council meeting.

- C. UNFINISHED BUSINESS – NONE.

- D. NEW BUSINESS

- D-1 DISCUSSION ON CURRENT STATUS OF LOCAL COASTAL PLAN/GENERAL PLAN UPDATE AND DIRECTION ON FUTURE PROCESSING WITH THE CALIFORNIA COASTAL COMMISSION; (CITY ATTORNEY)

RECOMMENDATION: This item has been pulled from the agenda.

- D-2 DETERMINATION OF WHETHER DEVELOPMENT ENTITLEMENTS AND PERMITS AT 555 MAIN STREET HAVE EXPIRED PURSUANT TO MORRO BAY MUNICIPAL CODE SECTION 17.60.140; (CITY ATTORNEY)

RECOMMENDATION: Review the report and make a determination on whether development entitlements at 555 Main Street have expired pursuant to Morro Bay Municipal Code Section 17.60.140.

- D-3 REAFFIRMATION OF CITY COUNCIL ACTION AT THE JOINT POWERS AGREEMENT MEETING ON JULY 15 REGARDING THE APPROVAL OF A CONTRACT FOR PROJECT MANAGEMENT (PM) SERVICES FOR THE UPGRADE OF THE MORRO BAY-CAYUCOS WASTEWATER TREATMENT PLANT; (CITY ATTORNEY)

RECOMMENDATION: Reaffirm the action taken at Joint Powers Agreement meeting on July 15, 2010 and reapprove the award of a contract to Dennis Delzeit for Project Management (PM) Services for the Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant.

- D-4 DESIGNATION OF VOTING DELEGATE FOR 2010 LEAGUE OF CALIFORNIA CITIES CONFERENCE; (ADMINISTRATION)

RECOMMENDATION: Designate a voting delegate to attend the League of California Cities Annual Business Meeting.

- E. DECLARATION OF FUTURE AGENDA ITEMS

- F. ADJOURNMENT

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 772-6200 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 AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

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

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – JUNE 28, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:08 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Grantham and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.

Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to 2 parcels.

- Property: Library
Negotiating Parties: County and City of Morro Bay.
Negotiations: Terms and Conditions of Lease.
- Property: Surf Street Parking Lot.
Negotiating Parties: Maritime Museum and City of Morro Bay.
Negotiations: Terms and Conditions of Lease.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

MOTION: Councilmember Grantham moved the meeting be adjourned. The motion was seconded by Councilmember Winholtz and unanimously carried. (5-0)

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:10 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	Deputy City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Jeff Eckles announced the 4th of July will begin with a bike parade to kick off the festivities starting at Morro Rock at noon; there will be activities and bands throughout the day at Tidelands Park, and fireworks at 9:00 p.m. He noted promotions have been positive with radio spots running in Fresno and Bakersfield as well as locally.

John Barta referred to the Maritime Museum property and the City's proposal of a 40-year lease at \$1.00 per year. He said he this is a valuable piece of real property and there should be a minimum amount of standards applied to the lease, starting with an appraisal for what the property is worth, and a way to guarantee once the lease is granted, that if there isn't progress in reaching the stated goal, the City can reclaim the property.

Nancy Johnson announced this year's Dahlia Daze theme will be "Dancing Dahlias", and will have an expanded program with wine and cheese and a guest speaker on the Friday night session, and entertainment and guest speakers on Saturday.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

Dave Ackey stated he has had a boat in the bay for ten years and there has been an increasing amount of theft in the past few years. He said he and others would like to begin a Marine Watch Program and requested assistance of the City's Harbor Patrol.

Michael Rowland stated he is a liveaboard and would like to eliminate theft on the boats and docks in the bay. He said he has received support from the Liveaboard Association, Fishermen's Association and others who are involved who are interested in keeping the community safe.

Bill Yates referred to Item C-1 (Discussion and Direction on Placing a Measure on the November 2010 General Election Ballot Approving an Increase in the City's Transient Occupancy Tax) stating it would be counterproductive for the City to increase this tax at this time and urged the Council to not approve placing this measure on the ballot. He said he is supportive of the Maritime Museum, which received support in 1995 and 2007. Mr. Yates also referred to the closure of the skate park on Sundays and said Council should discuss this as soon as possible noting Morro Bay is a skateboard community and expressed the importance of maintaining weekend hours.

Garry Johnson thanked the Police Department in their efforts in solving the crime behind the graffiti incident at Morro Rock.

Tom Laurie stated he understands the City is negotiating with Dynegy to extend their lease from 2012 to 2015, and prior to the lease moving forward, he would like it to go for a vote of the citizens. He said the City has the power to rezone this property on the condition that Dynegy builds a new plant. Mr. Laurie urged the City Council to consider the consequences of keeping this industrial derelict on life support, and redevelop this property.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:05 p.m.; the meeting resumed at 7:15 p.m.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING
OF JUNE 14, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

A-2 RESOLUTION NO. 32-10 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR FISCAL YEAR 2010/11; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 32-10.

A-3 STATUS REPORT ON WATER USAGE FOR MAY 2010; (PUBLIC SERVICES)

RECOMMENDATION: Review and file status report.

A-4 APPROVAL OF PARCEL MAP (PM MB 07-0232) AND ACCEPTANCE OF OFFER OF DEDICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 33-10 approving the Parcel Map.

A-5 APPROVAL OF PARCEL MAP (PM MB 09-0091) AND ACCEPTANCE OF OFFER OF DEDICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 34-10 approving the Parcel Map.

A-6 ACCEPTANCE OF AN OFFER OF DEDICATION OF RIGHT-OF-WAY FOR SIDEWALK PURPOSES ALONG THE WEST AVENUE FRONTAGE OF 1155 WEST AVENUE; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 35-10 accepting the offer of dedication for right-of-way purposes.

A-7 ACCEPTANCE OF AN OFFER OF DEDICATION OF RIGHT-OF-WAY FOR SIDEWALK PURPOSES ALONG THE EMBARCADERO ROAD FRONTAGE OF 560 EMBARCADERO ROAD; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 36-10 accepting the offer of dedication for right-of-way purposes.

A-8 CONSIDERATION OF APPROVAL OF AMENDMENT #1 TO THE LEASE AGREEMENT FOR LEASE SITE 96/96W, LOCATED AT 945 EMBARCADERO, WITH FLYING DUTCHMAN ENTERPRISES; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 39-10 extending the term of the lease agreement.

Councilmember Borchard pulled Item A-1 from the Consent Calendar.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

MOTION: Mayor Peters moved the City Council approve the Consent Calendar with the exception of Item A-1. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING
OF JUNE 14, 2010; (ADMINISTRATION)

Councilmember Borchard referred to page 9 of the June 14, 2010 minutes (Item B-2: Discussion and Adoption of the 2010/11 Fiscal Year Operating Budgets): and stated her comment of “no purchase of police vehicles at this time” needed to be added to the motion.

MOTION: Councilmember Borchard moved the City Council approve Item A-1 of the Consent Calendar as amended. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 37-10 DIRECTING THE LEVY OF THE ANNUAL
ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated at the May 10, 2010 City Council meeting, Council adopted Resolution No. 22-10 approving the Engineer’s Report describing the annual maintenance to be completed at the Cloisters Park and Open Space, and declaring the City’s intent to levy an annual assessment to finance this maintenance. The assessment projected at \$1,241.20 per assessable lot in the Cloisters subdivision, will be collected by the County Assessor. As part of the assessment process, the City ordered the preparation of an Engineer’s report, adopted a resolution of intention to levy an assessment, set June 28, 2010 as the hearing date on the proposed levy of assessment, noticed all property owners on record via first class mail of the hearing, and published the notice in the local newspaper. The City Council must hold a protest/public hearing before considering the levy of the annual assessment. Mr. Woods recommended the City Council hold a public hearing on the annual levy of assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District and then adopt Resolution No. 37-10 confirming the levy of assessment for Fiscal Year 2010-11.

Mayor Peters opened the hearing for public comment.

Robert Bacon stated he is not protesting the assessment; however, he believes the City has failed on the maintenance of the park and areas around the park as it was maintained previously.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

Mayor Peters closed the public comment hearing.

Councilmember Smukler expressed concern with the infrastructure of the pathways and thoroughfares and requested staff contact State Department of Recreation & Parks regarding the degradation of the asphalt.

Councilmember Borchard concurred with Councilmember Smukler's comments, and also noted some weed abatement would be in order in this area.

Mayor Peters suggested notifying Morro Bay Beautiful regarding assistance in some of the public areas.

MOTION: Mayor Peters moved the City Council then adopt Resolution No. 37-10 directing the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

B-2 RESOLUTION NO. 38-10 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated at the May 10, 2010 City Council meeting, Council adopted Resolution No. 23-10 approving the Engineer's Report describing the annual maintenance to be completed at the North Point Natural Area, and declaring the City's intent to levy an annual assessment to finance this maintenance. The assessment projected at \$564.50 per assessable lot in the North Point subdivision, will be collected by the County Assessor. As part of the assessment process, the City ordered the preparation of an Engineer's report, adopted a resolution of intention to levy an assessment, set June 28, 2010 as the hearing date on the proposed levy of assessment, and finally, noticed all property owners on record via first class mail of the hearing, as well as published the notice in the local newspaper. The City Council must hold a protest/public hearing before considering the levy of the annual assessment. Mr. Woods recommended the City Council hold a public hearing on the annual levy of assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District, and then adopt Resolution No. 38-10 confirming the levy of assessment for Fiscal Year 2010-11.

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

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 38-10 directing the levy of the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

B-3 ANNUAL REVIEW OF THE VISITORS CENTER CONTRACT;
(ADMINISTRATION)

City Manager Andrea Lueker stated the Visitors Center contract has been renewed on an annual basis and the existing contract expires on June 30, 2010. Staff is seeking direction on the renewal of this contract. Ms. Lueker recommended the City Council review the annual contract for the Visitors Center and provides further direction on renewal of the contract.

Mayor Peters opened the hearing for public comment.

Peter Candela, Executive Director of the Morro Bay Chamber of Commerce, stated there has been a relationship between the Visitors Center and the Chamber of Commerce for approximately 20 years. He said due to the volume of visitors, the office hours have been extended Monday–Friday until 6:00 p.m., and they are open on Sundays and holidays. Mr. Candela requested the City Council consider approving a 12-month contract.

Joan Solu reported on a special meeting held by the Tourism Business Improvement District (TBID) Advisory Board in which the budget was discussed. She said the Board’s action included a recommendation that there be no increase in transient occupancy tax, increasing the TBID from 2% to 3%, funding the Visitors Center at 24% (as soon as the TBID was changed from 2-3% and proceeds were realized from that change); fund the Visitors and Conference Bureau at \$24,477 and AGP at \$6,000.

Mayor Peters closed the public comment hearing.

The City Council reviewed the contract and discussed amendments; specifically, change the amount to \$152,000; specifying office hours shall be 7 days per week with a minimum of four hours of coverage on Sundays and holidays at peak traffic times; add referral tracking language; request a monthly expenditure report; and enforce the requirement of an annual audit of funds.

The City Council agreed to extend the contract with the Visitors Center for one year.

The City Council requested staff bring back the amended contract to the next Council meeting for approval.

No further action was taken on this item.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

C. UNFINISHED BUSINESS

C-1 DISCUSSION AND DIRECTION ON PLACING A MEASURE ON THE NOVEMBER 2010 GENERAL ELECTION BALLOT APPROVING AN INCREASE IN THE CITY'S TRANSIENT OCCUPANCY TAX; (CITY ATTORNEY)

City Attorney Robert Schultz stated at the January 25, 2010 meeting, the City Council directed staff to return to Council for reconsideration of placing a measure on the November 2010 General Election Ballot approving a 1% increase of the City's Transient Occupancy Tax (TOT). TOT is at a rate of 10% per rental and is currently collected by all entities renting lodging for 30 days or less. Those taxes are remitted monthly to the City, and that revenue stream accounts for approximately 18% of the General Fund's revenues before transfers in. TOT is the City's second largest revenue source. (Property tax is the largest.) In order to increase TOT, the City must hold an election at the same time that an election is held where members of the City Council will be elected. In addition, pursuant to State law, any increase of the tax rate must first be approved by a 2/3 vote (4 members) of the City Council and then a majority vote of the City's voters who vote at a regular Municipal Election. Mr. Schultz requested direction from Council regarding placing a measure on the November 2, 2010 ballot increasing the TOT from 10% to 11%.

Mayor Peters expressed her opposition to placing this measure on the ballot noting the Tourism Business Improvement District has been doing a tremendous job and she would prefer to give them 3% rather than increase the transient occupancy tax.

Councilmember Borchard stated she is also opposed to increasing the transient occupancy tax. She said there is a need for an increase in revenue and the possibility of the Tourism Business Improvement District going up to 3% would allow for additional funding for the Visitor Center. Councilmember Borchard stated she would like to encourage the City to pursue vacation rentals at 1% in order to get them below the County's vacation rentals because there has been a huge increase in use of vacation rentals.

Councilmember Smukler stated the City should show its commitment to the Tourism Business Improvement District by not placing a measure on the ballot to increase the transient occupancy tax.

Councilmember Grantham stated he would like to give the citizens the opportunity to vote on the increase in this tax because this City needs the money.

Councilmember Winholtz stated she tends to agree with Councilmember Grantham that the first loyalty has to be toward the City budget. She said she could make an exception if the Tourism Business Improvement District would absorb some of the City costs, and the City would get some benefit normally obtained from the 1% increased tax.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

MOTION: Councilmember Grantham moved the City Council approve placing a Measure on the November 2010 General Election Ballot approving an increase in the City's Transient Occupancy Tax.

The motion died for lack of a second.

The City Council directed staff to return to Council with a resolution declaring the City's intention to increase the assessment from 2% to 3% within the Morro Bay Tourism Business Improvement District.

No further action was taken on this item.

D. NEW BUSINESS

D-1 RESOLUTION NO. 31-10 ADOPTING REVISIONS TO THE MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

City Manager Andrea Lueker stated staff has prepared a resolution for the annual adoption of the Master Fee Schedule, as revised by Council; she also presented the City Council with a red-lined version of the 2009 Master Fee Schedule. Ms. Lueker recommended the City Council adopt Resolution No. 31-10, which accepts the revisions to the Master Fee Schedule, and any amendments made at this meeting.

The City Council discussed the Master Fee Schedule with various staff members.

Councilmember Winholtz stated she could not support increasing fees in one department and not the other departments.

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 31-10, which accepts the revisions to the Master Fee Schedule with the exception of appeals not being on the Consumer Price Index. The motion was seconded by Councilmember Borchard and carried with Councilmember Winholtz voting no. (4-1)

D-2 RECOMMENDATION OF ORGANIZATION OF THE HARBOR DEPARTMENT AND APPROVAL OF AMENDED JOB DESCRIPTIONS; (ADMINISTRATION)

City Manager Andrea Lueker stated City staff has been working on a consolidation of the maintenance efforts in the City. As the final part of the consolidation effort, staff met and conferred with the appropriate Employee Union Representatives and agreed upon the amended job descriptions. Ms. Lueker recommended the City Council approve the amended job descriptions.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 28, 2010

Councilmember Winholtz referred to qualifications and stated she would like the Harbor Operations Manager and Supervisor positions to require a college degree, or at least require a certain amount of experience. She said she is not in favor of the reorganization as proposed because of the multiple layers it creates.

MOTION: Mayor Peters moved the City Council approve the addition of an Office Assistant IV position to the Harbor Department and approve the Harbor Business Manager, Harbor Operations Manager and Harbor Patrol Supervisor job descriptions which will allow staff to proceed with the reorganization of the Harbor Department. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

D-3 CONFIRMATION OF GOALS FROM THE 2010 GOAL-SETTING WORKSHOP; (ADMINISTRATION)

City Manager Andrea Lueker stated in November 2007, the City Council determined that conducting an annual Goal Setting Process was an important part of strategic planning for the City of Morro Bay. As a result, in June 2008, the City Council held their first such workshop, facilitated by Amy Paul of Management Partners. The second Goal Setting Workshop was held on February 17 & 18, 2009 with the 2010 Goal Setting Workshop held on March 16 & 17, 2010. Both the 2009 and 2010 sessions entailed reviewing the progress made on the goals established the prior year. Ms. Lueker presented the City Council with a draft document of the goals established during the March 2010 Goal Setting Workshop, and recommended the adoption of the three “Priority Goals” and five “Other Goals” as designated priorities by the City Council of the City of Morro Bay.

Mayor Peters stated there were recommended goals that were not carried out because with proper research and information it was found not to benefit the City.

MOTION: Councilmember Borchard moved the City Council adopt the three “Priority Goals” and five “Other Goals” as designated priorities by the City Council of the City of Morro Bay. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Mayor Peters requested to agendize a discussion regarding making City advisory boards more involved and effective; Council concurred.

ADJOURNMENT

The meeting adjourned at 9:38 p.m.

Recorded by:

Jamie Boucher
Deputy City Clerk

AGENDA NO: A-1

MEETING DATE: 08/09/10

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – JULY 12, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Winholtz and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.
Discussions regarding Personnel Issues including one (1) public employee regarding evaluation, specifically the City Attorney.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:07 p.m.

MOTION: Councilmember Winholtz moved the meeting be adjourned. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

The meeting adjourned at 5:07 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 12, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessler	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Dylan Wade	Utilities/Capital Projects Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session to discuss Government Code Section 54957; Personnel Issues – the evaluation of the City Attorney. Mr. Schultz reported the City Council did take action relating to the City Attorney’s contract as follows: 1) the contract was changed from a 4-year agreement to a 2-year agreement; and 2) the termination without cause contract clause was changed from a 9-month severance to a 6-month severance. The motion was passed 4-1 with Councilmember Grantham voting no.

PUBLIC COMMENT

Susan Brown, Manager of Morro Bay Transit/Trolley, reviewed the current transit hours and services. She said the 4th of July was a successful time for the public transportation system in the City.

Virginia Hiramatsu announced a “Bunko Against Cancer” game will be held on July 15th at St. Timothy’s Church and the proceeds will benefit Relay for Life.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 12, 2010

Mike Anderson expressed his concern and that of his neighbors on Island Street with the noise created by the dog park at Del Mar Park. He requested the City Council consider this item at a future meeting.

Joe Hoefflich, Member of Morro Bay Pups and neighbor to the park, stated the dog park has been a good experience for the most part. He said Morro Bay Pups would be happy to work out any issues that there may be.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF JUNE 28, 2010; (ADMINISTRATION)

RECOMMENDATION: This item has been pulled from the agenda.

A-2 RESOLUTION CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010; AND REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 41-10.

A-3 APPROVAL OF THE AMENDMENTS TO THE BYLAWS FOR THE COMMUNITY PROMOTIONS COMMITTEE; (ADMINISTRATION)

RECOMMENDATION: Approve the Community Promotions Committee Bylaws as amended.

A-4 APPROVAL OF THE VISITORS CENTER CONTRACT FOR FISCAL YEAR 2010/11; (ADMINISTRATION)

RECOMMENDATION: Approve the Visitors Center Contract for Fiscal Year 2010/11.

Councilmember Winholtz pulled Items A-3 and A-4 from the Consent Calendar.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 12, 2010

MOTION: Councilmember Borchard moved the City Council approve Item A-2 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-3 APPROVAL OF THE AMENDMENTS TO THE BYLAWS FOR THE
COMMUNITY PROMOTIONS COMMITTEE; (ADMINISTRATION)

Councilmember Winholtz made the following amendments to the 1st paragraph, 2nd sentence of the proposed bylaws for the Community Promotions Committee:

“The purpose of the CPC shall be to ~~provide input and recommendations to~~ **act on behalf of** the Morro Bay City Council on policies and expenditure programs to advertise and promote **the City of** Morro Bay and its special events as a tourist destination point in areas both inside and outside the boundaries of San Luis Obispo County.”

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

A-4 APPROVAL OF THE VISITORS CENTER CONTRACT FOR FISCAL YEAR
2010/11; (ADMINISTRATION)

Councilmember Winholtz requested the following amendments to the Visitors Center Contract:

Condition #6 Operational hours will include a minimum of **8 hours Monday-Friday, 6 hours on Saturday and** 4 hours on Sundays and Holidays (excluding those referenced above). ...

Condition #11 The City Administrative Services Director shall work with the Chamber to perform a detailed financial review at the end of the fiscal year **which will be forwarded to the Community Promotions Committee.**

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

Mayor Peters called for a break at 7:02 p.m.; the meeting resumed at 7:13 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 12, 2010

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 ADOPTION OF RESOLUTION NO. 40-10 DECLARING THE CITY'S INTENTION TO INCREASE THE ASSESSMENT FROM 2% TO 3% WITHIN THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT, AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEROF; (CITY ATTORNEY)

City Attorney Robert Schultz stated State law allows Cities to form Assessment Districts, pursuant to the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code Sections 36500, *et seq.* The Morro Bay Tourism Business Improvement District (MBTBID) was established in May of 2009. Pursuant to Ordinance 546, for fiscal year 09/10 the assessment was 3%. For fiscal year 10/11, the assessment is set at 2%. The MBTBID Advisory Board has recommended that the City consider increasing the assessments back to 3% to provide additional resources for the purpose of promoting tourism. At the June 28, 2010 City Council meeting, Council directed staff to return with a resolution to increase the assessments within the Morro Bay Tourism Business Improvement District back to 3%. Mr. Schultz recommended the City Council adopt Resolution 40-10 declaring the City's intention to increase the assessment from 2% to 3% within the MBTBID, and fixing the time and place of a public meeting and a public hearing thereon and giving notice thereof.

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

MOTION: Councilmember Borchard moved the City Council adopt Resolution 40-10 declaring the City's intention to increase the assessment from 2% to 3% within the Morro Bay Tourism Business Improvement District, and fixing the time and place of a public meeting and a public hearing thereon and giving notice thereof. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B-2 DISCUSSION REGARDING MAKING CITY ADVISORY BOARDS MORE INVOLVED AND EFFECTIVE; (ADMINISTRATION)

Mayor Peters stated our various City advisory boards provide important information and discussion forums for citizens regarding each department. They also provide input and recommendations to the City Council on issues pertaining to those departments. Recently there seems to be growing dissatisfaction from the board members regarding their effectiveness and value to the city government process. It is difficult for Council Members to watch all of the advisory board meetings, but it is important to know what transpires beyond

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 12, 2010

simply reading the minutes. Mayor Peters suggested the following: 1) each councilmember becomes liaison to one of the boards and reports on their activities; and/or 2) each board has a representative to give monthly reports at a council meeting.

Mayor Peters opened the hearing for public comment.

Bill Luffee, Harbor Advisory Board Member, stated he does not know what the goal is for the Harbor Advisory Board. He requested the City Council give the Board the tasks needed on the harbor. Mr. Luffee stated the Harbor Advisory Board could be more productive if there was better communication and goals set for the Board.

Karen Croley, Recreation & Parks Commissioner, stated she also has a concern with the lack of communication between the City Council and the Commission, and she supports having a Council liaison person representing the Commission.

Joan Solu, Tourism Business Improvement District Advisory Board, stated she supports having a liaison from Council representing the Board. She said she also supports reporting to Council with updates, however she would like that responsibility to be rotated by Board Members and not only reported by the Chair.

Barbara Spagnola, Measure Q Committee, stated she supports the liaison idea. She said she would like to see more collaboration between the boards in order to share their expertise. Ms. Spagnola recommended an annual meeting of all boards to foster communication.

Mayor Peters closed the public comment hearing.

Councilmember Smukler stated he supports holding an annual workshop or open house for all the boards to collaborate and to meet each other as well as staff and members of the community.

Councilmember Borchard stated having focused goals could help expedite projects. She said she supports an annual meeting of all boards. Councilmember Borchard stated the collaboration of boards on certain projects would be a good idea, and the rotation of Council liaisons would also be a good idea.

Councilmember Grantham stated an annual rotation as liaison would be effective. He said he supports receiving a report from a different board at each Council meeting.

Councilmember Winholtz stated she supports greater involvement with the City boards.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 12, 2010

The City Council agreed to be liaison to the following Commission/Advisory Boards:

Recreation & Parks Commission – Councilmember Grantham
Harbor Advisory Board – Councilmember Borchard
Community Promotions Committee – Councilmember Winholtz
Public Works Advisory Board - Councilmember Smukler
Tourism Business Improvement District Advisory Board - Mayor Peters

MOTION: Mayor Peters moved the City Council add to Council Policies and Procedures: 1) the assignment of a Council liaison to each of the following advisory boards: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, Community Promotions Committee, and Tourism Business Improvement District Advisory Board; 2) request a quarterly report from each advisory board to the City Council on a rotating member basis; and 3) that on an annual basis, there will be a business and social workshop with all advisory boards to establish goals for the coming year. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 RECOMMENDATION ON AMENDING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT BYLAWS IN RELATION TO MEMBER DESIGNATION; (ADMINISTRATION)

City Manager Andrea Lueker stated during the recent Board and Commission interviews on May 10, 2010, the City Council directed staff to return to the City Council with a discussion on the member designations for the MBTBID Advisory Board. At the May 10th interviews, the discussion consisted of the MBTBID Bylaws using the word “shall” when referencing the specific member designations, while other Boards and Commission (specifically the Community Promotions Committee and the Harbor Advisory Board) use the statement “The City Council will “attempt” to select members from the following categories”. City Council directed staff to come back with some options so that if applicants do not specifically fit a designation, there may be an option for appointment with the above language change. Ms. Lueker recommended the City Council review the staff report in regard to member designation and provides staff with direction on amending the MBTBID Bylaws.

Councilmember Winholtz stated the hotels all have various numbers of rooms and it is their money, and she feels the different groups should have a representative.

MINUTES - MORRO BAY CITY COUNCIL
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Mayor Peters recommended the City Council forward this discussion to the Tourism Business Improvement District Advisory Board for their recommendation; Council concurred.

No further action was taken on this item.

D-2 REQUEST UTILIZATION OF PARK-IN-LIEU FUNDS FOR THE PREPARATION OF AN INITIAL STUDY – MITIGATED NEGATIVE DECLARATION AND COMPLETION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT DOCUMENT FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated the continued development of the Teen Center Master Plan is contingent on funding, and currently Proposition 84 Statewide Park Development and Community Revitalization Program is the most opportune possibility to obtain the funding. The application process includes a requirement to fulfill the California Environmental Quality Act. This process begins with an Initial Study and in our case a Mitigated Negative Declaration. Staff realizes the time and expertise required to fulfill this requirement and recommends outsourcing based on the currently available resources. Mr. Woods recommended the City Council approve the request to utilize Park-in-Lieu funds for the preparation of the Initial Study-Mitigated Negative Declaration and completion of the California Environmental Quality Act requirements for the Teen Center Master Plan.

MOTION: Councilmember Grantham moved the City Council approve the request to utilize Park-in-Lieu funds for the preparation of the Initial Study-Mitigated Negative Declaration and completion of the California Environmental Quality Act requirements for the Teen Center Master Plan. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

D-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING LEAF BLOWERS; (ADMINISTRATION)

City Manager Andrea Lueker stated On April 27, 2010, the City received a report prepared by the San Luis Obispo County Grand Jury entitled “Leaf Blower Hazards in San Luis Obispo County”. The report makes the following recommendations: 1) San Luis Obispo County Board of Supervisors pass an ordinance calling for a gradual two year phase-out of all two-cycle gasoline powered leaf blowers within San Luis Obispo County; 2) the San Luis Obispo County Board of Supervisors adopt the same guidelines currently in effect within the City of San Luis Obispo for the restriction of days and hours of operation allowed for leaf blower use; 3) each incorporated city within San Luis

MINUTES - MORRO BAY CITY COUNCIL
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Obispo County adopts a parallel ordinance to ensure consistency throughout the county. The report specifically requires the Morro Bay City Council to submit a response to Recommendation #3 to the Presiding Judge of the San Luis Obispo Superior Court by July 29, 2010. Ms. Lueker recommended the City Council authorize staff to send a letter to the Presiding Judge of the San Luis Obispo County Superior Court responding to the Grand Jury report entitled “Leaf Blower Hazards in San Luis Obispo County.”

Councilmember Winholtz would like the City to acknowledge the health issue by taking #5 in the letter and placing it in the first paragraph of the letter, and state that the City will not be implementing recommendation #3 “at this time”.

MOTION: Councilmember Winholtz moved the City Council authorize staff to send the amended letter to the Presiding Judge of the San Luis Obispo County Superior Court responding to the Grand Jury report entitled “Leaf Blower Hazards in San Luis Obispo County.” The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS – NONE.

ADJOURNMENT

The meeting adjourned at 8:05 p.m.

Recorded by:

Bridgett Kessling
City Clerk



AGENDA NO: A-2

MEETING DATE: August 9, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** July 30, 2010

FROM: Andrea K. Lueker, City Manager

SUBJECT: Resolution No 42-10 Amending the Morro Bay Tourism Business Improvement District Advisory Board (MBTBID) Bylaws in Relation to Member Designation

RECOMMENDATION

Staff recommends the City Council review the staff report and recommendation from the Morro Bay Tourism Business Improvement District in relation to member designation and adopt Resolution No 42-10 confirming those changes.

MOTION: I move the City Council adopt Resolution No. 42-10 which amends the Morro Bay Tourism Business Improvement District Advisory Board Bylaws relating to member designation.

FISCAL IMPACT

None.

BACKGROUND

During the recent Board and Commission interviews on May 10, 2010, the City Council directed staff to return to the City Council with a discussion on the member designations for the MBTBID Board. As discussed prior to the interviews of the Board/Commission members, the MBTBID Bylaws Qualifications section states the following:

QUALIFICATIONS

The MBTBID Board shall consist of four (4) members from the Morro Bay lodging industry, one (1) member representing the Morro Bay Chamber of Commerce and two (2) members from the community at large.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The four members from the lodging industry shall consist of one member representing lodging rooms of less than 22 rooms, two members representing 50 or less rooms, and one member representing hotels with 51 or more rooms.

The Chamber of Commerce representative shall be the Executive Director of the Morro Bay Chamber of Commerce or a member of the Executive Board.

The “at large” members shall be residents and registered voters of the City during the term of appointment.

Note: During the May 26, 2009 interview process the City Council decided to change the designation and have 2 members representing hotels with 51 or more rooms and 1 member representing hotels with 50 or less.

At the May 10, 2010 interviews, the discussion consisted of the MBTBID Bylaws using the word “**shall**” when referencing the specific member designations, while other Boards and Commission (specifically the Community Promotions Committee and the Harbor Advisory Board) use the statement “The City Council will “**attempt**” to select members from the following categories”. City Council directed staff to come back with some options so that if applicants do not specifically fit a designation, there may be an option for appointment.

Staff brought the item for discussion at the June 17, 2010 MBTBID meeting, however the MBTBID Board did not complete the agenda and continued the item to the July 15, 2010 MBTBID meeting. Staff put this on the City Council agenda for the July 12, 2010 meeting and at that meeting the City Council heard the staff report, briefly discussed the issue and directed the item be returned to the MBTBID Board for discussion.

DISCUSSION

The MBTBID Board discussed this item at their July 15, 2010 meeting. Based on information provided by the Administrative Services Director for the City, Chair Solu put together some figures on hotel size to aid in the discussion. Based on those figures, there are less than 5 hotels that have more than 51 rooms and 12 hotels with more than 26 rooms. The median number of rooms is 23 and the average number of rooms per hotel is 26. Chair Solu also added that prior to creation of the MBTBID and when the board designations were initially discussed, there was concern with the smaller hotels being represented appropriately.

After discussion the MBTBID Board unanimously approved and forwarded the following member designation to the City Council for approval:

The four members from the lodging industry shall consist of:

- 1 member representing lodging rooms of less than 22 rooms
- 1 member representing 50 or less rooms (single hotel or cumulative representation)
- 2 members representing hotels “at large” (no specific number of rooms)

RESOLUTION NO. 42-10

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY
AMENDING THE BYLAWS FOR THE MORRO BAY TOURISM BUSINESS
IMPROVEMENT DISTRICT IN RELATION TO BOARD DESIGNATION**

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

WHEREAS, on April 27, 2009 the City Council of the City of Morro Bay adopted Resolution No. 20-09 which adopted bylaws for the Morro Bay Tourism Business Improvement District (MBTBID); and

WHEREAS, those adopted bylaws provided the qualifications for MBTBID Board members which consisted of the following:

The MBTBID Board shall consist of four (4) members from the Morro Bay lodging industry, one (1) member representing the Morro Bay Chamber of Commerce and two (2) members from the community at large. The four members from the lodging industry shall consist of one member representing lodging rooms of less than 22 rooms, two members representing 50 or less rooms, and one member representing hotels with 51 or more rooms. The Chamber of Commerce representative shall be the Executive Director of the Morro Bay Chamber of Commerce or a member of the Executive Board.

The "at large" members 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)

WHEREAS, during the May 26, 2009 interview process the City Council changed original board member designation to have 2 members representing hotels with 51 or more rooms and 1 member representing hotels with 50 or less. Staff will bring back a resolution making this change as well as the change discussed this evening to an August 2010 City Council meeting.

WHEREAS, the following year, during the May 10, 2010 board interviews the City Council again discussed the board member designation and asked that staff and the MBTBID Board provide some alternatives; and

WHEREAS, the MBTBID Board unanimously approved and forwarded the following recommendation to the Morro bay City Council for MBTBID Board member designation:

The MBTBID Board shall consist of four (4) members from the Morro Bay lodging industry, one (1) member representing the Morro Bay Chamber of Commerce and two (2) members from the community at large. The four members from the lodging industry shall consist of one member representing lodging rooms of less than 22 rooms, one member representing 50 or less rooms (single hotel or cumulative representation), and two members representing hotels “at large” (no specific number of rooms). The Chamber of Commerce representative shall be the Executive Director of the Morro Bay Chamber of Commerce or a member of the Executive Board.

The community “at large” members 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)

NOW, THEREFORE, be it resolved that the City Council of the City of Morro Bay does hereby amend the bylaws of the MBTBID, Qualifications Section for the membership of the lodging industry as indicated above.

PASSED AND ADOPTED, by the City Council, City of Morro Bay at a regular meeting thereof held on the 28th day of August by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-3

MEETING DATE: 08/09/10

Staff Report

TO: Honorable Mayor and City Council

DATE: 7/30/2010

FROM: Andrea K. Lueker, City Manager

SUBJECT: Approval of a Lease Agreement with the County of San Luis Obispo for Use of the Property Located at 625 Harbor Street for a Free Public Library

RECOMMENDATION:

Staff recommends the City Council approve the attached new lease for the Morro Bay Library at 625 Harbor Street.

MOTION: I move the City Council approve the lease agreement with the County of San Luis Obispo for use of the property located at 625 Harbor Street for a free public library.

FISCAL IMPACT:

The City of Morro Bay realizes approximately \$6,000-\$8,000 of rental revenue from the Library Program room annually. As mitigation for the City of Morro Bay's loss of Community Room rental revenues, the Morro Bay Friends of the Library have agreed to pay the County a total of \$15,000 during FY 2010-11. The County, in turn, will pay the City of Morro Bay in three installments: \$6,000 by March 2011, \$5,000 by March 2012, and \$4,000 by March 2013.

BACKGROUND

The original lease agreement with the City of Morro Bay, dated September, 1984, was between the City and Friends of the Morro Bay Library to construct maintain and operate a public library for 50 years at 625 Harbor Street. In July 1985, the Friends of the Morro Bay Library entered into a sublease agreement with the County of San Luis Obispo in order for the County Library to operate the public library for 25 years. In March of 1987, a Conditional Permit of Occupancy was issued by the City of Morro Bay to the Friends for the library building constructed by the Friends upon the leased premises.

Prepared By: AKL

Dept Review: _____

City Manager Review: AKL

City Attorney Review: _____

In May of 1987, the City of Morro Bay accepted the full ownership and control of the property from the Friends of the Morro Bay Library and accepted the 25-year sublease with the County for operation of a free public library. The original sublease between the City of Morro Bay and the County expired on July 8, 2010.

DISCUSSION:

The City of Morro Bay and the County Library have both agreed that maintaining a lease agreement to continue free public library services to the residents of the City of Morro Bay is very important. Negotiations between the City and the County have been conducted and a lease agreement (attachment A) has been reached. The term of the new lease is 25 years, with a rent of \$1.00 per year. The new lease will take effect July 1, 2010. The Community Room will continue to be scheduled for general public and public agency events and meetings by the City of Morro Bay until February 28, 2011. The Library will take control of the Community Room to be used as public library space on March 1, 2011.

The lease agreement does exclude the rental of the Community Room to outside groups (Charity Bridge, Coast Guard Auxiliary, Self-Help Groups, etc.) as is currently the practice, however contingent on availability; the City will be allowed use of the facility, at no cost.

The County of San Luis Obispo will be expanding library services/programs into the Community Room, which will have the same hours of operation as the existing library. While the community of Morro Bay is losing a meeting facility, their gain will be an expanded library facility with additional offerings.

Clerk

BOARD OF SUPERVISORS

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

WHEN FULLY EXECUTED
PLEASE RETURN TO
COUNTY CLERK

Tuesday, August 3, 2010

PRESENT: Supervisors: Bruce S. Gibson, Adam Hill, K.H. 'Katcho' Achadjian, James R. Patterson and
Chairperson Frank Mecham

ABSENT: None

In the matter of the Consent Agenda:

This is the set time for consideration of the Consent Agenda.

Thereafter, on motion of Supervisor Bruce S. Gibson, seconded by Supervisor James R. Patterson, and on the following roll call vote:

AYES: Supervisors: Bruce S. Gibson, James R. Patterson, Adam Hill, K.H. 'Katcho' Achadjian,
Chairperson Frank Mecham

NOES: None

ABSENT: None

Consent Agenda Items A-1 through A-10 are approved as recommended by the County Administrative Officer. Further, Consent Agenda Items A-1 through A-10, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

08/03/10 or
filed

STATE OF CALIFORNIA)
) ss.
County of San Luis Obispo)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 3rd day of August, 2010.

JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk of the Board of Supervisors

(SEAL)

By: sandy cumens
Deputy Clerk

2 CA-1
A- 10
August 3, 2010

Library Lease Agreement

City of Morro Bay & County of San Luis Obispo

This Lease Agreement is made and entered into this 3rd day of August, 2010, by and between the CITY OF MORRO BAY, a municipal Corporation hereinafter referred to as "LESSOR" and "City," and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California hereinafter referred to as "LESSEE" and "County."

RECITALS

WHEREAS, on September 25, 1984, the City of Morro Bay leased property located at 625 Harbor Street, Morro Bay, California to Morro Bay Friends of the Library, Inc., a California non-profit corporation ("Friends"), for the purpose of constructing, maintaining, and operating a public library. The term of this "original" lease was 50 years commencing September 25, 1984, and terminating without notice on September 24, 2034; and

WHEREAS, on July 9, 1985, the County entered into a Sublease with the Friends ("Sublessor") for the purpose of operating and maintaining a County branch library in the city of Morro Bay, upon completion of building construction by the Friends and issuance of a Certificate of Occupancy by the City. The term of the Sublease was for a period of 25 years commencing July 9, 1985, and expiring at midnight on July 8, 2010. In consideration for the Sublease, the County paid a one-time advance rent payment of \$42,500 to Sublessor for completion of specified tenant improvements. In addition, paragraph 11 of said Sublease required that County make on-site tenant improvements including, but not limited to, parking lot, landscaping, and irrigation system costing approximately \$55,000, and the City of Morro Bay was required to make certain off-site improvements including, but not limited to, curb, gutters, and sidewalks. Said tenant improvements made by County were to vest with Lessor or Sublessor; and

WHEREAS, throughout 1985 and 1986, construction of the library occurred and on March 12, 1987, a conditional Permit of Occupancy was issued by the City to the Friends for the library building constructed by the Friends upon the leased premises; and

WHEREAS, on May 15, 1987, the Morro Bay City Council, by Resolution No. 57-87, accepted ownership of the Library Building from Friends of the Morro Bay Library and accepted the Assignment of the Sublease with the County as well as Surrender of the original lease to the Friends resulting in the City's full ownership and control of the property; and

WHEREAS, the existing 25 year agreement dated July 9, 1985, expires on July 8, 2010; and

WHEREAS, the City of Morro Bay and the County of San Luis Obispo desire to enter into an agreement establishing long-term use of said property for the continued operation of a free public library.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **LEASE:** LESSOR hereby leases to LESSEE a certain real property, generally described as the building and premises located at 625 Harbor Street, Morro Bay, California, and specifically shown on Exhibit A hereto which is incorporated herein by this reference.
2. **RENT:** LESSEE agrees to pay on or before July 1, 2010, and each year thereafter on or before July 1 the sum of \$1.00, payable in advance per fiscal year as rent for the use of the premises. LESSEE may also have the option to pay the total sum of \$25.00 as a one-time lump sum advance rent payment immediately following the ratification of this document by both parties.
3. **TERM:** The term of this Lease shall be twenty-five (25) years commencing July 1, 2010, and terminating without notice on June 30, 2035, unless sooner terminated as herein provided. Unless a successor written instrument is executed, any extension of this Lease beyond the initial twenty-five (25) year term shall constitute a month-to-month tenancy and LESSEE agrees to vacate the premises upon thirty (30) days prior written notice from LESSOR after such initial twenty-five (25) year term.
4. **USE OF PREMISES:** LESSEE shall use the leased premises solely for the purpose of operation of a free public library for use by the citizens of San Luis Obispo County, and all operations incident thereto including, but not limited to, offices and administration, bookmobile stocking and operations, general lending, reference, research, and such other uses generally associated with the operation of a free public library.
5. **COMMUNITY ROOM:** The Community Room located on said premises shall be kept open and available for use by the general public and public agencies through February 28, 2011.

Effective March 1, 2011, the LESSOR will cease renting out the Community Room, and control of this area of the building will revert to the LESSEE to be used as an extension of the Library and to be used for Library services. The hours of operation of the Community Room shall be the same as the hours of the rest of the facility.

The LESSOR shall be allowed use of the facility (including the Community Room) during non-operational hours at no additional cost. The LESSOR's usage shall be limited to City business. Usage shall be coordinated through the Branch Manager at the Morro Bay Branch Library in accordance with a written procedure developed by the LESSEE. The procedure shall include a provision that the LESSOR's usage may not be cancelled without a minimum of a 7-day notice by the LESSEE, but this 7-day notice shall not be in effect in the case of an emergency or if agreed upon by both agencies. The LESSOR shall be granted two keys to the facility.

In consideration of the LESSOR's agreement to cease renting out the Community Room and to help mitigate the LESSOR's loss of revenue from rentals, the County will make three payments to the City on the following schedule:

1st Payment – \$6,000 paid by March 1, 2011
2nd Payment - \$5,000 paid by March 2, 2012
3rd Payment - \$4,000 paid by March 1, 2013

6. **FIXTURES AND ALTERATIONS:** LESSEE shall not make or cause to be made any alterations, additions, or improvements of a substantial nature or make any structural changes in the building without first notifying LESSOR. In the event structural changes are contemplated, LESSEE shall supply to LESSOR plans and specifications for such work and obtain written approval. All permits necessary for such work shall be at LESSEE's expense.
7. **ITEMS INSTALLED BY LESSEE:** All decorations, additions, and improvements made by LESSEE shall remain the property of the LESSEE for the term of this Lease or any extension or renewal thereof. Upon expiration of this Lease, or any renewal term thereof, the LESSEE shall remove all decorations, additions, and improvements, and restore the leased premises, ordinary wear and tear excepted, to its condition at the time of original occupancy.
8. **MAINTENANCE:** LESSEE shall at all times keep the leased premises (including maintenance of the structure, its roof, interior and exterior areas, and all portions of the leased premises, including but not limited to, lighting, heating and plumbing fixtures, air conditioning, driveways, parking lots, planters, and lawns in good order), including reasonable periodic painting when needed, and in all respects keep the premises in good order, condition, and repair at LESSEE's sole cost and expense. As a specific exemption to its responsibilities hereunder, LESSEE shall have no duty, obligation, or liability to care for, maintain, or repair any public art works on the premises. LESSOR shall have no duty, obligation, or liability whatever to care for or maintain or repair the premises or surrounding grounds. If LESSEE refuses or neglects to repair property as required hereunder, and to the reasonable satisfaction of LESSOR as soon as reasonably possibly after written demand, LESSOR may make such repairs without liability to LESSEE for any loss or damage that may accrue to books, materials, fixtures or other property, or to LESSEE's operation of a library, and upon completion thereof, LESSEE shall pay LESSOR's cost for making such repairs, plus 20% for overhead and administrative expense, upon presentation of a bill therefor, as additional rent.
9. **SURRENDER OF PREMISES:** At the expiration of the tenancy hereby created, LESSEE shall surrender the leased premises in the same condition as the leased premises were upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and damage by unavoidable casualty excepted, and shall surrender all keys for the leased premises to LESSOR. LESSEE shall thereupon remove all its fixtures, and any alterations or improvements as provided above before surrendering the premises and shall repair any damage to the leased premises caused thereby. LESSEE's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this Lease.

10. **INSURANCE:** LESSEE shall, during the full term of this Lease, keep in full force and effect an appropriate policy of public liability and property damage insurance with respect to the leased premises. The policy shall name LESSOR and the LESSEE as insureds and shall contain a clause that the insured will not cancel or change the insurance without first giving the LESSOR 10 days' prior written notice. LESSEE shall exhibit to LESSOR, at any time upon demand, a certificate of insurance or other evidence of insurance, and shall keep such policies in effect during the full term of this Lease or any extensions thereof.
11. **FIRE, EXTENDED COVERAGE:** LESSEE agrees to purchase and maintain, during the full term of this Lease or any extensions thereof, a policy of fire, extended coverage, insurance, which policy shall not be less than 100% of the replacement value of the structure described above and to keep such policy in full force and effect at 80% of the replacement value. The cost of such insurance shall be at the sole cost of the LESSEE.
12. **TERMINATION:** This Lease may be terminated at any time upon mutual written agreement of the parties hereto. Termination shall be effective at 11:59 p.m. on the intended date for termination; said date shall be specified in the written agreement or written notice. Termination shall have no effect upon the rights and obligations of the parties arising out of any obligations that were performed prior to the effective date of termination.
13. **INDEMNIFICATION:** LESSEE agrees, to the fullest extent permitted by law, to indemnify and hold harmless the LESSOR, its officers, directors, employees, and agents from and against any liabilities, damages, and costs (including reasonable attorney fees and costs of defense) arising out of the death or bodily injury to any person or the destruction or damage to any property, which arise from or relate to the performance of this Lease, to the extent caused by the negligent acts, errors or omissions of the LESSEE or anyone for whom the LESSEE is legally responsible. The LESSOR agrees, to the fullest extent permitted by law, to indemnify and hold harmless the LESSEE, its officers, directors, employees, and agents from any liabilities, damages, and costs (including reasonable attorney fees and costs of defense) to the extent caused by the negligent acts, errors or omissions of the LESSOR, the LESSOR's contractors, consultants, or anyone for whom LESSOR is legally responsible.
14. **UTILITIES & TAXES:** LESSEE shall be solely responsible for and promptly pay all charges for heat, water, gas, electricity, or any other utility used or consumed on the leased premises, including any deposits demanded by any utility. The LESSEE agrees to pay for any and all taxes arising from the use of the premises, including possessory interest taxes, if applicable.
15. **ASSIGNMENT AND SUB-LETTING:** LESSEE will not assign this Lease, in whole or in part, nor sub-let all or any part of the leased premises, without prior written consent of the LESSOR in each instance.

16. **GOVERNMENTAL REGULATIONS:** LESSEE shall at LESSEE's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal, and other applicable government authorities, now in force, or which may hereafter be in force, pertaining to the premises, and shall faithfully observe in the use of the premises all municipal and county ordinances, and all state and federal statutes now, or which may hereafter be, in force.
17. **DESTRUCTION OF PREMISES:** If the leased premises shall be damaged or destroyed by fire, the elements, unavoidable accidents, or other casualty, all insurance proceeds payable by reason thereof shall be applied to the repair, reconstruction and renovation of premises.
18. **CONDEMNATION:** In the event the premises shall be taken, in whole or in part, through the exercise of any power of eminent domain exercised by any state, federal or local municipality having the power thereof, any sums paid by such condemning authority shall be paid to the LESSOR.
19. **DEFAULT:** In the event of any failure of LESSEE to perform any of the terms, conditions or covenants of this Lease to be observed or performed by LESSEE for more than 30 days after written notice of such default shall have been give to LESSEE, or if LESSEE shall abandon the premises, then LESSOR, besides other rights or remedies it may have, shall have the immediate right of reentry and may remove all persons and properties from the leased premises without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.
20. **ENTIRE AGREEMENT:** This Lease, and the exhibits attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions, and understandings between the parties concerning the leased premises, and there are no covenants, promises, agreements, conditions, or understandings, either oral or written, between them, other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to this Lease shall be binding upon either party unless reduced to writing and signed by both.
21. **NOTICE:** Any notice, demand, request, or other instrument which may be required to be given under this Lease shall be deemed delivered when sent by ordinary United States Mail, postage prepaid, addressed to the LESSOR care of its City Manager, and LESSEE care of its County Administrative Officer at:

County of San Luis Obispo
 Department of General Services
 1087 Santa Rosa
 San Luis Obispo, CA 93408
 Attention: Property Manager

City of Morro Bay
 959 Harbor Street
 Morro Bay, CA 93442

22. **PARTIAL INVALIDITY:** If any term, covenant, or condition of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or

condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby; and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law. Should the length, term, or duration of this Lease, in any way be in violation of any statute, law, or Constitution, be invalid for any reason whatsoever, then this Lease shall be deemed a Lease from year to year, and all other provisions hereunder shall remain the same.

IN WITNESS THEREOF, this Lease has been executed as of the ____ day of _____, 2010 by the CITY OF MORRO BAY pursuant to resolution of its City Council, and by the COUNTY OF SAN LUIS OBISPO by action of its Board of Supervisors.

COUNTY OF SAN LUIS OBISPO

CITY OF MORRO BAY
A Municipal Corporation

By: [Signature]
Chairperson of the Board of Supervisors

By: _____
Janice Peters, Mayor

Approved by the Board of Supervisors the
3rd day of August, 2010

Consented to by City Council on the _____
day of _____, 2010

ATTEST:

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors

Bridgett Kessling, City Clerk

By: [Signature]
Deputy Clerk

APPROVED AS TO FORM AND LEGAL
EFFECT:
WARREN R. JENSEN
County Counsel

APPROVED AS TO FORM AND LEGAL
EFFECT:

By: [Signature]
Deputy County Counsel
Assistant

By: _____
Rob Schultz, City Attorney

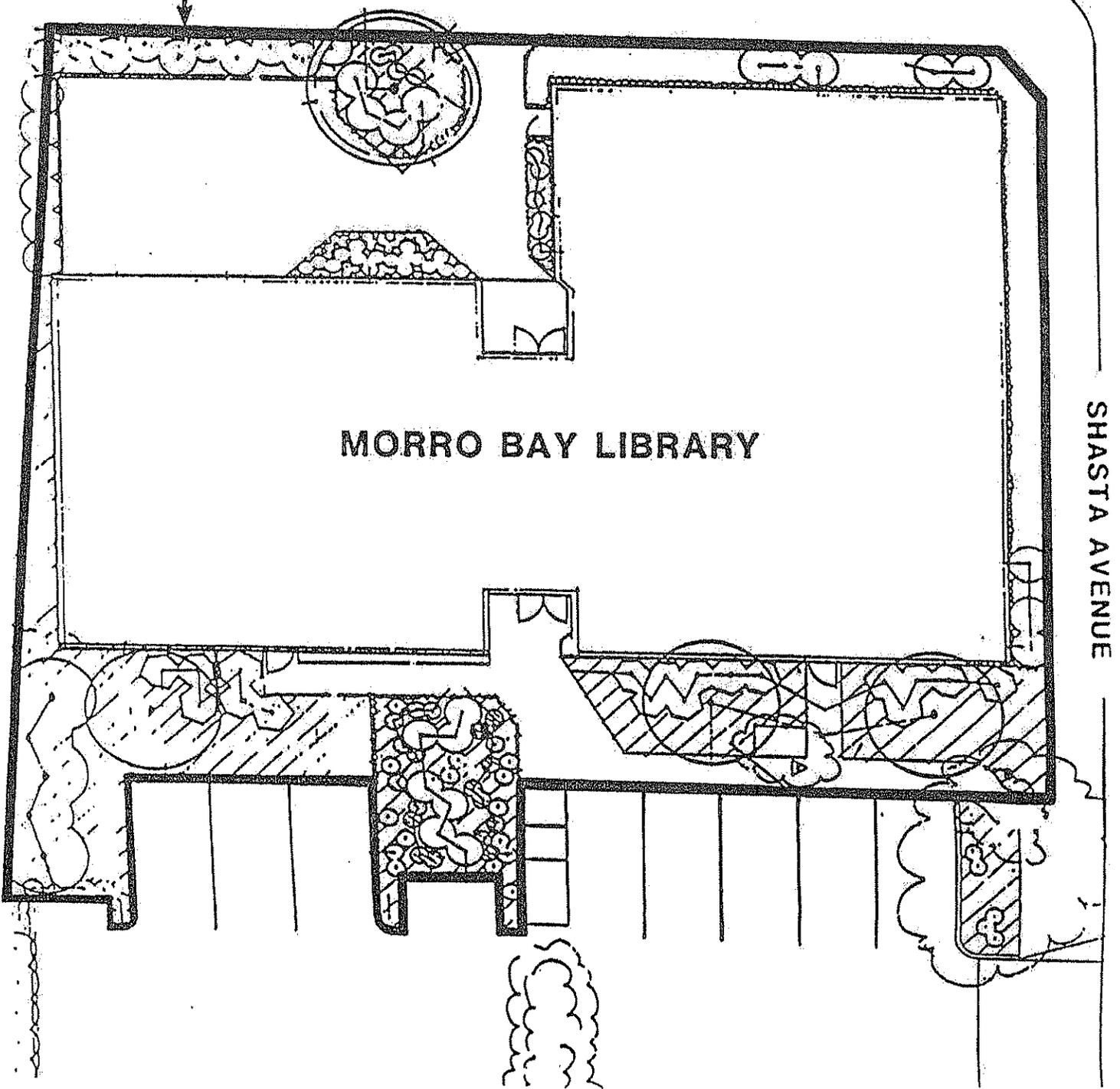
Date: 7/27/2010

Date: _____

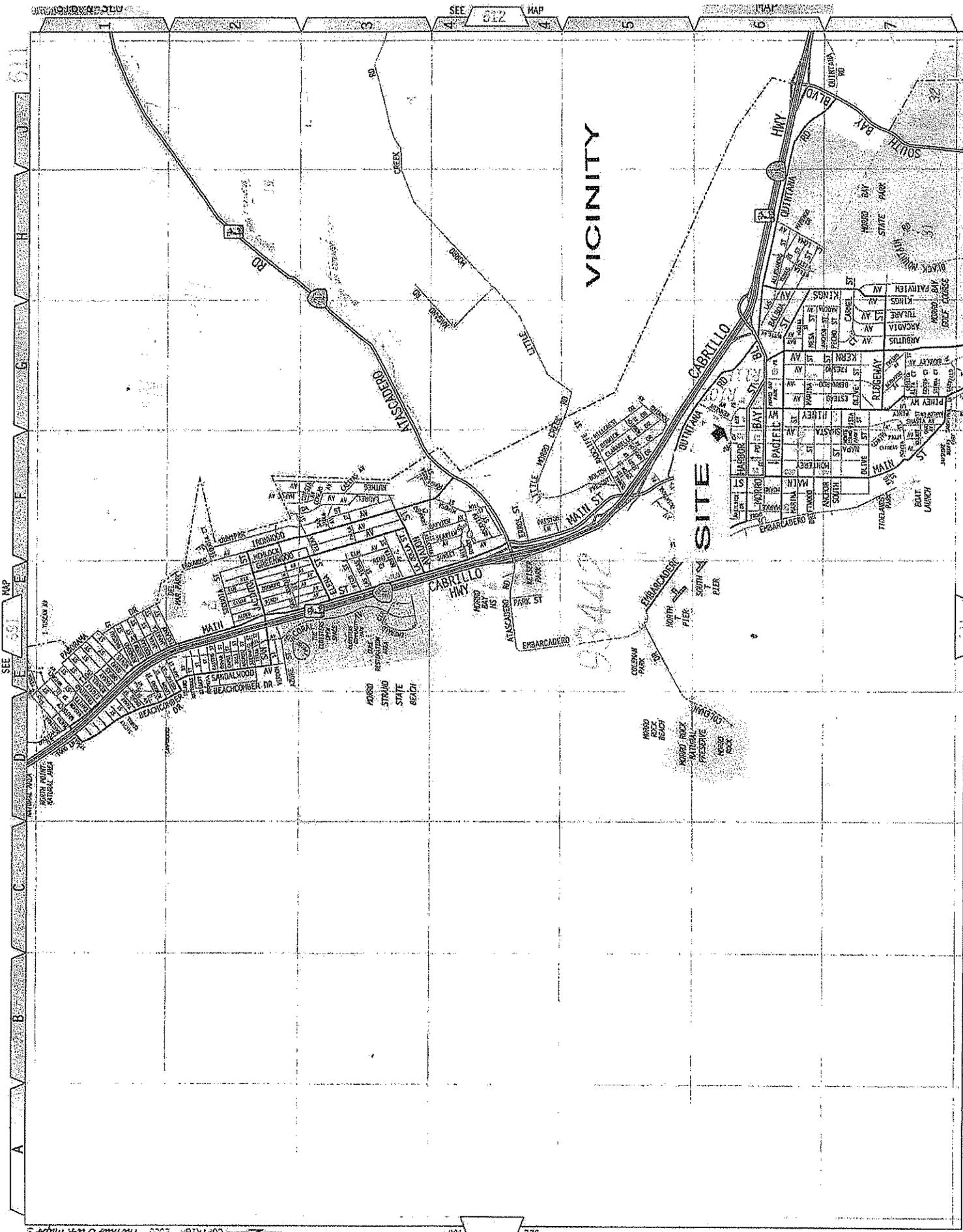
EXHIBIT A

HARBOR STREET

LEASESITE BOUNDARY



SHASTA AVENUE



SEE MAP 301

SEE MAP 312

MAP

A B C D E F G H

1 2 3 4 5 6 7

- ✓ A-10 Request by the Library to approve a lease agreement with the City of Morro Bay for a term of 25 years to continue to operate a free public library at 625 Harbor Street in Morro Bay. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

PUBLIC COMMENT PERIOD

Members of the public wishing to address the Board on matters other than scheduled items may do so when recognized by the Chairperson. Individuals interested in speaking should fill out a "Board Appearance Request Form" located at the back of the Board Chambers and hand it to the Clerk of the Board. Presentations are limited to a MAXIMUM of three minutes per individual.

II. PUBLIC HEARINGS

- C-1 Hearing to consider a resolution authorizing the collection of service charges on property tax bills for County Service Areas 1 (Old Galaxy and Track 1690, Nipomo), 1-A (Galaxy Park and Track 1898, Nipomo), 1-F (New Galaxy, Nipomo), 7-A (Oak Shores), 18 (San Luis Obispo Country Club Estates), and 21 (Cambria); All Districts. (ITEM INTRODUCED JULY 13, 2010.) (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

III. BOARD BUSINESS

General Services Agency

- D-1 Consideration of a Memorandum of Agreement between the County, the California Department of Parks and Recreation (State Parks) and the Air Pollution Control District (APCD) to develop and implement a particulate matter reduction plan for the Oceano Dunes State Vehicular Recreation Area (ODSVRA). (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

Planning & Building

- E-1 Report on the Department of Planning and Building program priorities.
- E-2 Status of Property Assessed Clean Energy (PACE) financing, the CaliforniaFIRST pilot program, submittal of a resolution in support of immediate congressional action to authorize legislation allowing PACE programs and an overall review and monitoring of progress of energy efficiency program and efforts. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

11:45 CLOSED SESSION ITEMS

12:00 NOON RECESS

1:30 REPORT ON CLOSED SESSION

AGENDA NO: A-4

MEETING DATE: 08/09/10

**A PROCLAMATION OF THE CITY OF MORRO BAY
DECLARING THE MONTH OF AUGUST 2010
AS THE “MONTH OF THE DAHLIA”
AND AUGUST 27 AND 28, 2010 AS “DAHLIA DAZE”**

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

WHEREAS, the Moro Bay Garden Club was founded in September 2006; and

WHEREAS, in 1965 the City of Morro Bay designated the Dahlia as the City flower; and

WHEREAS, Morro Bay is recognized for having the ideal climate and conditions for tending Dahlias; and

WHEREAS, several varieties of Dahlias have originated in Morro Bay; and

WHEREAS, the Morro Bay Garden Club will celebrate the City flower and also hold its annual local show “Dahlia Daze” on August 27 and 28, 2010 in the Morro Bay Community Center, Morro Bay, California.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby proclaim August 2010 as the “Month of the Dahlia”.

IN WITNESS WHEREOF I have
hereunto set my hand and caused the
seal of the City of Morro Bay to be
affixed this 9th day of August 2010.

Janice Peters, Mayor
City of Morro Bay, California



AGENDA NO: B-1
MEETING DATE: 8/9/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** July 7, 2010

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Ordinance No. 560 Amending Title 13 Public Utilities, Chapter 13.12 Sewers to add Section 13.12.215 Collection of Past-Due Accounts – Introduction and First Reading

RECOMMENDATION:

Staff recommends that the City Council accept public comment and then move for the introduction and first reading of Ordinance No. 560, by number and title only, amending the Morro Bay Municipal Code Title 13, Chapter 13.12 to add Section 13.12.215 entitled *Collection of Past-Due Accounts*, which will authorize the City to use any legal means to collect past-due accounts.

MOTION: I move for the City Manager to introduce and perform the first reading of Ordinance No. 560, by number and title only.

DISCUSSION:

Currently, Chapter 13.04 Water Service and Rates contains Section 230 Collection of past-due accounts, which allows the City to avail itself of any legal remedy by which the City might collect water charges, fees and penalties. This Section does not exist in Chapter 13.12 Sewers. While Section 13.12.210 Collections does state that the sewer service charge will be added on the customer's bimonthly utility bill, it is silent as to the collection of past-due accounts. One could assume that since the sewer charges are added to the utility bill, that would give the City the right to use any legal means to collect the past due amount based on Section 13.04.230. However, staff feels that by putting Section 13.12.215 into the Municipal Code, it will clearly identify the City's rights to collect past-due sewer charges.

CONCLUSION:

Staff recommends that council review and move for first reading and introduction, by number and title only, of the attached Ordinance.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

ORDINANCE NO. 560

AN ORDINANCE OF THE CITY OF MORRO BAY TO AMEND TITLE 13 PUBLIC UTILITIES, CHAPTER 13.12 BY ADDING SECTION 13.12.215 COLLECTION OF PAST DUE ACCOUNTS TO THE CITY OF MORRO BAY MUNICIPAL CODE

THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA

The City Council of the City of Morro Bay does ordain Title 13 *Public Utilities*, Chapter 13.12 *Sewers* be amended as follows:

WHEREAS, Title 13 of the Morro Bay Municipal Code sets forth policies and procedures for Public Utilities; and

WHEREAS, the City desires to clarify the process that related to the collection of past-due accounts in Chapter 13.12 Sewers; and

WHEREAS, the City of Morro Bay needs to amend Chapter 13.12 in order to make this change; and

WHEREAS, following the Public Hearing, and upon consideration of the testimony of all persons, the City Council of the City of Morro Bay does ordain Chapter 13.12 be amended by adding the following Section:

13.12.215. Nothing contained in this chapter shall limit the right of the City to proceed against any customer for any delinquencies due under Title 13 of this code. Nothing contained in this chapter shall prevent the City from availing itself of any other legal remedy by which the City might collect such charges, fees, or penalties.

INTRODUCED at the regular meeting of the City Council held on the 9th day of August 2010, by motion of Councilmember XXXX and seconded by Councilmember XXX.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, on the _____ day of _____, 2010 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Janice Peters, Mayor

ATTEST:

Bridgett Kessling, City Clerk

Ordinance 561 would amend the Morro Bay Municipal Code to read as follows:

2.12.090 - Power of appointment.

It shall be the duty and responsibility of the city manager to and he/she shall appoint, remove, promote and demote any officers and employees of the city, except the ~~city clerk~~, city attorney, ~~city engineer and city treasurer~~, subject to the provisions of Chapter 2.32 and resolutions, rules and regulations adopted pursuant thereto.

CONCLUSION:

We recommend Council review and move for first reading and introduction of the attached Ordinance 561 by number and title only. Please feel free to ask questions or make any changes you feel appropriate.

ORDINANCE NO. 561

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY AMENDING SECTION 2.12.090
OF THE MORRO BAY MUNICIPAL CODE REGARDING
THE CITY MANAGER’S POWER OF APPOINTMENT OF
CITY OFFICERS AND EMPLOYEES**

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

WHEREAS, Section 2.12.090 of the Morro Bay Municipal Code sets forth the City Manager's Power of Appointment of City Officers and Employees; and

WHEREAS, historically the City Manager has appointed the City Clerk, City Treasurer and City Engineer despite the exception in Section 2.12.090 of the Morro Bay Municipal Code; and

WHEREAS, the City Council desires to amend the City Manager's Power of Appointment of the City Officers and Employees to reflect current practices, therefore the City of Morro Bay needs to amend Section 2.12.090 in order to make this change.

NOW, THEREFORE, following the Public Hearing, and upon consideration of the testimony of all persons, the City Council of the City of Morro Bay does ordain Section 2.12.090 be amended as follows:

2.12.090 - Power of appointment.

It shall be the duty and responsibility of the city manager to and he/she shall appoint, remove, promote and demote any officers and employees of the city, except the ~~city clerk, city attorney, city engineer and city treasurer~~, subject to the provisions of Chapter 2.32 and resolutions, rules and regulations adopted pursuant thereto.

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, with the names of the City Council members voting for and against the same, in a newspaper of general circulation published in the City of Morro Bay.

INTRODUCED at a regular meeting of the City Council of the City of Morro Bay held on the 9th day of August, 2010 by motion of Councilmember _____, seconded by Councilmember _____.

PASSED AND ADOPTED on the _____ day of _____, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney

The Resolution of Intent approved by the Council on July 12, 2010 instructed the City Clerk to provide notice of the public meeting and future public hearing. On July 14, 2010 a notice of proposed increase in assessment was sent to all owners of lodging businesses within the proposed district setting August 9, 2010 as the public meeting to consider all written and oral protest. All written protest must be received by the City Clerk before the close of the September 13, 2010 public hearing on the amended ordinance.

The draft proposed amended ordinance shall read as follows:

3.60.050 Levy of assessment and exemptions.

The MBTBID shall include all hotel businesses located within the MBTBID boundaries. Commencing June 1, 2009, the assessment to be levied on all hotel businesses within the MBTBID boundaries shall be based upon 3% of the rent charged by the operator per occupied room per night for all transient occupancies. Commencing on June 1, 2010, and from year to year thereafter, the assessment to be levied on all hotel businesses within the MBTBID boundaries shall be based upon 2% of the rent charged by the operator per occupied room per night for all transient occupancies. The assessment shall be collected monthly, based on percent (%) of the rent charged by the operator per occupied room per night in revenues for the previous month. New hotel businesses within the boundaries shall not be exempt from the levy of assessment authorized by Section 36531 of the law. Assessments pursuant to the MBTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. The value of extended stays of more than thirty (30) consecutive calendar days shall be exempt from the levy of assessment. Any other exclusion shall be based on benefit and the policies and ordinances of the collecting agency.

CONCLUSION:

Staff recommends that the City Council direct Staff to bring forth the amended Ordinance for first reading and introduction at your September 13, 2010 meeting.



AGENDA NO.: D-1
Meeting Date: 08/09/10
Action: _____

**THIS ITEM HAS
BEEN PULLED FROM
THE AGENDA**

In July 2009, City Staff determined that the permit for development of the two easterly lots (3 & 4) for two commercial buildings, 16 one-bedroom apartment units and the joint parking had expired due to inactivity (abandonment) for over twelve consecutive months.

The property at 555 Main has since been foreclosed on and is now owned by Coast National Bank.

On June 30, 2010, the City received a letter from Coast National Bank requesting that the City determine that the entitlements for the project are in effect. Since City Staff had already determined that the project entitlements had expired, the issue has been brought to the City Council for final determination.

DISCUSSION:

As shown in Attachment A, the Conditional Use Permit and Coastal Development Permit for 555 Main Street were initiated by the issuance of encroachment permits for sewer and public improvements on December 1, 2005.

Since permits for 555 Main Street were inaugurated, Morro Bay Zoning Code Section 17.60.140 is applicable as to whether development entitlements at 555 Main Street have expired. Section 17.60.140 states:

Any use that was inaugurated but is subsequently vacated or abandoned in whole or part shall be deemed expired for that portion of use if abandoned for over twelve consecutive months.

The term “vacated” or “abandoned” is not defined in the Morro Bay Zoning Code. The legal definition of abandonment is:

The surrender, relinquishment, disclaimer, or cession of property or of rights. Voluntary relinquishment of all right, title, claim, and possession, with the intention of not reclaiming it.

The giving up of a thing absolutely, without reference to any particular person or purpose. For example, vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. The voluntary relinquishment of possession of a thing by its owner with the intention of terminating ownership, but without vesting it in any other person. The relinquishing of all title, possession, or claim, or a virtual, intentional throwing away of property.

Term includes both the intention to abandon and the external act by which the intention is carried into effect. In determining whether someone has abandoned property or rights, the intention is the first and paramount object of inquiry, for there can be no abandonment without the intention to abandon.

The last action undertaken by City Staff related to physical improvements to the property was on February 19, 2008, when the City Engineer sent a letter to the Applicant confirming the completion of the public improvements. (Attachment B).

On June 8, 2009, City Staff informed Marshall Ochylski, the Attorney for Michael Coss and Coast National Bank, by email that an extension of time for the permit at 555 Main had never been considered or granted and, "unless you can provide us further documentation, the permit must be deemed null and void." (Attachment C).

On June 18, 2009, the City received a letter from Mr. Ochylski in response to the June 8, 2009 City email. Mr. Ochylski's letter sets forth its position that the entitlements have not expired since the project has never been vacated or abandoned (Attachment D)

On July 23 2009, City Staff responded to Mr. Ochylski's letter and determined that the project entitlements had expired due to inactivity (abandonment) for over twelve consecutive months. (Attachment E)

On January 5, 2010, City Staff sent Coast National Bank an email with an estimate of permit fees per their request. (Attachment F)

On April 30, 2010, City Staff received an email from Chelsea Investment Corporation and their interest in completing the project. (Attachment G)

On June 30, 2010, the attorney for Coast National Bank sent another letter to the City concerning the entitlements and construction permits approved by the City of Morro Bay for 555 Main Street (Attachment H). The letter outlines and proposes a senior housing project for the property to be built by Chelsea Investment Corporation and sets forth Coast National Bank's position that the entitlements are still in effect. Basically, it is the Bank's position that although physical activity was not occurring on the property, the Bank did not vacate or abandon the project as it was busy trying to sell the property and project to various non-profit groups.

Since City Staff had already determined that the entitlements had expired, It is bringing the issue to the City Council for final determination.

CONCLUSION:

City Staff has determined that all entitlements at 555 Main Street have expired. The City Council should review the Attachments and make a determination on whether it agrees or disagrees with Staff that development entitlements and permits at 555 Main Street have expired pursuant to MBMC 17.60.140.

PERMIT	TYPE	APPLICATION DATE	ISSUED DATE
Reg. CDP houses & apts.	Planning	9/28/04	7/11/05 Denied
CUP	Planning	9/28/04	7/11/05 Denied
CUP	Planning	7/28/05	8/8/05 Approved
Tentative Tract Map	Planning	9/28/04	7/11/05 Denied
Tentative Tract Map	Planning	12/1/05	8/8/05 Approved
Reg. CDP	Planning	7/28/05	8/8/05 Approved
Tentative Tract Map [amendment]	Planning	7/28/05	1/23/05 Approved
Final Map	Planning/Public Works	9/22/2005	4/11/2006 recorded
Encroachment, sewer	Building	12/1/05	12/1/05 issued
Encroachment, Public Improvements	Building	12/1/05	12/1/05 issued
Grading, Drainage, Ret. Walls for Subdivision	Building	3/1/06	3/14/06 Approved & 4/13/07 Final
Bldg. 568 Morro Ave	Building	2/28/06	5/19/06 Approved 4/13/07 Final
Bldg. 245 Driftwood	Building	2/28/06	5/19/06 Approved 10/2/07 Final
Bldg. 255 Driftwood	Building	2/28/06	5/19/06 Approved 10/2/07 Final
Bldg. 564 Morro Ave.	Building	2/28/06	5/19/06 Approved 4/13/07 Final
Bldg. 560 Morro Ave.	Building	2/28/06	5/19/06 Approved 4/13/07 Final
Subdivision improvements completed	Public Works		2/19/2008
Bonds Released	Public Works		2/19/2008
Bldg. 555 Main apts./Commercial		Never submitted for review but submitted 7/2009 for consideration plans are dated 2006	
Letter of request from the applicant to modify permit condition			
Denial of S00-028/UP0-042/CP0-064; Modification to the permit condition. To allow the release of two single-family residences.	Planning		Denied 9/10/2007 (City Council)



City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200
www.morro-bay.ca.us

February 19, 2008

Michael Coss
Total Development Company
PO Box 6013
Los Osos, CA 93402

RE: Tract 2648 – Public Improvement Bond Release

Dear Mr. Coss:

Total Development Company completed the project for Tract 2648 located at 555 Main Street in Morro Bay. All public improvements have been completed and permits signed off. The City of Morro Bay Finance Department will be transmitting the original bond documents back to you under a separate cover

Sincerely,

Rob Livick, PE/PLS
City Engineer

FINANCE
595 Harbor Street
HARBOR DEPARTMENT
1275 Embarcadero Road

ADMINISTRATION
595 Harbor Street
CITY ATTORNEY
955 Shasta Avenue

FIRE DEPARTMENT
715 Harbor Street
POLICE DEPARTMENT
850 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Street
RECREATION AND PARKS
1001 Kennedy Way

From: Rob Schultz
To: MOchylski@SLOlegal.com
CC: Ambo, Bruce; Doris, Dan; Fruit, 'Charlie; gpelfrey@coastnationalbank...
Date: 6/8/2009 4:45 PM
Subject: Re: 555 Main Street

Hi Marshall,

I have reviewed our files and met with Staff.

According to our files, the City Council did not approve the agreement regarding the placement of the affordable requirement for the 5 homes on the apartment site. That action was taken by City Staff on 9/24/07, after the City Council denied applicant's request to amend the permit to allow for the release of the final two single family residence before completing the apartment project on 9/10/07. Since no amendment was made to the CUP/CDP, no consideration for a extension of time was granted or can be considered.

MBMC 17.60.140 states that any permit that is inaugurated but is subsequently vacated or abandoned shall be deemed expired if abandoned for over twelve consecutive months. City records show absolutely no contact with the applicant after 10/2/07. Therefore, unless you can provide us further documentation, the permit must be deemed null and void.

The City is very encourage by your comments regard a project by People's Self Help. For guidance on such a project they should contact the City planners.

Rob Schultz
City Attorney
City of Morro Bay
955 Shasta Ave.
Morro Bay, 93442
(805) 772-6568 (office)
(805) 550-3588 (cell)
(805) 772-6572 (fax)

This message may contain confidential or privileged information. If you received this message in error, please contact the sender and then delete this message from your system.

>>> "Marshall E. Ochylski" <MOchylski@SLOlegal.com> 6/8/2009 2:26 PM >>>

C

The Law Office of Marshall E. Ochylski
Post Office Box 14327
1026 Palm Street, Suite 210
San Luis Obispo, California 93406

Telephone: (805) 544-4546
Facsimile: (805) 544-4594
E-mail: MOchylski@SLOlegal.com

Transmittal via Email

June 18, 2009

Rob Schultz, Esq.
City Attorney
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

**Subject: 555 Main Street
Morro Bay, California**

Dear Rob,

This office represents Mr. Michael Coss and Coast National Bank in legal matters concerning the planning permits and construction permits approved by the City of Morro Bay for the above-referenced address.

In response to your email of June 8, 2009, we submit the following additional information for the City's consideration.

We believe that the permits for the project cannot be deemed expired or abandoned under MBMC 17.60.140 which states that any permit that is inaugurated but is subsequently vacated or abandoned shall be deemed expired if abandoned for over twelve consecutive months. Both Mr. Coss and Michael Prater have confirmed that there were regular conversations regarding the project and the validity of the permits after October 2, 2007. If you require documentation of those conversations, both Mr. Coss and Mr. Prater will provide written confirmation. In addition, the attached copy of Mr. Coss' cell phone records show calls made to Mr. Prater's office number in July of 2008, specifically items 301, 311, and 320. Although they do not confirm the subject of the conversations, since 555 Main Street was the only project that Mr. Coss had pending in the City of Morro Bay at that time, it is reasonable to presume that these calls were related to this project.

The previous interpretation and application of that municipal code section also supports our interpretation of the applicability of that section to the current situation. Mr. Prater also stated that during his tenure with the City of Morro Bay that the City had

Rob Schultz, Esq.
555 Main Street
Morro Bay, California
June 18, 2009

never abandoned a permit that partially implemented and that the only permits that had been abandoned were permits where no activity had occurred.

You will also find attached a copy of a letter from Rob Livick regarding the completion of the public improvements which is dated February 19, 2008 which is well after the 10/22/07 dated cited in your email.

Further, since the permit was approved for the entire project, we are unclear how the permit can be deemed abandoned once a building permit was issued and construction commenced without the City's providing any written notice to the permittee. The building permit should remain in effect unless there was written notice and an opportunity to correct the deficiency which in this case would be the failure to pursue the project on a timely basis.

Based on the above information, as well as the information that we have previously provided to the City, we believe that the City should determine that the permits were not abandoned and allow the project to proceed forward in accordance with the previous approvals.

If you have any additional questions, or would like to discuss these matters further, please contact me by return email or at my cell phone number 805-441-4466.

Sincerely,

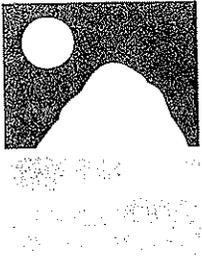


Marshall E. Ochylski,
Attorney at Law

MEO/ec

attachments

cc: Coast National Bank



City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200
www.morro-bay.ca.us

July 23, 2009

Marshall E. Ochylski
P.O. Box 14327
San Luis Obispo, Ca 93406

Re: 555 Main Street.

Dear Mr. Ochylski:

Staff has reviewed your letter concerning the validity of the Use Permit, Coastal Permit and Tentative Subdivision Map (S00-045/UP0-085/CP0-125) for single family residential units and an apartment complex/commercial project at 555 Main Street.

A Conditional Use Permit, Coastal Development Permit and Tentative Subdivision Map were approved on August, 8 2005 for subdivision of two parcels into 5 parcels for a Community Housing project with exceptions to common open space and development of two additional lots with commercial buildings at least 25% commercial mix in conjunction with a total of 16 one-bedroom apartment units.

As shown in the table below the CUP and CDP were initiated by the issuance of encroachment permits for sewer and public improvements on December 1, 2005 and the final map was recorded on 4/11/2006. Since the permits have been inaugurated Section 17.60.140 regulations will prevail. Section 17.60.140 states: Any use that was inaugurated but is subsequently vacated or abandoned in whole or part shall be deemed expired for that portion of use if abandoned for over twelve consecutive months.

E

FINANCE
595 Harbor Street
HARBOR DEPARTMENT
1275 Embarcadero Road

ADMINISTRATION
595 Harbor Street
CITY ATTORNEY
955 Shasta Avenue

FIRE DEPARTMENT
715 Harbor Street
POLICE DEPARTMENT
850 Morro Bay Boulevard

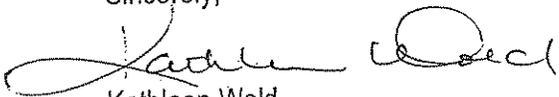
PUBLIC SERVICES
955 Shasta Street
RECREATION AND PARKS
1001 Kennedy Way

PERMIT	TYPE	APPLICATION DATE	ISSUED DATE
Reg. CDP houses & apts.	Planning	9/28/04	7/11/05 Denied
CUP	Planning	9/28/04	7/11/05 Denied
CUP	Planning	7/28/05	8/8/05 Approved
Tentative Tract Map	Planning	9/28/04	7/11/05 Denied
Tentative Tract Map	Planning	12/1/05	8/8/05 Approved
Reg. CDP	Planning	7/28/05	8/8/05 Approved
Tentative Tract Map [amendment]	Planning	7/28/05	1/23/05 Approved
Final Map	Planning/Public Works	9/22/2005	4/11/2006 recorded
Encroachment, sewer	Building	12/1/05	12/1/05 issued
Encroachment, Public Improvements	Building	12/1/05	12/1/05 issued
Grading, Drainage, Ret. Walls for Subdivision	Building	3/1/06	3/14/06 Approved & 4/13/07 Final
Bldg. 568 Morro Ave	Building	2/28/06	5/19/06 Approved 4/13/07 Final
Bldg. 245 Driftwood	Building	2/28/06	5/19/06 Approved 10/2/07 Final
Bldg. 255 Driftwood	Building	2/28/06	5/19/06 Approved 10/2/07 Final
Bldg. 564 Morro Ave.	Building	2/28/06	5/19/06 Approved 4/13/07 Final
Bldg. 560 Morro Ave.	Building	2/28/06	5/19/06 Approved 4/13/07 Final
Subdivision improvements completed	Public Works		2/19/2008
Bonds Released	Public Works		2/19/2008
Bldg. 555 Main apts./Commercial		Never submitted for review but submitted 7/2009 for consideration plans are dated 2006	
Letter of request from the applicant to modify permit condition			
Denial of S00-028/UP0-042/CP0-064; Modification to the permit condition. To allow the release of two single-family residences.	Planning		Denied 9/10/2007 (City Council)

In addition, staff has requested that the applicant submit any addition materials or documents which may provide additional information for the period of inactivity from October 2007 to date. The applicant representatives have submitted phone records, building plans and a letter from the City of Morro Bay indicating completion of the public improvements and the release of the project

bond. Although these materials are helpful they do not provide any documentation that work on the project has been pursued for the time period in question. Based on the documentation in the project file and that submitted by the applicant it has been determined that the a portion of the project entitlements, the permit for development of the two easterly lots (3 & 4) for two commercial buildings, 16 one-bedroom apartment units and the joint parking has expired due to inactivity (abandonment) for over twelve consecutive months.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen Wold', written in a cursive style.

Kathleen Wold
Senior Planner

c: Coast National Bank
file

Dan Doris - permit fee's

From: Dan Doris
To: cfruit@coastnationalbank.com
Date: 1/5/2010 11:54 AM
Subject: permit fee's

Building Permit	\$15,529.87	Plan check for fire and building are paid at the time of
Plan Check submittel	\$15,529.87	
Fire Plan Check	\$ 3,785.17	
Housing in lieu	\$ 3,664.50	
SMIP residential	\$ 105.48	
SMIP commercial	\$ 24.08	
GP Maintenance	\$ 1,552.98	
Residential Impact	\$61,212.06	
Park Impact	\$19,731.36	
Commercial Impact	\$ 3,433.68	
Sub-Total	\$124,569.05	

The sewer and water impact depends upon the number of water meters and the size of the meter, there are four buildings so minimum number of water meters would be four, you may want all the units to have there own waters, then you would need twenty one water meters. I am giving you the fees for each size of meter for water and sewer, you will have to have your engineer design the system that meets code requirements and is most favorable to you pocket book.

Sewer Impact	1" meter	\$ 3,907.00
	1-1/2" meter	\$ 7,814.00
	2" meter	\$ 15,627.00
	3" meter	\$ 25,003.00

Water Impact	1" meter	\$ 2,128.00
	1-1/2" meter	\$ 4,256.00
	2" meter	\$ 6,808.00
	3" meter	\$ 13,617.00

F

Kathleen Wold - Fwd: Morro del Mar

From: Cindy Jacinth
To: Kathleen Wold
Date: 5/19/2010 8:20 AM
Subject: Fwd: Morro del Mar
Attachments: Morro del Mar Projections April 30 2010.pdf

Kathleen,

FYI. Here is a copy of Chelsea's original funding request. They are making a few minor corrections to this and will be re-submitting the funding request shortly.

The email was already cc'd to both Robs.

Thanks,

Cindy

>>> Erin Autry Montgomery <Eautry@chelseainvestco.com> 4/30/2010 2:39 PM >>>
 Dear Ms. Jacinth,

Thank you for chatting with me earlier today. As I mentioned, Chelsea Investment Corporation ("CIC") has entered into a Purchase and Sale Contract with Coast National Bank to purchase and complete the Morro del Mar project at the corner of Main and Driftwood. We would complete the construction, which was started and then abandoned, and operate the building as senior affordable housing for the next 55 years, in partnership with a nonprofit partner, Pacific Southwest Community Development Corporation ("PSCDC"). CIC and PSCDC will be General Partners in a Limited Partnership entity that will ultimately purchase and own the property. I have outlined our team's experience, financing strategy, and request for funding below.

Experience

CIC is a for-profit real estate company focused on the financing and development of affordable housing. Having developed over 5,600 units of affordable housing over the last 20 years, CIC meets and exceeds the level of experience necessary to develop affordable housing in today's difficult financing atmosphere. CIC has experience financing suburban, urban infill, rural, redevelopment, acquisition-rehabilitation, and special needs projects with a variety of non-profit partners, including PSCDC as described above. CIC has also worked with other nonprofit housing developers including St. Vincent de Paul, Senior Community Centers, the Salvation Army, and Southern California Housing Collaborative.

PSCDC is a 501(c)3 nonprofit organization and has partnered with CIC since its formation in 1993. Since that time, PSCDC has co-developed 36 affordable apartment complexes in California and Arizona. PSCDC currently serves as the managing general partner of 32 of those apartment complexes, which represent over 3,000 units of affordable housing. PSCDC's ownership and management of their projects is about providing empowerment to residents as well as shelter. PSCDC consistently emphasizes the delivery of onsite support services to help tenants achieve success in their work and personal lives.

In the last five years, Chelsea has developed almost 2,000 apartment homes in San Diego, Imperial, Sacramento and Yuma (AZ) counties. Of those 23 projects, three have closed within the last 120 days and three more will close within the coming 60 days, which shows Chelsea's strength and ability to find lenders and investors for affordable housing projects in a time where many deals are failing for lack thereof. Of those almost 2,000 apartment homes, 993 are located in suburban environments, 538 are urban infill with a special needs component, 500 are located in rural areas and 56 have been acquired and rehabilitated. All have been developed with some sort of soft residual receipts loans through public-private partnerships with the federal,

G

state or local government, with 1,140 units financed specifically through Redevelopment Agency or Housing Commission funding.

Having developed over 5,600 affordable apartment units in the twenty years, Chelsea Investment Corporation has strong relationships with numerous financial institutions. As demonstration of these relationships, Chelsea was able to close three transactions in the fall of 2008 as the financial markets were imploding (Beachwind and Tierra del Cielo, both 4%), two in the fall 2009 (Cedar Creek and Silversage, both 4%) and one in January 2010 (Verbena – 9%). Two additional transactions are scheduled to close in March and April 2010 (15th and Commercial – 9% exchange financing and Oakridge – 4% and state credits). These transactions include both 4% and 9% equity purchases as well as tax-exempt bond private placement in combination with local, state, and federal subsidies. Within this financial market, these closings would not have been possible without Chelsea's current financial strength and reputation. CIC/PSCDC are partners on three of the five deals we have closed since the fall of 2008, and partners in one of the two deals we will be closing this spring.

You can find more information about CIC and PSCDC at the following websites:

<http://www.chelseainvestco.com>

<http://www.pswcdc.org>

Strategy

In order to transform the project into a senior affordable housing complex, our financing strategy includes the use of 9% Low Income Housing Tax Credit equity, a permanent loan funded by the USDA Section 515 program, an AHP grant from the Federal Home Loan Bank, deferred developer fee, and a residual receipts loan/development impact fee reduction from the City of Morro Bay. I have attached our projections to this email. The 9% tax credit equity is a large source of financing for this project and it is highly competitive. In order to be in the running for the reservation of tax credits, projects must have a perfect score, which is only possible with all funding commitments in place.

It is possible that we may not be successful in this round. In that case, we are prepared to negotiate with Coast National Bank to extend our site control to apply for the first round of financing in 2011.

The project also works with 4% tax credit equity if we find another subsidy source, such as the HOME program (the City of Morro Bay is eligible to apply for up to \$5m from the State for affordable housing developments through a NOFA, which is typically due in August).

Request

We believe that Morro del Mar is an opportunity for the City to create a beautiful small affordable development in the downtown area. We are requesting that City partner with us to provide a residual receipts loan (3% interest, cash flow payments for 55 years) in the amount of \$600,000 plus waive the impact fees since it will be owned and operated by a nonprofit (PSCDC). We would like to begin a conversation with the City about this request as soon as possible. In order to proceed with a 9% application for the next (and last) round of 2010, we have to submit an application with a commitment from the City by July 6th.

In addition, we would also like to request that the City sponsor this project for an allocation of HOME funds from the State.

We have already submitted an application for AHP funds (April 2010) and will submit an application for USDA Section 515 funds (due mid June 2010).

If the City is interested in this opportunity, I would welcome the chance to set up a meeting in Morro Bay or via telephone next week.

Thank you very much.

Erin

Erin Autry Montgomery
Project Manager
Chelsea Investment Corporation

JUL 6 2010

The Law Office of Marshall E. Ochylski
Post Office Box 14327
1026 Palm Street, Suite 210
San Luis Obispo, California 93406

Telephone: (805) 544-4546
Facsimile: (805) 544-4594
E-mail: MOchylski@SLOlegal.com

Hand Delivery

June 30, 2010

Rob Schultz, Esq.
City Attorney
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

**Subject: 555 Main Street
Morro Bay, California**

Dear Rob,

This office represents Coast National Bank in legal matters concerning the planning entitlements and construction permits approved by the City of Morro Bay ("City") for the above-referenced address.

Introduction

Coast National Bank ("Bank") has entered into a Purchase and Sale Contract with Chelsea Investment Corporation ("Chelsea") to purchase and complete the Morro del Mar project at the corner of Main and Driftwood. Chelsea proposes to complete the construction and operate the building as senior affordable housing for the next 55 years in partnership with Pacific Southwest Community Development Corporation ("PSCDC"), a non-profit 501(c) (3) corporation.

Chelsea's decision to develop the project as senior affordable housing and not as general family/workforce housing is driven by several considerations. The first is the policy expressed as primary objectives in the City's recently updated Housing Element to provide very-low or low income or senior housing and to provide special needs housing and housing for the elderly. This decision is also based in part on the tax credit financing regulations, which in certain cases require that a significant percentage of such housing be three-bedroom apartments – a condition that cannot easily be met within the project's building size and configuration.

Chelsea will also be asking the city to partner with them by providing a \$600,000 residual receipts loan to finance the development, by lending an additional estimated

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Rob Schultz, Esq.
555 Main Street
Morro Bay, California
June 30, 2010

\$350,000 to cover entitlement, permitting and impact fees, and by sponsoring this project for an allocation of HOME Investment Partnerships Program ("HOME") funds from the State of California Department of Housing and Community Development ("HCD") from moneys made available by the U.S. Department of Housing and Urban Development.

However, the purchase of the property by Chelsea and its subsequent development by them is conditioned on several contingencies, one of which is confirmation that the existing entitlements are still in effect. If the existing entitlements are determined to still in effect, then Chelsea will seek an amendment to the entitlements, to be presented at a subsequent City Council meeting, to permit the project to proceed as an all residential affordable housing project rather than as an at-market apartment project with two commercial units.

Status of Entitlements

We believe that the entitlements for the project are still in effect. In addition to our previous submittals, meetings and telephone conversations, we submit the following information for the City's consideration.

The permits for the project should not be deemed expired or abandoned under MBMC 17.60.140 which states that any permit that is inaugurated but is subsequently vacated or abandoned shall be deemed expired if abandoned for over twelve consecutive months because the project was never vacated nor abandoned.

The previous interpretation and application of that municipal code section also supports our interpretation of the applicability of that section to the current situation. Mr. Michael Prater, City of Morro Bay staff planner for the project, stated that during his tenure with the City that the City had never abandoned a permit that partially implemented and that the only permits that had been abandoned were permits where no activity had occurred.

Recent Activities

- | | |
|---------------|---|
| February 2008 | Mr. Rob Livick of the City sent a letter confirming the completion of the public improvements as well as the grading, retaining walls, utilities on the site. |
| July 2008 | Michael Coss, the previous project developer, spoke with Jerry Rioux regarding funding from the San Luis Obispo County Housing Trust Fund. |

Rob Schultz, Esq.
555 Main Street
Morro Bay, California
June 30, 2010

- June 2009 Coast National Bank was in discussions with People's Self Help as potential buyers subject to certain conditions, including permits, grants, etc.
- June 2009 Coast National Bank officers met with City of Morro Bay after the foreclosure and submitted building plans drawn in 2006 by Garcia Architecture. See City of Morro Bay letter dated July 29, 2009.
- July 2009 Building plans were provided to City of Morro Bay for consideration of resolving the entitlements issue.
- August 2009 Garcia Architecture was engaged to update building plans to bring them up to code per recommendation of City of Morro Bay Building Department staff. Updates included civil engineering, architectural revisions, structural plan updates, mechanical and energy code updates. The bank did not formally resubmitted the revised plans as City staff indicated that significant additional fees would be required prior to the plans being processed.

Written Notice Required

Further, since the permit was approved for the entire project, we are unclear how the permit can be deemed abandoned once a building permit was issued and construction commenced without the City providing any written notice to the permittee. The building permit should remain in effect unless there was written notice and an opportunity to correct the deficiency, which in this case apparently would be the failure to pursue the project on a timely basis.

Conclusion

Based on the above information, as well as the information that we have previously provided to the City, we believe that the City should determine that the permits were not abandoned and allow the project to proceed forward in accordance with the previous approvals.

Rob Schultz, Esq.
555 Main Street
Morro Bay, California
June 30, 2010

Proposed Development Team – Additional Information

Chelsea Investment Corporation

Chelsea is a for-profit real estate company focused on the financing and development of affordable housing.

The company has developed over 55 projects (5,800 units) of affordable housing over the last 20 years and has a proven track record demonstrating its ability to develop affordable housing in today's difficult financing environment. Chelsea has financed and developed suburban, urban infill, rural, redevelopment, acquisition-rehabilitation, and special needs projects with a variety of non-profit partners, including PSCDC, St. Vincent de Paul, Senior Community Centers, the Salvation Army, and Southern California Housing Collaborative.

In the last five years, Chelsea has developed 23 projects (about 2,000 apartment homes) in San Diego, Imperial, Sacramento and Yuma (AZ) counties. Of those, four have closed within the last 150 days and two more will close within the coming 60 days, which demonstrates Chelsea's strength and ability to find lenders and investors for affordable housing projects in a time where many deals are failing for lack of funding. Of those almost 2,000 apartment homes, 993 are located in suburban environments, 538 are urban infill with a special needs component, and approximately 500 are located in rural areas. Fifty-six of these units were in existing projects that were acquired and rehabilitated. All have been developed with soft residual receipts loans funded through public-private partnerships with the federal, state or local government, with 1,140 units financed specifically through Redevelopment Agency or City Housing Commission funding.

Chelsea has strong relationships with numerous financial institutions, as proven by the fact that it was able to close two transactions in the fall of 2008 as the financial markets were imploding (Beachwind and Tierra del Cielo, both 4%), two in the fall 2009 (Cedar Creek and Silversage, both 4%), one in January 2010 (Verbena – 9%), and one in May 2010 (15th and Commercial – 9% exchange financing). Two additional transactions are scheduled to close in July 2010 (The Landings Phase II – 4% and Oakridge – 4% and state credits). These transactions include both 4% and 9% equity purchases as well as tax-exempt bond private placement in combination with local, state, and federal subsidies. Within this financial market, these closings would not have been possible without Chelsea's current financial strength and reputation. Chelsea/PSCDC are partners on three of the five deals we have closed since the fall of 2008, and partners in one of the two deals we will be closing this summer.

Rob Schultz, Esq.
555 Main Street
Morro Bay, California
June 30, 2010

Pacific Southwest Community Development Corporation

PSCDC is a 501(c) (3) nonprofit organization and has partnered with Chelsea on a variety of projects since its formation in 1993. Since its founding, PSCDC has co-developed 36 affordable apartment complexes in California and Arizona. PSCDC currently serves as the managing general partner of 32 of those apartment complexes, which represent over 3,000 units of affordable housing. PSCDC's ownership and management of their projects is about providing empowerment to residents as well as shelter. PSCDC consistently emphasizes the delivery of onsite support services to help tenants achieve success in their work and personal lives.

If you have any additional questions, or would like additional information, please contact me directly.

Sincerely,



Marshall E. Ochylski,
Attorney at Law

MEO/ec

cc: Coast National Bank
Chelsea Investment Corporation



AGENDA NO: D-3

Meeting Date: 08/09/10 Action: _____

Staff Report

TO: Honorable Mayor and City Council
FROM: Rob Schultz, City Attorney
DATE: August 3, 2010
SUBJECT: Reaffirmation of City Council Action at the Joint Powers Agreement Meeting on July 15 Regarding the Approval of a Contract for Project Management (PM) Services for the Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant.

RECOMMENDATION

Staff recommends that the City Council reaffirm the action taken at Joint Powers Agreement meeting on July 15, 2010 and reapprove the award of a contract to Dennis Delzeit for Project Management (PM) Services for the Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant.

DISCUSSION

At its July 15, 2010 JPA meeting, the Morro Bay City Council took action and approved the award of a contract to Dennis Delzeit for Project Management (PM) Services for the Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant. Mayor Peters and Councilmembers Grantham and Winholtz were present at the meeting. Councilmember Borchard participated in the meeting by telephone. Councilmember Smukler was not present for the meeting.

The Brown Act states in regard to telephonic appearances:

54953. (3) ... During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Prepared By: _____
City Manager Review: _____
City Attorney Review: _____

After the public comment and Council discussion at the JPA meeting on the award of a contract for a Project Manager, Councilmember Winholtz made the following statement:

"I want to read a little comment to you because I wrote this last night and it is a considered decision. This is the second contract in a row on this project where staff has narrowed the field for us but has only brought us information on their preference in the staff report. I feel and I meant to say this at the last meeting, I felt this was rubber stamping. I think that because we are held accountable by the public that this is a decision we should make and we should have options to choose from them, yet that is not what is happening. We hire staff to give us good advice and I appreciate that, I know that, but giving advice does not mean making the choice for me and I feel like others are making the choice for me rather than giving me options. So even though we have had a chance to meet Mr. Little, or I have a second time and you have now heard from him, I still feel that we could have been given a list of these experts and evaluated them on ourselves. So what I want to say is I am disappointed that the board is willing to go along with this way of doing business. I have expressed this concern before. I take it very seriously that the elected body should weightier of the choices and this is not happening. Since my words are not working, I will show my deep concern by not participating in this pre-determined choice. So I am going to leave the meeting.

After Councilmember Winholtz left the meeting, a motion was made by Mayor Peters and seconded by Councilmember Grantham to award a contract to Dennis Delzeit for Project Management (PM) Services for the Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant. The motion passed 3-0 with Councilmember Borchard voting by telephone.

Since Councilmember Winholtz left the meeting and Councilmember Smukler was not present at the JPA meeting, an issue has arisen as to whether there was a proper quorum at the meeting to conduct City business. As stated above, the Brown Act requires at least a quorum of the members of the legislative body to participate within the City jurisdiction. Certainly a quorum existed while Councilmember Winholtz was present at the meeting. However, the issue is whether the quorum was lost once Councilmember Winholtz left the meeting?

Robert's Rules of Order state that once a quorum at a meeting has been established, the continued presence of a quorum is presumed to exist only until the chair or any other member notices that a quorum is no longer present and a point of order is raised. In regard to our JPA meeting, no point of order motion was raised by the Mayor or anyone else but the question of whether a quorum existed once Councilmember Winholtz left the meeting is still an issue.

The City's Policies and Procedures Manual states that when present, all Council Members shall vote. Failure of a seated Council Member to vote will be construed as an affirmative vote. A question arises as to whether Councilmember Winholtz vote should be an affirmative vote since she

was present at the meeting. However, considering her statement that certainly was not her intent.

CONCLUSION

In order to clear up any confusion on whether a quorum existed at the July 15, 2010 JPA meeting, Staff recommends that you reapprove the award of a contract to Dennis Delzeit for Project Management (PM) Services for the Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant.



AGENDA NO: D-4

MEETING DATE: 08/09/10

Staff Report

TO: Mayor and City Council

DATE: July 20, 2010

FROM: Bridgett Kessler, City Clerk

SUBJECT: Designation of Voting Delegate for 2010 League of California Cities Conference

RECOMMENDATION:

Select a voting delegate (and alternate if necessary) to represent the City of Morro Bay at the Annual League of California Cities Conference at the Annual Business Meeting scheduled for 3:00 p.m. on Friday, September 17, 2010 at the San Diego Convention Center.

MOTION: I move that the City Council select _____ as the City's voting delegate at the League of California Cities Annual Business Meeting.

FISCAL IMPACT:

The voting delegate (and alternate) must be registered to attend the League of California Cities Annual Conference, which registration costs are shown on the attached page.

DISCUSSION:

The annual League of California Cities Conference is scheduled for Wednesday, September 15th through Friday, September 17th in San Diego. The Annual Business Meeting is scheduled for 3:00 p.m. on Friday, September 17, 2010 at the San Diego Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

To see the Annual Conference brochure, refer to the League of California Cities website at www.cacities.org.

Prepared By: B. Kessler

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____