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 – SEPTEMBER 13, 2010

CLOSED SESSION – SEPTEMBER 13, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA

CS-1 **GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR**. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

CS-2 **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 4 parcels.

- Property: Salt Building - Lease Site 65-66/65W-66W
  Negotiating Parties: Imani and City of Morro Bay.
  Negotiations: Lease Terms and Conditions.

- Property: Virg's Landing - Lease Site 113W
  Negotiating Parties: Moore and Neil and City of Morro Bay.
  Negotiations: Lease Terms and Conditions.

- Property: Embarcadero Grill - Lease Site 86-86W
  Negotiating Parties: Caldwell and City of Morro Bay.
  Negotiations: Lease Terms and Conditions.

- Property: Outrigger - Lease Site 87-88/87W-88W
  Negotiating Parties: V. Leage and City of Morro Bay.
  Negotiations: Lease Terms and Conditions.

IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.

PUBLIC SESSION – SEPTEMBER 13, 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 MEETING OF AUGUST 23, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 562 INCREASING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT ASSESSMENT FROM 2% TO 3%; (CITY ATTORNEY)

RECOMMENDATION: Approve the introduction and first reading of Ordinance No. 562 by number and title only.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 AUTHORIZATION TO REPLACE A WASTEWATER COLLECTIONS SYSTEMS OPERATOR III; (PUBLIC SERVICES)

RECOMMENDATION: Authorize the replacement of a Wastewater Collections Systems Operator III.

D-2 AUTHORIZATION TO FILL THE ASSOCIATE PLANNER POSITION AT THE ASSISTANT PLANNER LEVEL; (PUBLIC SERVICES)

RECOMMENDATION: Authorize the hiring of the recently vacated position of the Associate Planner at the Assistant Planner level.

D-3 REVIEW OF DRAFT AMENDMENT TO CHAPTER 12.08 OF THE MORRO BAY MUNICIPAL CODE ADDING A LANDMARK TREE SECTION AND APPROVAL OF A REVISED MASTER STREET TREE LIST; (PUBLIC SERVICES)

RECOMMENDATION: Review the amendment to Chapter 12.08 of the Code and direct staff accordingly; and, approve the revised Master Street Tree list.

D-4 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING SOLAR ENERGY; (ADMINISTRATION)

RECOMMENDATION: Authorize the Mayor to send a letter to the Presiding Judge of the San Luis Obispo Superior Court responding to the Grand Jury report entitled "To Go Solar or Not To Go Solar".

D-5 AUTHORIZATION FOR THE CITY OF MORRO BAY TO ACT AS THE LEAD APPLICANT FOR THE JOINT SUSTAINABLE COMMUNITIES PLANNING GRANT (PROPOSITION 84) FOR THE GRANT APPLICATION ENTITLED "SMALL CITIES OF SAN LUIS OBISPO COUNTY CLIMATE ACTION PLAN"; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 44-10.

D-6 DISCUSSION ON AMENDING COUNCIL POLICIES AND PROCEDURES IN REGARD TO CALLING CLOSED SESSION; TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON HIRING AND EVALUATION OF DEPARTMENT HEADS; (CITY ATTORNEY)

RECOMMENDATION: Direct staff to return with a resolution amending the Council Policies and Procedures Manual in regard to the issues discussed accordingly.

D-7 LETTER REGARDING THE REGISTRATION FEE TO ATTEND THE LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING; (COUNCIL)

RECOMMENDATION: Discuss and direct staff accordingly.

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.

AGENDA NO: A-1

MEETING DATE: 09/13/10

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – AUGUST 23, 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 Grantham moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 **GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR**. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

CS-2 **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 1 parcel.

- Property: 781 Market Street and the Corner of Pacific Street and Market Street**.**
  Negotiating Parties: George Salwasser and the City of Morro Bay.
  Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:25 p.m.

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

The meeting adjourned at 5:25 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 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 Kessling	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Susan Slayton	Administrative Services Director
	Planning Manager	Kathleen Wold
	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

Todd Gailey, Morro Bay Engineer/Paramedic, announced Rescue Challenge 2010 Fitness Benefit between Morro Bay Fire Department and the U.S. Coast Guard will be held on September 18th at Coleman Park which will benefit the Morro Bay Community Foundation.

Keith Taylor congratulated the appointment of Bryan Millard as Commander of the Police Department.

D'Onna Kennedy thanked those who voted for her at the Primary Election in June and encouraged citizens to vote for her at the General Municipal Election in November. She also offered her phone number and assistance to Veterans regarding how to receive support and benefits.

Pauline Stansbury, President of Morro Bay Seniors Center, stated she has received many complaints regarding the lack of transportation provided to seniors in the City, and invited those interested to attend the special transit meeting on September 15th at the Community Center.

Gay Skivalascaves, representative of San Luis Obispo Council of Governments (SLOCOG), expressed support for Item A-7 (Award of Contract to CalPortland Construction for the Construction of the ARRA-funded North Main Street Bike Lane and Street Improvement Project) and noted the deadline for funding of this project is September 30, 2010.

Ken Vesterfelt referred to Item D-2 (Discussion on Current Status of General Plan/Local Coastal Plan Update and Direction on Future Processing with the California Coastal Commission) stating this plan was worked on for many years by many people and their work should be considered.

Cathy Novak referred to Item D-1 (Status Report and Review of Permit Fee for Waterfront Projects) and most specifically Mr. Amani's project located at 571 Embarcadero. She reviewed the breakdown of hours provided by staff and an average cost for Mr. Amani's project noting her issue is with the Waterfront Master Plan fee of 200% times the base permit being added to these projects. Ms. Novak encouraged the Council to consider a tiered fee structure so that these small projects are not required to pay nearly 20% of the value of the project in permit fees. She said the City should encourage businesses to improve and renovate their lease sites by reducing the Waterfront Master Plan fee to a point that is more in line with what the fee should be.

Don Doubledee referred to Item D-2 stating as a past Planning Commissioner he remembers spending many hours on the General Plan/Local Coastal Plan Update. He said there was a lot of public input and much of this work reflected the needs and desires of the citizens and issues that need to be accomplished in order to make this a better City. Mr. Doubledee urged the Council not to throw this work out and recognize the merit of the previous work that was accomplished.

Lexi Brown, Assistant Director of the Morro Bay National Estuary Program (MBNEP), thanked Morro Bay for its continued support of the MBNEP. She noted the new director of the MBNEP will be Adrienne Harris coming from Washington, D.C.

John Barta referred to Item D-2 stating many years ago, the Coastal Commission requested the City review its General Plan/Local Coastal Plan issuing the City a Coastal Conservancy Grant. The City had a consultant provide an initial draft which was reviewed by the Planning Commission, who with the consultant worked on the draft for several years along with holding dozens of public hearings. Mr. Barta said the document was sent to the

Coastal Commission and they did nothing with it, and now they say the Plan is stale. He said the City did its job and two generations of Planning Commission put many hours into this document. Mr. Barta recommended the City Council not buy into their bluff and go through with the process.

Dorothy Cutter referred to Item D-2 stating after all the money the City spent on consultants and all the public comment received, there were a lot of unauthorized changes made by Planning Commission members and staff and sent to the Coastal Commission. She said Council should go back to the prior document before it was sent to the Coastal Commission and should receive current public comment so it would reflect what the community needs now. Ms. Cutter urged the Council to not accept the plan presented tonight.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:27 p.m.; the meeting resumed at 7:34 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 AUGUST 9, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL FOR THE MAYOR TO SIGN A LETTER IN SUPPORT OF SENATE BILL 3540 TO REAUTHORIZE THE NATIONAL ESTUARY PROGRAM; (HARBOR)

RECOMMENDATION: Authorize the Mayor to sign a letter in support of SB 3540 to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

A-3 ADOPTION OF ORDINANCE NO. 560 AMENDING TITLE 13 PUBLIC UTILITIES, CHAPTER 13.12 SEWERS TO ADD SECTION 13.12.215 COLLECTION OF PAST-DUE ACCOUNTS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Ordinance No. 560.

A-4 ADOPTION OF ORDINANCE NO. 561 AMENDING 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: Adopt Ordinance No. 561.

A-5 STATUS REPORT ON WATER USAGE FOR JUNE AND JULY 2010; (PUBLIC SERVICES)

RECOMMENDATION: Review and file status report.

A-6 RESOLUTION ACCEPTING A CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GRANT FOR MODIFICATIONS TO THE DESALINATION FACILITY; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 43-10 authorizing the Utilities/Capital Projects Manager to enter into a funding agreement with the California Department of Health for a Proposition 84 Grant for the Brackish Water Reverse-Osmosis upgrades to the Desalination Facility.

A-7 AWARD OF CONTRACT TO CALPORTLAND CONSTRUCTION FOR THE CONSTRUCTION OF THE ARRA-FUNDED NORTH MAIN STREET BIKE LANE AND STREET IMPROVEMENT PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 44-10 awarding the project contract to CalPortland Construction in the amount of $432,117.10 and authorizing a contingency fund of $43,200.

A-8 AUTHORIZATION TO ADD AND HIRE A WASTEWATER COLLECTIONS SYSTEMS OPERATOR III; (PUBLIC SERVICES)

RECOMMENDATION: Authorize hiring a Wastewater Collections Systems Operator III for the Wastewater Collections Division.

A-9 PROCLAMATION DECLARING SEPTEMBER 26-OCTOBER 2, 2010 AS "SEA OTTER AWARENESS WEEK"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-1, A-4, A-6, A-7, A-8 from the Consent Calendar; and Mayor Peters pulled Item A-5.

MOTION: Councilmember Borchard moved the City Council approve Items A-2, A-3 and A-9 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 9, 2010; (ADMINISTRATION)

Councilmember Winholtz referred to page 10, 2nd paragraph, and requested the removal of the second sentence; Council concurred.

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

A-4 ADOPTION OF ORDINANCE NO. 561 AMENDING SECTION 2.12.090 OF THE MORRO BAY MUNICIPAL CODE REGARDING CITY MANAGER'S POWER OF APPOINTMENT OF CITY OFFICERS AND EMPLOYEES; (CITY ATTORNEY)

Councilmember Winholtz stated she would like to revisit this section of the Municipal Code in order to discuss Council's participation in the hiring of department heads.

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

A-5 STATUS REPORT ON WATER USAGE FOR JUNE AND JULY 2010; (PUBLIC SERVICES)

Mayor Peters requested staff clarify for public information when to report old corroded pipes that leak brown water to the City; Public Services Director Rob Livick responded with the requested information.

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

A-6 RESOLUTION ACCEPTING A CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GRANT FOR MODIFICATIONS TO THE DESALINATION FACILITY; (PUBLIC SERVICES)

Councilmember Winholtz asked if the City's groundwater permits will meet the stream flows of above 1.4cfs; Public Services Director Rob Livick responded affirmative.

MOTION: Councilmember Winholtz moved the City Council approve Item A-6 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-7 AWARD OF CONTRACT TO CALPORTLAND CONSTRUCTION FOR THE CONSTRUCTION OF THE ARRA-FUNDED NORTH MAIN STREET BIKE LANE AND STREET IMPROVEMENT PROJECT; (PUBLIC SERVICES)

Councilmember Winholtz announced the award of the contract for the construction of the North Main Street Bike Lane and Street Improvement Project for public information.

Councilmember Grantham stated he would be voting in opposition to the award of this contract based on the poor economics of the country because it is irresponsible spending.

MOTION: Councilmember Winholtz moved the City Council approve Item A-7 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried with Councilmember Grantham voting no. (4-1)

A-8 AUTHORIZATION TO ADD AND HIRE A WASTEWATER COLLECTIONS SYSTEMS OPERATOR III; (PUBLIC SERVICES)

Councilmember Winholtz stated she will be voting in opposition to the hiring of this position based on the economy of the City.

Councilmember Borchard stated she also will be voting in opposition to the rehire of this position stating that the previous request for the hiring of another Wastewater Collections Systems Operator has not been filled yet.

MOTION: Councilmember Grantham moved the City Council approve Item A-8 of the Consent Calendar. The motion was seconded by Mayor Peters and the motion failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES – NONE.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 STATUS REPORT AND REVIEW OF PERMIT FEE FOR WATERFRONT PROJECTS; (PUBLIC SERVICES)

Public Services Director stated the waterfront fee is applied to all projects with a PD overlay within the Waterfront Master Plan Area. This fee is 200% of the standard fee for a Conditional Use Permit (CUP). The fee for a CUP for "new construction" is $3,620, which means that waterfront fee portion would be $7,240, for a total of $10,860; this fee does not include any environmental documentation fees or variance fees, which may add to this cost. In January 2009, the City Council reviewed the waterfront permit fees, and directed staff to "track current and future project costs with an analysis of time spent and return to Council with an appropriate fee level." Mr. Livick stated should the Council decide that reductions in the waterfront fees are to occur; staff recommends that the fee surcharge be set at 100% above the existing fee structure, which means the total fee amount would be $7,240 versus $10,860; or, Council could authorize staff to collect at each respective submittal the Use Permit fee for both the processing of the Concept Plan and the Precise Plan.

Councilmember Winholtz stated she prefers tracking by time and materials or approximated averaged rate per project collected at different times during the project, whichever the applicant is most comfortable with.

Councilmember Grantham stated the option of the surcharge being set at 100% above the existing fee schedule seems fair and a balanced way to go about it.

Councilmember Smukler stated tracking by time and materials would seem to address smaller project concerns.

Councilmember Borchard stated she supports tracking by time and materials with a deposit up front and tracking it for a year.

Mayor Peters stated she supports tracking by time and materials with a tiered deposit.

MOTION: Councilmember Smukler moved the City Council receive this report and make the adjustment to the Waterfront Master Plan fee schedule to time charged to time and materials with an upfront deposit that is tiered on the basis of the size of the project and includes an evaluation of the effectiveness of the program in one year. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

D-2 DISCUSSION ON CURRENT STATUS OF GENERAL PLAN/LOCAL COASTAL PLAN UPDATE AND DIRECTION ON FUTURE PROCESSING WITH THE CALIFORNIA COASTAL COMMISSION; (CITY ATTORNEY)

City Attorney Robert Schultz stated in August 2004, the City Council approved an update to the General Plan/Local Coastal Plan (GP/LCP). The GP/LCP was then submitted to the California Coastal Commission (CCC) for certification. After the GP/LCP was submitted, a dispute arose between CCC staff and City staff on whether the GP/LCP application was complete. However, City staff was assured that CCC staff was working on their review of the City's GP/LCP update. On June 23, 2010, City Staff met with CCC Staff to discuss the status of their review of the City's GP/LCP update. CCC staff explained to City Staff that because the GP/LCP update had been sitting for over five years, it is now deemed stale and that the GP/LCP update would have to go through the public hearing process again. Because of this determination, the City Council has some options with the GP/LCP update which include: 1) continue with the use of our 1984 General Plan/Local Coastal Plan and do no further work on the update; 2) revert to the draft prepared by Crawford, Multari and Clark and begin the legal process and public review; once the review is completed, resubmit to the Coastal Commission; or 3) revert to the second draft (document that Coastal Commission currently has) and begin the legal process and public review; once completed, resubmit to the Coastal Commission. Mr. Schultz recommended the City Council provide direction to Staff on the process to follow with the City's General Plan/Local Coastal Plan update.

The City Council appointed Mayor Peters and Councilmember Winholtz to work with staff to compare the draft document prepared by Crawford, Multari and Clark and the document sent to the Coastal Commission along with receiving input from staff on what new items should be included.

No further action was taken on this item.

D-3 REQUEST TO APPROVE A RESPONSE TO GRAND JURY REGARDING USE OF CITY VEHICLES; (ADMINISTRATION)

City Manager Andrea Lueker stated the Grand Jury report focuses its attention on the number of City-owned vehicles in each jurisdiction and a review of the policies in place to guide the use of those vehicles. The City of Morro Bay does not currently have a policy that specifically addresses the issue of take home vehicles, but is in the process of preparing such a policy. In addition, the number of take home vehicles in the report is misleading as the two Public Services vehicles that are described as take-home vehicles are actually used as duty-trucks and taken home when that employee is on-call. Under Penal Code Section 933.05, the City is required to indicate one of the following responses to the findings: 1) the respondent agrees with the finding; or 2) the respondent disagrees partially or wholly with the findings and why. Furthermore, as to each Grand Jury

recommendation, the responding party shall report one of the following actions: a) the recommendation has been implemented, with a summary regarding the implemented actions; b) the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; c) the recommendation requires further analysis; or d) the recommendation will not be implemented because it is not warranted or is not reasonable and an explanation why. Ms. Lueker recommended the City Council direct staff to send a letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports entitled "Use of City Vehicles".

Councilmember Winholtz suggested grammatical amendments to the letter; Council concurred.

MOTION: Councilmember Winholtz moved the City Council authorize the Mayor to send the amended letter to the Presiding Judge of the San Luis Obispo County Superior Court responding to the Grand Jury reports entitled "Use of City Vehicles". The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize a discussion on the Cold Canyon Landfill EIR process; he will provide information.

Councilmember Winholtz requested to place a presentation on the agenda regarding Consumer Smart Meter.

Councilmember Winholtz requested to place the discussion on landmark trees and the revision to the master tree list on the September agenda.

ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Recorded by:

Bridgett Kessling
City Clerk

AGENDA NO: B-1

MEETING DATE: September 13, 2010

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 31, 2010**

FROM: **Rob Schultz, City Attorney**

SUBJECT: **Introduction and First Reading of Ordinance No. 562 Increasing the Morro Bay Tourism Business Improvement District Assessment from 2% to 3%**

RECOMMENDATION:

Staff recommends that you conduct a public hearing to receive testimony regarding the Council's intention to increase the assessments from 2% to 3% to the Morro Bay Tourism Business Improvement District (MBTBID); then rule upon any protests; and if a legally sufficient protest showing is not made, introduce Ordinance No. 562 increasing the Morro Bay Tourism Business Improvement District from 2% to 3%.

MOTION: **I move for introduction and first reading of Ordinance No. 562 by number and title only.**

FISCAL IMPACT:

Based on TOT revenues, each percentage of assessment would generate approximately $165,000 per annum for the purpose of tourism marketing and promotional efforts. Since the assessment is directly tied to gross room revenue, the funds generated would fluctuate with the citywide room rates and changes in room inventory.

DISCUSSION:

In order to initiate the process of increasing the assessment from 2% to 3%, the City Council on July 12, 2010 adopted a Resolution of Intention indicating its intention to increase the assessment for the benefit of tourism promotion and marketing in the City of Morro Bay. Following the adoption of the Resolution of Intention and consistent with statutory requirements, notification was published

Prepared By: _____ **Dept Review:_____**

City Manager Review: _____

City Attorney Review: _____

and mailed to area businesses and property owners, notifying the owners and other interested members of the public of the following key actions:

1. **Public Meeting.** A public meeting to hear testimony supporting or opposing the proposed citywide TBID was held at the August 9, 2010 City Council meeting.

2. **Protest Hearing.** The September 13, 2010 TBID Protest Hearing, which is the subject of this report.

3. **Introduction of Ordinance to Establish the Assessment.** Absent valid protests, the September, 13, 2010 Introduction of the Ordinance to establish the citywide TBID (Attachment 1).

4. **Final Adoption of Ordinance to Increase Assessment.** The final adoption of the proposed Ordinance to establish a citywide TBID, is scheduled to occur on September 27, 2010, assuming no valid protest.

5. **Ordinance Effective.** If all actions are taken as described above, the anticipated effective date of the Ordinance will be November 1, 2010.

The required public meeting was held, as scheduled, on August 9, 2010. It provided the opportunity for the Council to receive input from the public. No written correspondence was received and no public testimony was given in opposition.

The Council's next procedural step, prior to considering the establishment of a citywide TBID, is to conduct a public protest hearing to hear any opposition from area business owners to the proposed district. As set forth in Sections 36524 and 36525 of the California Streets and Highways Code, the Council has the ability to approve the increase in the assessment from 2% to 3% at this public hearing, unless oral or written protests are received from City hoteliers that will pay 50% or more of the proposed assessments. In that event, Council cannot consider a proposal to establish a TBID in the City of Morro Bay for at least one year.

Oral protests can be made at the September 13, 2010 public hearing. Written protests must be received by the City Clerk at or before the public hearing and must include a sufficient description of the business to identify the owner and assure that it is a lodging establishment in the City of Morro Bay. If a legally sufficient protest is not made at the September 13, 2010 public hearing and if Council continues to support the proposed increase in the assessment for the TBID, the proposed Ordinance increasing the assessment must be introduced. Final City Council adoption of the ordinance will be scheduled for September 27, 2010. If the City Council approves final adoption at that time, the increase in assessment from 2% to 3% will become effective on November 1, 2010.

CONCLUSION:

Staff recommends that Council move for introduction and first reading of Ordinance No. 562, by number and title only.

ORDINANCE NO. 562

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY AMENDING THE MORRO BAY MUNICPAL CODE SECTION 3.60.050 REGARDING INCREASING THE ASSESSMENT TO THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, on July 12, 2010, the City of Morro Bay Council adopted Resolution No. 40-10 entitled, "**Resolution of the City Council of the City of Morro Bay, California Declaring its Intention to Adopt an Ordinance Increasing the Assessment on Lodging Businesses 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";** and

WHEREAS, as specified in such Resolution, the City Council declared its intention to consider adopting an ordinance to increase the amount of the Morro Bay Tourism Business Improvement District's assessment from 2% to 3%; and

WHEREAS, said Resolution was published and copies thereof were duly mailed and posted, all as provided by State law and specified in the Resolution; and

WHEREAS, pursuant to Resolution a public meeting concerning the increase in the assessment was held before the City Council on August 9, 2010 at 6 p.m. in the City Council Chambers at the Veteran's Hall located at 209 Surf Street in Morro Bay; and

WHEREAS, pursuant to Resolution a public hearing concerning the increase in the assessment was held before the City Council on September 13, 2010 at 6 p.m. in the City Council Chambers at the Veteran's Hall located at 209 Surf Street in Morro Bay; and

WHEREAS, all written and oral protests made or filed were duly heard, and testimony for and against the proposed action was received and considered; and

WHEREAS, the City Council determined that there was no majority protest within the meaning of Streets and Highways Code Section 36525, as written protests were not received from owners of businesses in the proposed district which would pay fifty percent (50%) or more of the assessments proposed to be levied; and

WHEREAS, protests are weighted based on the assessment proposed to be levied on each hotel. For purposes of the initial formation of the district, the proposed assessment to be levied was calculated based on the assessment rate multiplied by the most recent available data for the hotels' rental revenues.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Morro Bay that Morro Bay Municipal Code Section 3.60.050 be amended 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, tThe 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.

A summary of this ordinance, together with the names of Council members voting for and against it, shall be published at least five (5) days prior to its final adoption, in The Tribune, a newspaper published and circulated in the City of Morro Bay. This ordinance shall go into effect on November 1, 2010.

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

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

AYES:
NOES:
ABSENT:

_____
JANICE PETERS, Mayor

ATTEST:

_____
BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM:

_____
ROBERT SCHULTZ, City Attorney

AGENDA NO: D-1

MEETING DATE: September 13, 2010

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 31, 2010**

FROM: **Dylan Wade, Utilities/Capital Projects Manager**

SUBJECT: **Authorization to Replace a Wastewater Collections Systems Operator III**

RECOMMENDATION:

Authorize replacement of a Wastewater Collections Systems Operator III for the Waste Water Collections Division.

> **MOTION: I move that the City Council Authorize the replacement of a Wastewater Collections Systems Operator III.**

FISCAL IMPACT:

None, this is already a budgeted position. Should the Council choose not to fill this position contracting for this level of expertise will cost approximately $80 dollars per hour as compared to $26 per hour for a fully benefitted Collection System Operator III.

The City Council has indicated they are extremely interested in pension reform which would include a possible amendment to the PERS retirement formulas for new hires. The Wastewater Collections Systems Operator III is currently under the 2.7% at 55 formula for retirement. For purposes of comparison, if the retirement formula was changed to 2% at 55 the City's contribution, for the formula change only (no additional percentage paid by the employee) would change from 18% to 9%. For the purpose of comparison a Wastewater Collections Systems Operator III hired at the current formula would cost the City 18% per year or $7,825. Conversely, if the formula, through contract negotiations was changed to 2% at 55, the cost would be 9% per year or $3,913. Breaking down the cost further, the difference is less than $2 per hour.

BACKGROUND AND DISCUSSION:

Significant changes were made to the organization of the utilities near the end of 2006 when the duties of the Maintenance Superintendent were delegated to supervisors in the Water, Wastewater Collections, Streets, and Vehicle Maintenance Divisions. Having a single Maintenance Superintendent over all of these functions led to chronic problems with both

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

underinvestment and deferred maintenance. This period of time was characterized by reactive maintenance of the system. When problems inevitably occurred, the system was literally duct taped and bail wired back together only to break again.

Also in 2006, the State Water Resources Control Board issued revised Waste Discharge Requirements (WDR's) for Sanitary Sewer Systems with order 2006-0003-DWQ. This order requires that agencies that own or operate a sanitary sewer system of more than one mile in length prepare a Sanitary Sewer Management Plan (SSMP). The order states in part that, "To be effective, SSMP's must include provisions to provide proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and cost benefit analysis. . . ."

The Order contains requirements which attempt to ensure the proactive operation and maintenance of waste water collection systems. Further it states that, "Any noncompliance with this Order constitutes violation of California Water Code Section 13050(m) is prohibited." In enforcement actions the State and Regional Boards consider it inappropriate to consider mitigating factors, "if the Enrollee does not implement a periodic or continuing process to identify and correct problems." The WDR's are the legal requirement that the City must meet and clearly state that we have a duty to find and fix problems in the collections system. If we don't have a program in place to carry out the process of finding and fixing problems then we will be held accountable. A summary of the work program for the Division is attached.

Even if one sets the legal requirements of the State aside, we have an obligation to the rate paying public to proactively maintain the waste water collections system. Being proactive in the maintenance of utilities and managing the utility's assets has been proven to provide the lowest possible life cycle cost for these assets. Having the lowest possible life cycle cost for these assets leads to the lowest possible sustainable rate structure for the public. Simply put, properly maintaining the waste water collection system assets is the cheapest, most environmentally responsible, and sustainable maintenance solution.

In order to proactively maintain the assets of the Morro Bay waste water collections system organizational changes have been made. The change made in 2006 to have a Division supervisor for each of these functions has helped tremendously. The City used the SSMP development process as an opportunity to redevelop the Division from a reactive to a proactive organization. There has been a tremendous investment of both time and financial resources to make these organizational changes. With these investments, we have a documented decrease in the number of waste water spills to our local environment and have reduced our need for emergency operations. A further positive change has been the authorization to hire an additional Waste Water Collection System Operator II, which occurred in May of 2010.

As of this writing, the lone qualified applicant for that position has decided to take the position in Morro Bay at a personal cost. While this process was delayed by a number of issues, it is important to note that filling a skilled waste water operator position in Morro Bay

with our comparatively weak total compensation package will likely be difficult and time consuming.

At the August 23, 2010 Council meeting authorization to replace the Collection System Operator III was brought forward and rejected by the majority of the Council. The functions performed by the Collection System Operator III are a critical part of maintaining the system. With this position being an important succession planning step to the Division, filling this position becomes even more critical to ensure adequate management and supervision of the day to day activities as we prepare for this transition. By making the choice to delay this hiring, either the functions we are legally required to perform do not occur, or we must look to outsource these activities. As was presented under Fiscal Impacts even at the Collections System Operator III level there are significant cost savings to be had by performing these activities in-house versus contracting them out at prevailing wage. The range presented in the Fiscal Impacts is based on a Collections System Operator III making about $20 dollars per hour with an additional $6 of benefits. The minimum legal amount that a contract vacuum truck operator that has to be paid under prevailing wage is $59 per hour, the quoted rate from a local firm that provides these services was $80 per hour. Based on 2000 hours per year this leads to the $105,920 in additional costs.

With both the recently authorized Collection System Operator II position vacant, and the vacancy caused by the loss of Albert Calvillo (Collection System Operator III), the division has been left short-handed. At the present time we cannot perform repairs to our lift stations unless all of the division staff members are present. The division has compensated for this deficiency by both having staff from the Water Division or the Wastewater Treatment plant on call to back fill their function. Division staff is foregoing vacation, other leave banks, and skipping training activities in the short term to deal with the staffing issues. Operating while potentially pulling resources from other Divisions and foregoing leave can only be seen as a stop gap measure, but will not work as a long term solution. Staff is also preparing an on call contract with a local firm that can provide a qualified Collections System Operator but is awaiting Council's direction on that subject with this decision.

CONCLUSION:

In conclusion, staff recommends that the Council authorize the replacement of the Wastewater Collections Systems Operator III.

Attachment: Collections Department Mandatory Minimum Work Effort

Collections Department Mandatory Minimum Work Efforts (in work days)

SSMP Mandatory Elements	Task	SUP	MW3	MW2	MW2	New Hire
Element 1						
Goals	semiannual planning	2	2	2	2	2
Element 2						
Organization	Internal and Interdepartment	20	10	5	5	5
	Interface with other agencies	15	10	5	5	5
Element 3						
Legal Authority	Illicit discharge prevention*	2	2	0	0	
	Sewer connection design & construction*	2	2	0	0	
	Access maintenance	0	0	30	30	
	Violation enforcement *	10	8	0	0	
Element 4						
O&M	Collections System mapping	8	12	5	5	
	Daily Preventative Maintenance					
	Safety and Vehicle inspections	5	5	5	5	5
	USA's	1	10	10	10	
	Lift Station checks	2	2	45	45	
	Customer Complaints and Questions	30	30	1	1	1
	Scheduled Line Cleaning	1	1	45	45	
	Enhanced Maintenace	10	10	30	30	
	Daily logs/records	25	25	10	10	10
	Root removals	1	1	12	12	
	Work Orders	20	20	15	15	
	Monthly Preventative Maintenance					
	Preparing and planning the work	6	6	1	1	1
	Preparing the monthly report	6	3	0	0	
	Certifications through CIWQS	2	1	0	0	
	Equipment Calibration	1	1	8	7	1
	Annual Preventative Maintenance					
	WWTP Annual report support	1	1	0	0	
	Root Treatment	5	5	5	5	
	Video Inspections	20	20	20	20	
	Emergency Notifications	1	1	1	1	
	OSHA audits	1	1	1	1	1
	Other Preventative Maintenance					
	DOT reporting	2	2	1	1	1
	Personell Evalutations	4	0	0	0	
	Drivers Liscense testing	1	1	1	1	1
	Driver Liscense physicals	1	1	1	1	1
	Certification Testing	1	1	1	1	1
	Repair and Rehabilitation*	20	20	10	10	
	Training	2	2	2	2	2
	Maintaining Inventories	2	2	2	2	2
Element 5						
Performance	Developing Performance Standards	2	2	0	0	
Element 6						
Overflow Response	Responses and reporting of SSO's	5	5	5	5	
Element 7						
F.O.G. program	F.O.G. Control*	13	13	1	1	
	Source Control/Pretreatment Program	2	1	0	0	

Element 8						
System Evaluations	CIP program*	10	10	5	5	
and Capacity Assurance	Capacity evaluation*	5	5	5	5	
	I&I program*	5	10	5	5	
Element 9						
Monitoring & Mods	Program Review and Audits	2	2	2	2	
Element 10						
Audits		0	0	0	0	
Element 11						
Communications Program	Public Education and Outreach*	12	12	1	1	
		Sup	MW3	MW2	MW2	New Hire
Total work days of effort to complete mandatory minimum tasks.		**286**	**278**	**298**	**297**	**39**
Total Work Days Availble (12 H, 10V, 5S)		**234**	**234**	**234**	**234**	234
Percent Work Load	**average = 102.38%**	**122.22%**	**118.80%**	**127.35%**	**126.92%**	**16.67%**

*** Tasks that are not currently receiving the necessary coverage.**

AGENDA NO: D-2

MEETING DATE: September 13, 2010

Staff Report

TO: **Mayor and Councilmembers** **DATE: August 30, 2010**

FROM: **Rob Livick, PE/PLS – Public Services Director**
Kathleen Wold, AICP – Planning Manager

SUBJECT: **Authorization to Fill the Associate Planner Position at the Assistant Planner Level**

RECOMMENDATION:

It is recommended that the City Council authorize the hiring of the recently vacated position of the Associate Planner.

> **MOTION: I move that the City Council authorize the hiring of the recently vacated position of the Associate Planner at the Assistant Planner level.**

FISCAL IMPACT:

The Associate Planner position has been budgeted in the 2010-2011 Adopted Budget. By filling the position at the Assistant Planner level, approximately $13,000 will be achieved in salary savings. Should the Council choose not to fill this position, contracting for this level of expertise will cost approximately $86 per hour as comparied to $32 per hour for a fully benefitted Assistant Planner.

The City Council has indicated they are extremely interested in pension reform which would include a possible amendment to the PERS retirement formulas for new hires. The Assistant/Associate Planner position is currently under the 2.7% at 55 formula for retirement. For purposes of comparison, if the retirement formula was changed to 2% at 55 the City's contribution, for the formula change only (no additional percentage paid by the employee) would change from 18% to 9%. For the purpose of comparison an Assistant Planner hired at the current formula would cost the City 18% per year or $9,366. Conversely, if the formula, through contract negotiations was changed to 2% at 55, the cost would be 9% per year or $4,683. Breaking down the cost further, the difference is approximately $2.25 per hour.

BACKGROUND:

The City Council instituted a hiring freeze when the FY 04-05 budget was adopted. The policy set forth in the hiring freeze requires Council approval for the filling of any new or vacant positions while the freeze is in effect. A vacancy now exists with the resignation of the former

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

Associate Planner.

DISCUSSION:

With only one permanent planner, the Planning Manager, administering the duties of the Planning Division and the Building Division; it is literally impossible to continue operating under these conditions without placing the City at considerable risk due to a number of factors including, but not limited to, compliance with the State Permit Streamlining Act, timeframes set forth in the California Environmental Quality Act (CEQA), Coastal Development Permits, analysis of development proposals, plan check accuracy, planning inspections, code compliance, business license review, zoning inquires and general public assistance.

Several times in the past the concept of outsourcing planning services has come up as a potential solution. In this regard, last year staff obtained a proposal from a consultant that has familiarity and experience with Morro Bay to handle the processing on four (4) projects of varying complexity, two (2) fairly easy and straightforward cases, and two (2) more complex development proposals. The estimated cost for just 4 cases was $29,340. For a few months last year that consultant "on-premises" staff support was necessary; the cost was approximately $9,000 a month for only 25 hours a week ($14,400 a month if full time). The purpose of providing this comparison is not to get a more favorable hourly rate estimate from a consultant, of whom there are many, but to underscore the obvious financial disadvantages in not securing in-house professional planning staff. Furthermore, staff strongly believes that professional qualifications, familiarity with the community, development policies and regulations, are the most important basis of comparison.

Recently there have been a number of advanced planning projects under consideration. Generally current planning projects take priority over advance projects as they are applicant sponsored and represent immediate development or new business opportunities. As such it is often difficult to find windows of time to work on advance projects and many times the projects become fractionalized and take many years to complete. Staffing the Planning Division with two full-time planners would help in providing a fixed number of hours available for both current and advanced projects. The following is a list of advanced projects under consideration:

General Plan and Local Coastal Plan Update
Downtown Visioning (Specific Plan)
Zoning Ordinance Update
New Sign Ordinance, Wireless Ordinance and Neighborhood Compatibility Standard Ordinance
Updating CEQA Guidelines
Greenhouse Gas Inventory/Climate Action Plan
Climate Action Plan Grant Administration (Under consideration)

Staff has also tracks all current planning projects on the Advance and Current Tracking log. This log is updated twice a month and is given to both the Planning Commission and the City Council. The log (Attachment 1) indicates that there are approximately 26 active projects currently under review, 13 projects on hold and 22 building plan checks needing planning review. Review of the Current and Advanced Tracking logs for January through August of this year showed that the

activity log for September 20, 2010 is typical of the activity the Planning Division has had all year long.

The information above gives an overview of the workload currently existing in the Planning Division. In addition it should be noted that with the reorganization of the Public Services Department that supervision of the Building Division was assigned to the Planning Manager. If the Planning Manager were to be the only working planner in the division it would seriously limit the amount of time available to perform the supervision duties of the Building Division.

It should be noted that there is an advantage to having consistent long-term employees in the Division. As a planner becomes more familiar with the Morro Bay Municipal Code, the General Plan, the Master Plans in place as well as the overlay districts projects move forward faster and more work is produced. Conversely training new planners consumes additional work hours from the Planning Manger's schedule resulting in less project work being performed. While the city has enjoyed somewhat of a long term relationship with the temporary employee currently performing the Assistant Planner duties it is difficult to gauge how long this employee would remain if permanent work became available elsewhere. Therefore it is staff's recommendation that authorize the hiring of a permanent employee at the Assistant Planner level.

Attachment

1. Advance and Current Tracking Log

AGENDA NO: D-3

MEETING DATE: September 13, 2010

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 3, 2010**

FROM: **Rob Livick, PE/PLS – Public Services Director/City Engineer**

SUBJECT: **Review of Draft Amendment to Chapter 12.08 MBMC adding a Landmark Tree Section and approval of a revised Master Street Tree list.**

RECOMMENDATIONS:

A) Review the draft Chapter 12.08 MBMC and give direction to staff regarding any modifications and adoption.

B) Approve the revised Master Street Tree list.

MOTION: I move the City Council:

A) direct staff to bring the ordinance to the next available City Council meeting for a first reading, and

B) approve the revised Master Street Tree list based on recommendations from the Public Works Advisory Board and Planning Commission.

FISCAL IMPACT:

The cost of proactively maintaining a landmark tree would require additional expenditures for consulting arborist, tree maintenance services and engineering contractor services for concrete removal and replacement. These costs will range from between $1,000 to $4,000 per landmark tree over a ten year period. The cost impact of the revised Master Street Tree list should be minimal, because of their selection based on maintenance and impact to infrastructure.

BACKGROUND:

An ad-hoc volunteer tree committee was formed to review and update the City's policies and procedures as they relate to trees. The committee's membership is not fixed and currently consists of Wally McCray, Ann Reisner, Cory Paul, Noah Smukler, Sean Ellis, Gabriel Frank, Taylor Newton, Susan Shaw, Melinda Elster, Gene Schellenger, Joseph Hurni, and June Krystoff-Jones with Rob Livick and Joe Woods assisting when needed as city staff. These folks represent a broad mix of the community including arborists, landscape professional as well as interested citizens.

The tree committee has been working on revisions to the Master Street Tree list, and other tree lists along with a revision to the City's Municipal Code to include provisions for the recognition and preservation of Landmark trees (Attachment 1). The tree committee is currently discussing regulations regarding trees on private property.

DISCUSSION:

Prepared By: _____ **Dept Review:_____**

City Manager Review: _____

City Attorney Review: _____

Master Street Tree List
The tree committee has also proposed an update to the Master Street Tree List. This proposal includes an overall master list (Attachment 3) and dividing the list into three smaller and more user-friendly lists. The three lists are:

1) The City Master Street Tree List (Attachment 4),
2) The Open Space and Parks List (Attachment 5) and
3) The Private Residence and Greywater Reclamation List (Attachment 6).

The committee points out that the trees proposed for inclusion on these lists have the necessary positive attributes with minimal negative characteristics.

The tree committee gave presentations regarding the Master Tree List to both the Public Works Advisory Board and the Planning Commission on March 17, 2010 and August 11, 2010 respectively. Both bodies recommended approval and forwarding on to City Council for approval. Although the Planning Commission recommended removal of the Mexican Fan Palm from the Master Street Tree List and removal of the Blue Gum Eucalyptus from the open space and parks list.

Landmark Trees
The Morro Bay Citizens Tree committee has also reviewed the subject of Landmark trees and has made recommendations for modifying the City's Municipal Code to recognize and protect these landmark trees (Attachment 6). The tree committee has concluded that trees have an essential role supporting Morro Bay's economic and physical health and are key element in Morro Bay's famous scenic beauty and wildlife habitat.

The tree committee's recommendations are to protect the trees and vegetation in our city, are designed to work for the betterment of our present and future. Landmark Tree recognition, designation, protection, and proactive maintenance is an important step in establishing valuable control measures to preserve our history as the City of Morro Bay evolves in the future. Recognized Landmark Trees give our community another opportunity to reflect and celebrate our heritage, environment and the City's future. These recommendations include the following:

- Landmark Tree definition: any tree existing within city limits, which has been so designated by resolution of the City Council, after review by the City's Public Works Advisory Board and Planning Commission.
- Specimen tree/grove definition: a unique tree/grove that may or may not be common, but exemplifies a Landmark Criteria
- Possible Landmark Trees in City of MB, should be less than 20 (City of SLO has 22).
- Establish a Landmark Tree addendum to MB City Tree Regulations; City Staff draft code language to be added to 'Chapter 12 City Tree Regulations' and 'Major Vegetation Removal, Replacement and Protection Guidelines'.
- On public land, recognized Landmark Trees will be protected and proactively maintained for long-life/health, under the authority of the Director of Public Services. Private property

land owners may volunteer to have trees on their property recognized as Landmark Trees, but trees on their property will still be their responsibility to maintain and protect.

The tree committee has also provided the following examples of potential Landmark Trees:

- Monterey Cypress and Blue Gum Eucalyptus planted around the Cloister's Resort by EG Lewis, in the area of San Jacinto and Sandalwood, or original settlement area South of Harbor Street.
- The Palms on Monterey and MB Blvd, marking the site of the US Post Office of 1928.
- Monterey Pines on Piney that may be seedlings of original pines planted by Parker.
- Specimen Channel Island Oaks planted at MB Library courtyard near new Peace Pole.

CONCLUSION:

Staff recommends that Council approve the Master Street Tree list, endorse the other lists as suggestions, and review the proposed modifications to the municipal code and direct staff to return with an ordinance as proposed or with modifications for a first reading.

Attachments

1. Draft revisions to 12.08 MBMC
2. Memo from the Morro Bay Citizens Tree Committee
3. Master Tree List
4. Master Street Tree List
5. Open Space and Parks List
6. Private Residence and Greywater Reclamation List

Attachment 1

Chapter 12.08 - CITY TREE REGULATIONS*

Sections:

12.08.010 - Purpose.
12.08.020 - Definitions.
12.08.030 - Enforcing authority.
12.08.040 - Master tree list.
12.08.050 - Powers of director of public services.
12.08.060 - Tree care, planting, removing and replacement.
12.08.070 - Tree removal by city for cause.
12.08.080 - Appeal of the determination of the director of public services.
12.08.090 - Tree removal cost and replacement.
12.08.100 - Replanting tree after removal.
12.08.110 - Utility permit to trim, brace or remove trees.
12.08.120 - Business permit to trim, brace or remove trees.
12.08.130 - Tree destruction or attachments prohibited.
12.08.140 - Inspection by director of public services.
12.08.150 – Landmark Trees

12.08.010 - Purpose.

It is in the best interest of the city and of the citizens of Morro Bay that a comprehensive plan for the planting and maintenance of trees in, on or within the public right-of-way (R/W) within the city should be established. This chapter is adopted for the purpose of developing and providing for such a plan and program, and for the purpose of establishing rules and regulations relating to the planting, care and maintenance of such trees. *(Ord. 490 (part), 2002)*

12.08.020 - Definitions.

A. "Director of public services" means the director of public services of the city.
B. "Owner" includes the legal owner of real property fronting on any street of the city, and any lessee of such owner.
C. "Person" means an individual, firm, an association, a corporation, a co-partnership, and the lessees, trustees, receivers, agents, servants and employees of any such person.
D. "Planning commission" means the planning commission of the city.
E. "Public streets" or "streets" includes all roads, streets, avenues, boulevards, alleys, parkways, sidewalks, walkways and public rights-of-way, or any portion thereof, of the city.
F. "Drip line" is the shape drawn on the soil or ground surface around a tree which is directly under its outermost branch tips, exclusive of the influence of mechanical trimming. *(Ord. 490 (part), 2002)*

G. "Landmark tree" is any tree existing within city limits, which has been so designated by resolution of the City Council, after review and recommendation by the City's Public Works Advisory Board.

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12.08.030 - Enforcing authority.
The director of public services or his/her duly authorized representative shall be charged with the enforcement of this chapter. *(Ord. 490 (part), 2002)*

12.08.040 - Master tree list.
The planning commission is charged with the duty of determining the types and species of trees suitable and desirable for planting within the city, and the areas in which such trees shall be planted. Such determination shall be made by the planning commission who may consult with those familiar with the subject of such plantings, such as landscape architects, arborists, nurserymen and park executives. After such determination has been made, the planning commission shall report its findings in writing to the city council. When approved by the city council, said report, to be known as the master tree list, shall be placed on file in the office of the city clerk, and shall thereafter be the official determination of the planning commission. Revisions or changes in the master tree list may be made from time to time by the planning commission, in the manner described in this section for the development, approval and filing of the original master tree list.
All trees planted in the public rights-of-way of the city after the filing of the original master tree list must be specified on the master tree list, unless a written permit from the director of public services shall have first been obtained to deviate from said list. Such permit may be granted by the director of public services upon the showing of evidence that an alternate tree would best serve the public interest. *(Ord. 490 (part), 2002)*

12.08.050 - Powers of director of public services.
The director of public services, or his duly authorized representative, shall have jurisdiction and control of the planting, setting out, location and placement of all trees in the public rights-of-way of the city, and shall likewise have supervision, direction and control of the care, trimming, removal, relocation and replacement thereof. *(Ord. 490 (part), 2002)*

12.08.060 - Tree care, planting, removing and replacement.
No person other than the director of public services or his or her duly authorized agent or deputy shall cut, trim, prune, spray, brace, plant, move or remove, or replace any tree in any public right-of-way (R/W) within the city, or shall cause the same to be done, unless and until a written permit to do so shall have been first obtained from the director of public services. Any such permit may be declared void by the director of public services if its terms are violated.
In addition to any measures allowable by the laws of the state of California, any person, persons, corporations or similar parties which perform, direct or otherwise cause to be performed, any trimming, cutting, pruning, spraying, moving or removing of any tree, or portions thereof, within the public right-of-way, without having first obtained a written permit from the director of public services, or failing to comply with any terms of the permit, shall pay

to the city a fee based upon tree valuation criteria established by the International Society of Arboriculture (ISA). This fee shall be calculated by the director of public services based upon the most current ISA criteria and shall further acknowledge the environmental benefits afforded by the urban forest.

Any and all fees collected by the city from the enforcement of the requirements of this section shall be deposited and used for the sole and exclusive purposes of propagation, maintenance, and nurturing of trees within the public rights-of-way and parks of the city. *(Ord. 490 (part), 2002)*

Recognized Landmark Trees will be protected and proactively maintained for long-life/health, under the authority of the Director of Public Services. Landmark Trees may also be identified with a sign or plaque, as approved by the public services director. The sign or plaque shall be provided and maintained by the nominee at no expense to the City of Morro Bay.

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12.08.070 - Tree removal by city for cause.

No tree shall be removed from a public right-of-way unless it interferes with the necessary improvement of the public right-of-way, the installation of public utilities or is a hazard to person or property outside the drip line of the tree at maturity, or creates such a condition as to constitute a hazard or an impediment to the progress or vision of anyone traveling on or within the public right-of-way. If, in the opinion of the director of public services, a tree is determined to meet the above criteria, posted for a minimum of ten days and all property owners and residents within three hundred feet shall be notified of the scheduled tree removal. If an appeal is not filed pursuant to Section 12.08.080 then the tree shall then be removed and a new tree planted in the same location or in close proximity to the location where the tree was removed. The replacement tree shall be of the type as specified in the master tree list for that particular location, and the cost of removal and replacement shall be at the expense of the city. Except in the case of an emergency as determined by the director of public services, no tree shall be trimmed or removed during nesting season, which is February 1st through June 30th. *(Ord. 531, 2007: Ord. 498, 2003: Ord. 490 (part), 2002)*

12.08.080 - Appeal of the determination of the director of public services.

Any person aggrieved by the determination of the director of public services may file an appeal to the planning commission following the payment of the applicable fee. A public hearing shall be held following public notice of property owners within three hundred feet per Section 17.60.110. Said public notice shall also include posting of the subject tree(s) with two placards that are clearly visible indicating the purpose, time, date and location of the hearing. The appellant shall submit a report prepared by a certified arborist or landscape architect describing the condition of the tree(s) and the reason(s) for the removal of the tree(s) from the public right-of-way. Trees shall not be removed solely for the preservation of private views.

A tree(s) shall not be removed unless authorized by the proper review authority within the scope of a construction project. Said removal shall be appropriately mitigated on a not less than two-to-one tree replacement. Said tree(s) shall be maintained in a healthy, live condition for a period of five years.

Following the public hearing, the planning commission shall grant or deny the appeal. The granting of the appeal by the planning commission may be subject to conditions deemed appropriate to mitigate the impacts to the community and neighborhood due to the removal of the tree(s). Any person aggrieved by the decision of the planning commission may file an appeal to the city council. The city council shall then conduct a public hearing under the same provisions as stated above. *(Ord. 490 (part), 2002)*

12.08.090 - Tree removal cost and replacement.
In the event the planning commission or city council grants an appeal to remove a tree(s) per Section 12.08.080, all costs of the removal shall be at the expense of the appellant. All street surfaces, curbs, gutters, sidewalks and other public improvements damaged by the removal of said tree(s) shall be repaired and/or replaced by the property owner in a condition acceptable to the director of public services. The director may require a performance bond in an amount sufficient to cover the costs of repair and replacement of the public improvements per the adopted city standards. *(Ord. 490 (part), 2002)*

12.08.100 - Replanting tree after removal.
Any person removing a tree under the provisions of Sections 12.08.080 and 12.08.090 shall, at their own expense and within thirty days after such removal, plant another tree of the type and species specified in the master tree list for such area in a location designated by the director of public services. If such person fails to plant the replacement tree or fails to comply with the requirements of the planning commission or this section within the time specified, the director of public services may perform such tasks as are required, and the cost thereof shall be assessed to such person. This remedy is in addition to all other measures, including punitive measures, available to city arising out of such noncompliance. *(Ord. 490 (part), 2002)*

12.08.110 - Utility permit to trim, brace or remove trees.
Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the state and any constituted public agency authorized to provide, and providing utility service, shall be given a permit from the director of public services valid for one year from the date of issuance, permitting such person to trim, brace, remove or perform such other acts with respect to trees growing adjacent to the public streets of the city, or which grow upon private property to the extent that they encroach upon such public streets as may be necessary to comply with the safety regulations of the commission and as may be necessary to maintain the safe operation of its business. See Master Fee Schedule. (Ord. 490 (part), 2002)

12.08.120 - Business permit to trim, brace or remove trees.
No person shall be entitled to apply for a permit under Section 12.08.070 other than an owner of property abutting the portion of the street upon which a tree is located and on the same side of the centerline of the street as the tree which is the subject of the permit application or a public utility. No person may perform any act pursuant to a permit issued under Section 12.08.070, except a person whose principal business is tree surgery, trimming or maintenance and who, in the opinion of the director of public services, is qualified for such business, and

who has obtained a permit to carry on such business in the city from the director of public services. Prior to the issuance of such a permit, a valid business license must be secured from the city clerk. Permits issued pursuant to this section may be granted for a period of one year from the date of issuance. See Master Fee Schedule. *(Ord. 490 (part), 2002)*

12.08.130 - Tree destruction or attachments prohibited.
It is unlawful for any person to break, injure, deface, mutilate, kill or destroy any tree or set fire or permit any fire to burn where such fire or the heat thereof will injure any portion of any tree in any public right-of-way in the city. Nor shall any person place, apply, attach or keep attached to any such tree or to the guard or stake intended for the protection thereof any wire, sign, paint or any other substance, structure, thing or device of any kind or nature whatsoever without having first obtained permission from the director of public services. See Master Fee Schedule. *(Ord. 490 (part), 2002)*

12.08.140 - Inspection by director of public services.
The director of public services may inspect any tree within or overhanging any public right-of-way in the city to determine whether the same or any portion thereof is in such a condition as to constitute a hazard or impediment to the progress or vision of anyone traveling on such public street or within the public R/W. Any tree or part thereof growing upon private property, but overhanging or interfering with the use of any street that, in the opinion of the director of public services, endangers the life, health, safety, or property of the public shall be declared a public nuisance. If the owner of such private property does not correct or remove such nuisance within thirty days after receipt of written notice thereof from the director of public services, he shall cause the nuisance to be corrected or removed and the cost shall be assessed to such owner.
Nothing contained herein shall be deemed to impose any liability upon the city, its officers, or employees, nor to relieve the owner of any private property from the duty to keep any tree upon his property or under his control in such a condition as to prevent it from constituting a public nuisance as defined in this chapter. (Ord. 490 (part), 2002)

12.08.150 – Landmark Trees
Any Morro Bay resident may nominate a tree to be considered for Landmark Tree designation. The nominated tree shall meet at least 3 of the 7 criteria listed below. All nominated Landmark Trees shall be reviewed by the Public Works Advisory Board. The recommendation of the Public Works Advisory Board shall be forwarded to the City Council for official landmark tree designation.

<u>Landmark Tree Criteria</u>:

a) Any Specimen Tree or grove of significant size, beauty, cultural heritage or habitat value.
b) Specimen tree or grove of significant habitat value for migratory birds and butterflies.
c) Native trees or groves of historical significance to local indigenous cultures.

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d) Specimen tree or grove of agricultural significance and history.
e) Specimen tree or grove older than 80-100 years.
f) Any Trees playing very important functional role in city parks or for city planning and maintenance.
g) Specimen Trees or groves of significance planted by early settlers of Morro Bay.

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To: City of Morro Bay City Council and City Staff September 2, 2010

Enclosed is a recommendation the Morro Bay Volunteer Tree Committee proposes for an update to the City of Morro Bay Master Tree List. The recommendation has been developed in our monthly meetings and includes input from City of Morro Bay Staff and the landscape professionals and citizens on the Committee. We request that you review the recommendation for final approval and adoption.

Enclosures

A) Updated City of Morro Bay Master Tree List Recommendation

After review and deliberation, we suggest the City amend the current Master Tree List and adopt our recommended Update. The proposed Update highlights trees which exhibit 2 or more of the following characteristics: Mediterranean Coastal Habitat Preference, California Native, Morro Bay Cultural Heritage, Beauty Flower/Fruit/Foliage and/or Bird/Butterfly/Fauna Habitat, and Drought Tolerance or H2O Recycling Potential.

We propose that the Master Tree List be subdivided into 3 smaller/user-friendly lists**; 1.City Street Tree List, 2.Open Space & Parks List, 3.Private Residence & Greywater Reclamation List.** These 3 sub-lists should be used by City Staff and the Public for the specific uses they are planting the trees for. If approved, we are ready to develop an informational addendum guide for each tree variety listed.

This Update is long overdue and has been debated and modified numerous times. Major changes that should be noted: there are no Eucalyptus species on the Street Tree List, the historic Blue Gum Eucalyptus has been entirely removed from the Master Tree List, the Red Flowering Eucalyptus that dominates our streets remains on the Open Space and Parks List, numerous fruit bearing trees have been added to the Master Tree List and placed mostly in the Open Space and Parks List, the Avocado is on the Street Tree List, there are no Palm species on the Street Tree List, the Street Tree List is short and mandatory.

The listing and decision making process for what trees should be planted in Morro Bay is a somewhat infinite debate. No tree is perfect for every person or use, therefore this Update includes trees that have necessary attributes and minimal negative characteristics, and ultimately should be reviewed, edited, and updated at least every decade.

Respectfully Submitted By:

Morro Bay Volunteer Tree Committee

City of Morro Bay, Street Tree List 2010
{Each Tree Meets At Least 4 Of The Following Criteria}

1.minimal water/irrigation requirements
2.minimal root damage to hardscape
3.minimal height/canopy obstruction (view, safety, maintenance)
4.color/beauty/urban forest use consideration
5.CA central coast native/naturalized
6.traditional street tree with proven success in MB city

Arbutus marina
Strawberry madrone

Ceanothus arboreus
Channel Island feltleaf ceanothus

Ceanothus 'Ray Hartman'
California Lilac

Cupressus macrocarpa
Monterey cypress

Heteromeles arbutifolia
Toyon/Holly

Lagunaria patersonii
Primrose tree

Leptospermum laevigatum
Australian tea tree

Lyonothamnus floribundus
Catalina ironwood

Melaleuca nesophila
Pink Melaleuca

Melaleuca quinquenervia
Paper bark tea tree/Cajeput tree

Persea americana
Avocado

Pinus torreyana
Torrey pine

Prunus lyonii
Catalina cherry

Quercus agrifolia
Coast live oak

Quercus tomentella
Channel island oak

Rhus integrifolia
Lemonade sumac/Lemonade berry

Ulmus parvifolia
Chinese elm

City of Morro Bay, Open Space & Parks Tree List 2010
{Each Tree Meets At Least 2 Of The Following Criteria}

1.grows well in Morro Bay
2.has attractive growth foliage/flower/fruit
3.can grow to impressive size/shape
4.can provide habitat/shade for flora/fauna
5.has Morro Bay cultural heritage
6.minimal water requirements

Acer palmatum
Japanese maple

Araucaria heterophylla
Norfolk island pine

Calocedrus decurrens
California incense-cedar

Ceanothus arboreus
Channel Island feltleaf ceanothus

Ceanothus 'Ray Hartman'
California Lilac

***Citrus* species**
Citrus varieties

Cupressus macrocarpa
Monterey cypress

Eriobotrya deflexa/japonica
Loquat/Bronze loquat

Eucalyptus ficifolia
Red-flowering gum eucalyptus

Feijoa sellowiana
Pineapple guava

Ginkgo biloba
Maidenhair tree

Heteromeles arbutifolia
Toyon

Juglans californica
California black walnut

Lithocarpus densiflorus
Tanbark oak

Metasequoia glyptostroboides
Dawn redwood

Olea europaea, 'Manzanillo or Mission Fruiting'
Olive tree

Persea americana
Avocado

Phoenix canariensis
Canary island date palm

Pinus canariensis
Canary island pine

Pinus pinea
Italian stone pine

Plantanus racemosa
California sycamore

Populus fremontii
Fremont cottonwood

Prunus lyonii
Catalina cherry

Quercus agrifolia
Coast live oak

Quercus tomentella
Channel islands oak

Sequoia sempervirens
Coast redwood

Tristania conferta/Lophostemon conferta

Brisbane box

Tristania laurina/Tristaniopsis laurina
Water gum

Umbellularia californica
California bay laurel

City of Morro Bay, Private Residence & Greywater Reclamation Tree List 2010
{Each Tree Meets At Least 2 Of The Following Criteria}

1.drought tolerant
2.California native
3.mid size growth w/ simple maintenance needs
4.unique foliage/flower/fruit/habitat for garden specimen
5.greywater reclamation compatible **(noted w/ *)**

****Bambusa oldhamii***
Giant timber baboo

Brahea edulis
Guadalupe fan palm

Callistemon viminalis
Weeping bottlebrush

****Citrus* species**
Citrus varieties

Cordyline australis
Cabbage tree

****Eriobotrya deflexa/japonica***
Loquat/Bronze loquat

Garrya elliptica
Coast silk-tassel

Juniperus chinensis 'Torulosa'
Hollywood twisted juniper

Metrosideros excelsus
New Zealand christmas tree

Myrica californica
California wax myrtle

****Persea americana***
Avocado

Pinus thunbergii
Japanese black pine

****Plantanus racemosa***
California sycamore

Podocarpus gracilor
Fern pine

Podocarpus macrophyllus
Yew pine

****Populus fremontii***
Fremont cottonwood

****Prunus lyonii***
Catalina cherry

Quercus calliprinos
Palestine oak

Quercus chrysolepis
Canyon live oak

Quercus ilex
Holly oak

Quercus suber
Cork oak

Rhus lancea
African sumac

****Salix lasiolepis***
Arroyo willow

****Sequoia sempervirens***
Coast redwood

****Umbellularia californica***
California bay laurel

****Washingtonia filifera***
California fan palm

****Washingtonia robusta***
Mexican fan palm

AGENDA NO: D-4
MEETING DATE: September 13, 2010

Staff Report

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

FROM: **Andrea K. Lueker, City Manager**

SUBJECT: **Request to Approve a Response to the Grand Jury Regarding Solar Energy**

RECOMMENDATION

Staff recommends the City Council direct staff to send the attached letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports Entitled "To Go Solar or Not To Go Solar".

MOTION: I move the City Council authorize the Mayor to send the attached letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports Entitled "To Go Solar or Not To Go Solar".

FISCAL IMPACT

There is no fiscal impact in sending the response letter.

BACKGROUND

On June 22 2010, the City received a report prepared by the San Luis Obispo County Grand Jury entitled "To Go Solar or Not To Go Solar" (attachment A). The report makes the following findings:

1. The State mandate to obtain increasing amounts of energy from renewable sources is driving government agencies to investigate new sources.
2. Many government buildings, parking structures and schools are candidates for rooftop solar.
3. Carrizo installments would be beneficial to the county, in that they would provide significant revenue from property taxes, and contribute toward the renewable energy requirement for the county.
4. The first steps toward energy efficiency should start with retrofit of pre-1990 homes and buildings.
5. Outreach and support by the county for AB811 is essential to made retrofit and rooftop solar a viable option.

The report makes the following recommendations:

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

1. The County Board of Supervisors and City Councils of all the county's incorporated cities should actively promote and implement the AB811 retrofit and rooftop solar program.
2. The County Board of Supervisors and City Councils of all the county's incorporated cities should use the media to educate and encourage local residents and businesses to invest in solar power.
3. The County Board of Supervisors and City Councils of all the county's incorporated cities need to inventory all government building rooftops as potentials for solar installation.
4. The County Board of Supervisors should use grant funds to make AB811 projects more affordable (i.e. pay for audits or "buy down" interest rates).
5. The County Board of Supervisors should create a new position in the county to be responsible for all "Renewable Energy" programs.

The report specifically requires the Morro Bay City Council to submit a response to Findings #'s 2 & 4 and Recommendations #1, 2 & 3 to the Presiding Judge of the San Luis Obispo Superior Court by September 23, 2010.

DISCUSSION

The Grand Jury report originated from a perceived lack of information and direction in the county on the topic of "renewable energy, with the appearance that the county and surrounding cities are not utilizing the full potential of solar energy.

Under Penal Code Section 933.05, the City is required to indicate one of the following responses to the findings:

1. The respondent agrees with the finding; or
2. The respondent disagrees partially or wholly with the findings and why.

Furthermore, as to each Grand Jury recommendation, the responding party shall report one of the following actions:

a. The recommendation has been implemented, with a summary regarding the implemented actions.
b. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
c. The recommendation requires further analysis.
d. The recommendation will not be implemented because it is not warranted or is not reasonable and an explanation why.

Morro Bay, CA 93442
(805) 772-6200

September 7, 2010

Presiding Judge Charles S. Crandall
Superior Court of California
1050 Monterey Street
San Luis Obispo, CA 93408

Re: Grand Jury Report entitled "To Go Solar or Not To Go Solar"

Dear Judge Crandall:

On behalf of Council of the City of Morro Bay, thank you for the information provided by the Grand Jury in the report entitled "To Go Solar or Not To Go Solar". This report was presented and reviewed by the City Council at their meeting held on August 23, 2010. After carefully considering the report and its findings and recommendations, the City Council offers the following responses:

Findings:

Grand Jury Finding #2: Many government buildings, parking structures and schools are candidates for rooftop solar.

City Response: *The City Council agrees with this statement. Each government building, parking structure or school is unique in its own design; therefore, not all of the facilities would be a candidate for rooftop solar. The City of Morro Bay has multiple government buildings which are small in design, and therefore have a limited roof capacity. These buildings would benefit more from an energy efficiency retrofit than rooftop solar.*

Grand Jury Finding #4: The first steps towards energy efficiency should start with retrofit of pre-1990 homes and buildings.

***City Response*:** *The City Council agrees with this statement. One example: The Morro Bay Community Center, built and finished in 1989, was partial retrofitted with a solar array in 1999 and is currently under retrofitting for lighting, refrigeration, and Heating, Venting and Air Conditioning. Other City buildings built prior to 1990 include: City Hall, Harbor Office, Corporate Yard, Police station, Veteran's Memorial Building, Library. Each of these buildings would benefit from an energy retrofit*

Recommendations:

Grand Jury Recommendation #1: The County Board of Supervisors and City Councils of all the county's incorporated cities should actively promote and implement the AB811 retrofit and rooftop solar program.
City Response: *The City Council agrees with this recommendation and participates on the countywide steering committee for AB 811 including: advertizing and education program through the CaliforniaFIRST program. Furthermore, the City of Morro Bay City Council adopted Resolution No. 24-09 implementing the Green Building Incentive Program. This program provides a 100% building permit fee rebate to a maximum fee rebate $5,000 for on-site renewable energy system that produces a minimum of 75% of the annual energy use.*

Grand Jury Recommendation #2: The County Board of Supervisors and City Councils of all the county's incorporated cities should use the media to educate and encourage local residents and businesses to invest in solar power.
City Response: *As indicated under the City response to recommendation #1; The City Council agrees with this recommendation and participates on the countywide steering committee for AB 811 including: advertizing and education program through the CaliforniaFIRST program. Furthermore, the City of Morro Bay City Council adopted Resolution No. 24-09 implementing the Green Building Incentive Program. This program provides a 100% building permit fee rebate to a maximum fee rebate $5,000 for on-site renewable energy system that produces a minimum of 75% of the annual energy use.*

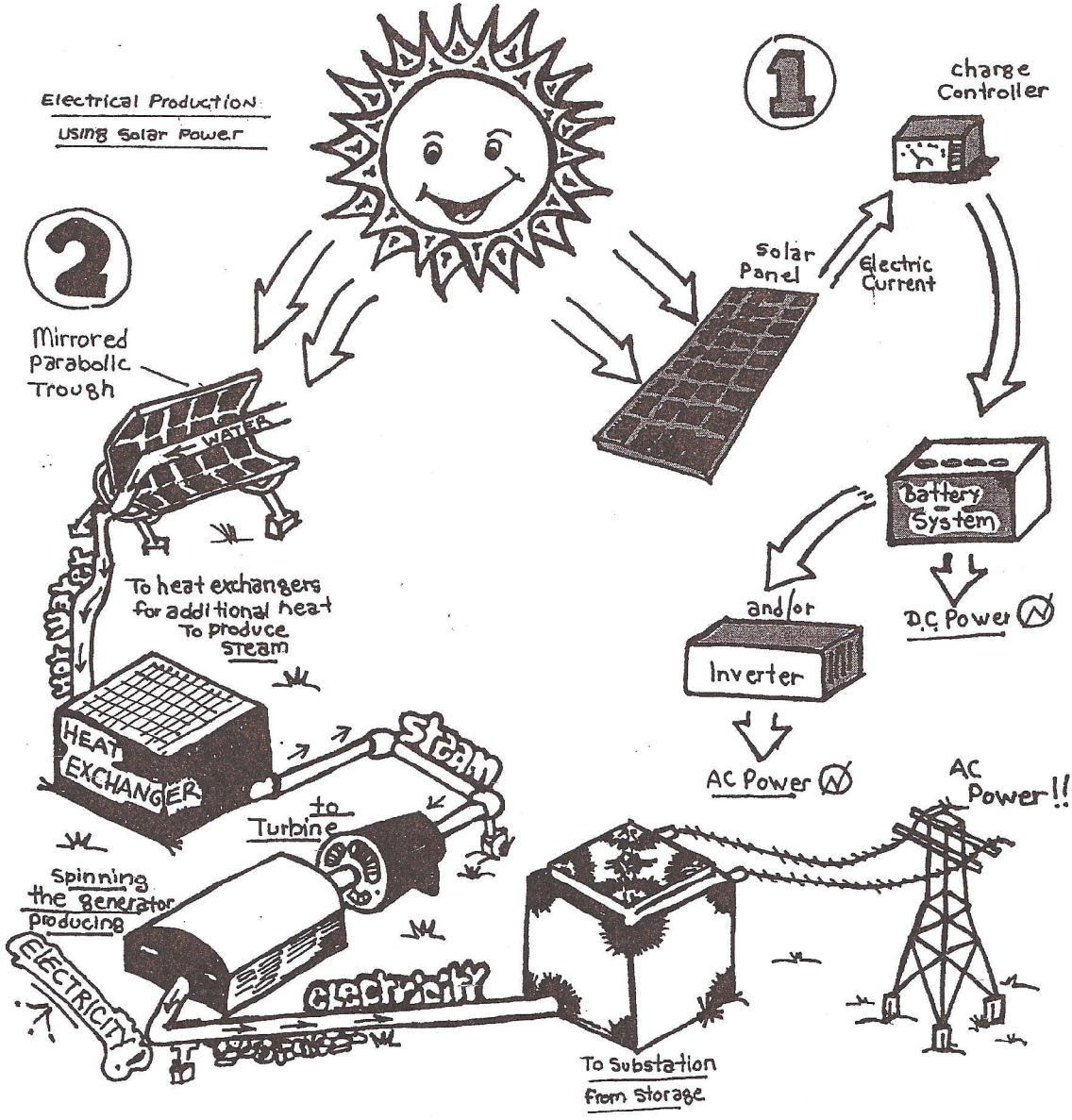
Grand Jury Recommendation #3: The County Board of Supervisors and City Councils of all the county's incorporated cities need to inventory all government building rooftops as potentials for solar installation.
City Response: *The City Council agrees with this recommendation and in fact, has inventoried its government building rooftops for potentials for solar installation and as funds become available staff will present that cost information to the City Council for determination. As indicated in the City Response to Finding #4, the Morro Bay Community Center, built and finished in 1989, was partial retrofitted in 1999 with a solar array and is currently under retrofitting for lighting, refrigeration, and Heating, Venting and Air Conditioning*

Please let the City know if you have any further questions or would like additional information.

Sincerely,

Janice Peters
Mayor

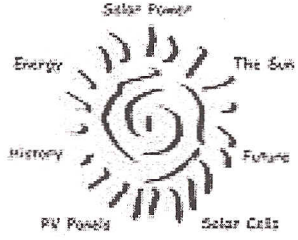
To "Go Solar"
Or
Not To "Go Solar"



TO "GO SOLAR"

OR

NOT TO "GO SOLAR"



SUMMARY

The many and varied incentives to "go solar" – from saving the planet to saving a buck – are being looked at by homeowners, utility companies and government agencies alike. Stimulated by the state's mandate to achieve the goal of obtaining 20% of our energy from renewable sources by 2010 and 33% by 2020, all parties are urgently looking at the alternatives.

- The homeowner has choices: for older homes, an energy audit will show the areas where improvements will reduce consumption by installing insulation, replacing single pane windows, replacing obsolete air conditioning and heat units and the like. A solar installation on a home with a suitable roof could produce enough energy to power the entire home.
- Commercial and government buildings have the same options for retrofit and rooftop solar.

- Government buildings, parking structures and schools with lots of roof surface are great candidates for rooftop solar.
- Utility companies face the challenge to find ways to obtain a greater percentage of the energy they sell from renewable sources. Hence, the interest from PG&E in the opportunity to obtain a large amount of renewable energy from the proposed Carrizo plains solar projects.

This report will examine the varied and complicated aspects involved in the decisions as to how the homeowner, the county and the utility companies will spend their energy and their money in the quest for renewable energy.

ORIGIN / PURPOSE

This report originated from a perceived lack of information and direction in the county on the topic of "renewable energy." In order to conform to the mandate from the state, we must make changes in all areas of energy usage: where energy is obtained, conservation of energy use and clean sources of energy. How can the individual citizen contribute to the effort? What programs are the civic leaders offering and supporting? What role does the utility company play?

To provide some perspective, consider the following:[1]

- Today, the total power consumption for all humans on earth is approximately 16 terawatts per year.
- In the year 2020, the demand is expected to grow to 20 terawatts annually.
- The power contained in the sunshine which strikes solid earth is estimated at 120,000 terawatts annually.
- From this perspective, energy from the sun is virtually unlimited.

[1] National Geographic Magazine, September 2009, quoting Eicke Weber, Director of the Fraunhofer Institute for Solar Energy Systems, Freiburg, Germany

- In 2008, renewable energy resources supplied about 7% of U.S. total energy consumption.
- In that same year, less than 1% of the nation's electricity was from solar power.

It would appear that we are not utilizing the full potential of solar power.

METHOD

The Grand Jury interviewed staff of County Government, a representative from PG&E and a local solar distributor / installer. Information was gathered from the Internet, newspaper articles (The Christian Science Monitor, The Tribune, Los Angeles Times, New York Times) and magazines including " The National Geographic Magazine," "Scientific American," "Smithsonian," "Scientific Daily," and "Science Magazine."

BACKGROUND

Explanation of terms

- **Watt** -- named after inventor James Watt (1736 – 1829), a Watt is the basic unit of electrical energy.
- **Kilowatt** (KW) – one thousand (1,000) Watts
- **Megawatt** (MW) – one million (1,000,000)Watts
- **Gigawatt** (GW) – one billion (1,000,000,000)Watts
- **Terawatt** (TW) – one trillion (1,000,000,000,000)Watts

History Lesson

In 1839, a scientist discovered that certain materials produced small amounts of electricity when exposed to sunlight. Photovoltaic (PV) is the word that describes converting sunlight to electricity. It took more than 100 years for the concept of electricity from sunlight to become more than just an experiment, and practical application lagged even further behind.

Over the years, there have been numerous programs, incentives and tax credit offers, by the White House and by the governor's office, with the hope of stimulating the public to "go solar". In 1979, President Jimmy Carter installed solar panels on the roof of the White House. In 2006, Governor Schwarzenegger approved the "California Solar Initiative" with the stated goal to put solar on a million roofs in the state by 2016. The Obama Administration has passed the "American Recovery and Reinvestment Act of 2009" which, so far in history, is the single largest investment for renewable energy and energy efficiency. Substantial new demand for solar power has been created due to the setting of national renewable electricity standards by the administration. For California, teeth were added when in 2009 a bill was passed which mandated that Californians would obtain 20% of their energy from renewable sources by 2010 and 33% by 2020. It would appear that the technology, interest, demand and necessity have been fully demonstrated. It is time to "walk the walk."

Around The World

Throughout the world, new incentives are being provided by governments for the development of solar energy.

Germany, a country fairly close to the Arctic Circle, now generates more than half the solar power in the world and in so doing, has made itself the world center for solar research, engineering, manufacturing and installation. Germany's PV capacity is more than 5 gigawatts and has created thousands of jobs in the process.

China has determined that clean-tech is going to be one of the next global industries and is now creating a massive domestic and export market for solar and wind energy.

One of the world's largest solar equipment producers, based in Silicon Valley, California, has built 14 solar panel factories worldwide in the last two years, and not one in the U.S. Five were built in Germany, four in China, one each in Spain, Italy, India, Taiwan and Abu Dhabi. The governments of these countries have put prerequisites in place for growing a renewable energy industry. One of the key provisions, common to most of these countries, is the provision that guarantees a reasonable payback - from the utility company to the property owner - for any excess energy which they produce. This provision works as a real incentive for property owners to make the financial commitment for rooftop solar.

NARRATIVE

Primary Issues

On May 11, 2010, the County Board of Supervisors adopted the Conservation and Open Space Element (COSE) latest update. That document consists of nine chapters including a chapter on Energy. The COSE is a comprehensive long-range planning policy document for utilization, preservation and management of natural resources and open space. The Energy chapter emphasizes the value of distributed power generation (also known as local power). The viability of generating sufficient levels of sustainable energy has become a source of debate. To this end, the County Board of Supervisors has been investigating methods to make energy retrofits of existing homes and businesses more economically viable to property owners. One financing approach that the board of supervisors has committed to participate in is the CaliforniaFIRST pilot program. (See next section on AB 811)

Another major issue is the review of, and approval for, the construction of large scale solar energy projects in the Carrizo Plains.

Assembly Bill 811 (AB 811)

In 2008, the California State Legislature passed AB 811 to enable voluntary property-based financing for energy-saving improvements. This legislation is intended to help overcome one of the major barriers to clean energy installations -- the upfront cost. Under AB 811, property owners can enter into a plan to finance the installation of rooftop solar, as well as other energy efficient improvements that are permanently fixed to the property (residential, commercial or industrial). The financial arrangements of AB 811 allow for property owners to obtain low-interest loans that would be repaid as an item on their property tax bill.

It is estimated that in 2009, photovoltaic (PV) panels dropped in price by approximately 15 %, but the initial cost for rooftop solar to homeowners can still be prohibitive. A local solar distributor / installer, interviewed by the Grand Jury, estimated that an average system for a single family home could cost up to $35,000. He also pointed out that the three most common ways to pay for such an installation are not necessarily attractive: home equity loan, line of credit or personal savings. The county is working to help solve the problem of the initial cost of a rooftop installation and costly upgrades to older homes by joining an AB 811 program called CaliforniaFIRST.[2] Funds for retrofitting the county's older homes (90,000 homes built prior to 1990)[3] and commercial buildings will be available through this program.

In 1978, Title 24 of the state's "Energy Efficiency Standards for Residential and Nonresidential Buildings" significantly increased the energy efficiency standards for both homes and commercial buildings. Older homes and commercial buildings can, however, be retrofitted to be even more energy efficient by improving insulation, replacing single pane windows, installing more efficient heating and air conditioning units and switching to light bulbs and fixtures that draw less energy.

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[2] CaliforniaFIRST is a statewide government coalition organized by the League of California Cities and the California State Association of Counties.

[3] Estimate by San Luis Obispo County Planning and Building Department

All improvements that are permanently fixed to the structure are eligible for the CaliforniaFIRST program. This includes the addition of a rooftop solar system.

It is important to note that the county would not have financial liability with the CaliforniaFIRST program, and would not need to issue bonds. The details of the program for county residents who are interested in applying for these loans are nearly complete and will be available to consumers by Fall of 2010. To qualify, the property owner will need to obtain an enery audit by a certified professional inspector which will indentify qualifying improvements. It is anticipated that loans under this program will carry an interest rate of 7 – 7.5% and will have a term of 10 to 20 years. The payments would be attached to the property tax bill. Grant Funds from a State Energy Program will be used to buy down the interest rate to make the loan more attractive and affordable for the property owner.[4] If the property is sold before the loan is paid off, the buyer will continue paying off the balance of the loan on the property tax bill.

Large Scale Projects

Currently, the county is looking at applications from two private companies desiring permits to build and operate solar energy producing installations in the California Valley (better known locally as the Carrizo Plains). The combined output will be 800 MW and the facilities could be operating in 2012 or 2013. The environmental issues are many. The job and property tax revenue potential are important considerations. When considering these projects, the enormous amount of sustainable, renewable energy that would be produced must be balanced against environmental concerns.

The Good News:

The two projects are located in California Valley, a remote area in the southeast corner of San Luis Obispo County. Together the projects will cover 6,100 acres on both sides of Highway 58. Both are in the planning process and both hope to begin construction by the end of 2010. Topaz Solar

[4] June 10, 2009 – SLOCOG Staff Report

Farm (owned by First Solar) will utilize static photovoltaic (PV) panels facing south and will produce 550 megawatts of power. California Valley Solar Ranch (owned by Sun Power) will use PV panels that rotate to track the sun's movement, and will generate 250 megawatts of power. The latter project is not adjacent to existing transmission lines so 2.5 miles of new transmission lines must be built. The height of the panels varies from 5 feet for the static panels to 15 feet high for the tracking panels.

PG&E has contracted to buy the total output of electricity from the projects – 800 Megawatts, but does not have ownership or financial investment in the construction of the installations. Currently, solar energy is one of their least cost effective methods of producing renewable energy and accounts for less than 1% of the energy sold by PG&E. However, due to improved technology in recent years, PG&E is now seeing solar energy being offered at competitive prices.[5] Combined with the State's mandate for utility companies to obtain from renewable sources 20% of the energy by 2010 and 33% by 2020, the timing is right for great expansion of the solar industry.

The Bad News:

The need for clean, renewable energy is clear. However, the proposed solar projects do not meet with approval from all sectors. The California Valley is considered to be both an ideal location and a poor choice for large scale solar operations.

The county's land use document specifically identifies Carrizo Plain as a suitable location for a large scale solar facility. The area gets near continuous sunshine, is sparsely populated and the agricultural value of the land is considered marginal. Infrastructure in the way of roads and existing transmission lines already exists. Jobs would be created. Additional property tax income to the county would be significant.

[5] Provided by an authorized PG&E representative

On the other hand, some private citizens and environmental groups such as the Sierra Club[6] have voiced objection to the proposed projects. Biologists have surveyed the area and have identified some 70 rare and potentially endangered animals said to be living there, including kit foxes, coast horned lizards, the San Joaquin Coachwhip snake and kangaroo rats, to name a few. The area is the last of the native California grasslands. The grassland is so ecologically valuable that President Clinton established the Carrizo Plain National Monument in the year 2000. The National Monument encompasses almost 250,000 acres. The proposed new solar plants will cover 6,100 acres and are not within the boundaries, but are adjacent to, the National Monument. Because of the potential impact on the wildlife, the State Energy Commission has hired a consulting firm to perform a study that will provide information to explore the issue. In addition, the people who live in the valley and who moved there for its beauty and tranquility may be impacted by construction noise, visual elements and traffic.

Another argument suggests that if locally generated energy (rooftop solar) was properly promoted and supported by local government, there would be no need for large utility-scale power plants. Depending on whom you listen to and where you read it, "distributed energy" (rooftop solar) could produce all the energy requirements that California needs to achieve its goal of 33% renewable by 2020. And, as a bonus, reduce energy prices, eliminate environmental impacts and create jobs.

Underlying Issues:

Assembly Bill 920 (AB 920)

In 2009, California lawmakers voted to establish "payback" for excess energy produced by homeowners' rooftop solar installations. Prior to this decision (AB920), local utilities followed "net metering rules" which gave homeowners a credit on their monthly bill that could be used to offset higher energy consumption at other times of the year, but at the end of the year, any leftover credits were zeroed out. AB920 requires utility companies to either directly pay homeowners for

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[6] Santa Lucian - The official newsletter of the Santa Lucia Chapter of the Sierra Club – May, 2010

this excess energy, or they may roll the credit over to the next year. Rates will be determined by the California Public Utilities Commission, and likely will be below retail. While the compensation to the homeowner will probably not be a significant amount of money, any excess energy which is produced will offset the upfront cost of the homeowner's solar equipment and will no longer be "given away" only to be resold by the utility company.

Cost of installation

While the number of new rooftop solar installations has increased over the last several years, the total number of solar installations remains relatively small in this county, as well as nationwide, and private industry has not been inspired to invest a great amount in advertising or research and development. A new technology called "Thin-Film" solar is on the rapid rise and could revise current thinking. Thin-Film solar modules are less efficient at converting sunlight to electricity than traditional crystalline modules – which are made from silicon wafers – but they can be produced at a significantly lower cost and because of their flexibility greatly simplify the process of installation – another major cost savings.

Potential Market Opportunity

There are approximately 114,000 single family homes in San Luis Obispo County. County planning department statistics indicate that in 2009, 214 applications were received for solar installations. In 2008 there were only 167 applications. With 114,000 potential rooftops[7], clearly solar energy is not being fully utilized.

CONCLUSION

The local governments of San Luis Obispo County could find great advantages in cooperating on an aggressive solar power initiative. Sunlight is abundant, particularly in the northern and inland reaches of the county. Investment now in solar facilities for public buildings could pay dividends

[7] County planning department estimate

for years. Funds and incentives are being made available to encourage individual homeowners to install rooftop solar. The creative mindset of local business leaders has been successful in taking advantage of the growing interest locally, nationally and worldwide in so-called "green jobs."

It's time for cities to join the county in leading this effort. So far, the path has been outlined at the county level but more commitment remains elusive. It is difficult to dispute that any solar development that is economically feasible will produce major job and economic benefits. The environmental problems with the installations on the Carrizo Plains may be able to be mitigated. Certainly compromise could help on both sides of that argument. A county effort to "buy down" the cost of rooftop installations would pay off in jobs and very possibly in future energy savings for taxpayers as a whole.

In summary, the Grand Jury believes it is time to take advantage of our assets:

- Our local geography – lots of sunshine
- Our talented work force that is searching for opportunities in the face of a difficult economic climate statewide
- Federal and state government interest typified by the American Recovery and Reinvestment Act of 2009, AB 811, CaliforniaFIRST and AB 920
- The current recognition nationwide of the need for reduction of our dependence on fossil fuel emphasized by the Gulf of Mexico oil spill of April 10, 2010

To make these gains locally will take a lot more than talk, however. Bold leadership is a must. That may well require that the county establish a new leadership position to oversee all the programs, grants and opportunities that are available in order to maximize the county's position.

FINDINGS

1. The State mandate to obtain increasing amounts of energy from renewable sources is driving government agencies to investigate new sources.

2. Many government buildings, parking structures and schools are candidates for rooftop solar.

3. The Carrizo installations would be beneficial to the county, in that they would provide significant revenue from property taxes, and contribute toward the renewable energy requirement for the county.

4. The first steps toward energy efficiency should start with retrofit of pre-1990 homes and buildings.

5. Outreach and support by the county for AB 811 is essential to make retrofit and rooftop solar a viable option.

RECOMMENDATIONS

1. The County Board of Supervisors and City Councils of all the county's incorporated cities should actively promote and implement the AB 811 retrofit and rooftop solar program.

2. The County Board of Supervisors and City Councils of all the county's incorporated cities should use the media to educate and encourage local residents and businesses to invest in solar power.

3. The County Board of Supervisors and City Councils of all the county's incorporated cities need to inventory all government building rooftops as potentials for solar installation.

4. The County Board of Supervisors should use grant funds to make AB 811 projects more affordable (i.e. pay for audits or "buy down" interest rates).

5. The County Board of Supervisors should create a new position in the county to be responsible for all "Renewable Energy" programs.

REQUIRED RESPONSES

The County Board of Supervisors is required to respond to Findings 2, 4 & 5 and Recommendations 1 - 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of Arroyo Grande is required to respond to Findings 2 & 4 and Recommendations 1 - 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of Atascadero is required to respond to Finding 2 & 4 and Recommendation 1 – 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of Grover Beach is required to respond to Findings 2 & 4 and Recommendations 1 - 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of Morro Bay is required to respond to Findings 2 & 4 and Recommendations 1 - 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of Paso Robles is required to respond to Findings 2 & 4 and Recommendations 1 - 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of Pismo Beach is required to respond to Finding 2 & 4 and Recommendations 1 - 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The City of San Luis Obispo is required to respond to Findings 2 & 4 and Recommendations 1 - 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

Presiding Judge	**Grand Jury**
Presiding Judge Charles S. Crandall Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

AGENDA NO: D-5

MEETING DATE: September 13, 2010

Staff Report

TO: **Mayor and Councilmembers** **DATE: September 7, 2010**

FROM: **Kathleen Wold, Planning Manager**

SUBJECT: Authorization for the City of Morro Bay to Act as the Lead Applicant for the Joint Sustainable Communities Planning Grant (Proposition 84) for the grant application entitled "Small Cities of San Luis Obispo County Climate Action Plan".

RECOMMENDATION:

It is recommended that the City Council adopt Resolution 44-10 authorizing the City of Morro Bay to act as the lead agency for the Joint Sustainable Communities Planning Grant for the grant application entitled "Small Cities of San Luis Obispo County Climate Action Plan".

MOTION:

I move that the City Council adopt Resolution 44-10 authorizing the City of Morro Bay to act as the lead applicant for the Joint Sustainable Communities Planning Grant for the grant application entitled "Small Cities of San Luis Obispo County Climate Action Plan"

FISCAL IMPACT:

There would be no direct fiscal impacts associated with this action. However, if the grant were to be awarded it would provide funds outside the City's General Fund to complete the City's Climate Action Plan.

SUMMARY:

Through Proposition 84 and the State's Strategic Growth Council grant funds are available for a variety of local sustainable planning projects. In a cooperative effort the cities of Arroyo Grande, Atascadero, Grover Beach, Paso Robles, Pismo Beach and Morro Bay have developed a proposal entitled "SMALL CITIES OF SAN LUIS OBISPO COUNTY CLIMATE ACTION PLAN". The scope of the work includes developing a model Climate Action Plan toolbox, developing a CAP for each city tailored to their individual issues, developing and conducting a regional public engagement program and developing model General Plan amendment policies.

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

DISCUSSION:
The State has established mandates to meet specific targets to reduce green house gas (GHG) emissions by 2020 and 2050. To support these reduction targets the California legislature adopted assembly Bill 32 (AB32), which requires local agencies to ultimately meet State GHG reduction goals. SLO county and all the cities within the county have either completed or are in the final stages of completing their Green House Gas inventories. After completion of the inventory each city is required to develop a plan with specific actions on how to achieve the State's GHG reduction requirements. A climate Action Plan is a planning toll used by local agencies to develop targets and actions that are consistent with State law while incorporating local circumstances, resources and their sources of emissions. The smaller cities within the county have agreed to form a partnership to prepare a collaborative Climate Action Plan and to submit for grant funds for this project under proposition 84. This grant will not only address the reduction targets but will also inform the City on other means to reduce emission that will be the most effective in terms of coast, return on investment, and local acceptance.

The County and city of San Luis Obispo will not be co-applicants because those agencies already received formula" economic stimulus" funds available to larger jurisdictions, and they are already developing their own Climate Action Plans. The small cities within SLO county did not have the same resources available yet are still responsible to meet the same mandates. This grant opportunity, if awarded, will provide the means to collectively prepare their CAPs.

The grant application guidelines indicate that collaborative, regional applications will have a competitive edge and thus all the small cities agreed to utilize a collaborative approach. However, one city does need to step forward and become the applicant for the application. The group has requested that the City of Morro Bay take this role. Originally the City of Paso Robles had offered to accept this responsibility but just recently they found out that taking the applicant role for this application affected their ability to apply for a grant for the Salinas River Master Plan. It was after Paso Robles stepped down as applicant that Morro Bay was asked to step up. Assuming this role would mean additional efforts to monitor the project to ensure that the money is utilized correctly and the project completes on time. Additional funds to assist Morro Bay in this endeavor are already factored into the grant request. Because there are additional funds available to the applicant of this grant the city could chose to subcontract their oversight responsibilities to a consultant. However, since the group has a very strong collaborative working relationship it is not anticipated that these duties will require much effort. It should be noted that due to the late date that Paso Robles declined the applicant status the application was submitted with Morro Bay as the applicant. City staff agreed to allow the City to be the applicant based on the Council's dedication to the environment and their proactive stance which encourages the city to pursue activities which further the "greening" of the community. However, ultimately the Council does need to approved the city as the applicant via a resolution.

No specific monetary match is required to qualify for these grants, however it is anticipated that in-kind staff time would be needed to carry these projects forward if they are awarded and the City pursues them.

CONCLUSION:

In recognition of the City's continued efforts to support activities which encourage compliance with AB32, the City Council by resolution shall authorize the City of Morro Bay to Act as the Lead Applicant for the Joint Sustainable Communities Planning Grant (Proposition 84) for the grant application entitled "Small Cities of San Luis Obispo County Climate Action Plan".

RESOLUTION NO: 44-10

RESOLUTION OF THE CITY COUNCIL BY THE CITY OF MORRO BAY, CALIFORNIA APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE SUSTAINABLE COMMUNITIES PLANNING GRANT AND INCENTIVES PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84)

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the Strategic Growth Council has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the Strategic Growth Council require a resolution certifying the approval of application(s) by the Applicants governing board before submission of said application(s) to the State; and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the development of the proposal.

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

1. Approve the filing of an application for the Small Cities of San Luis Obispo County Climate Action Plan in order to become a sustainable community;

2. Certifies that the City of Morro Bay understands the assurances and certification in the application, and

3. Certifies that the City of Morro Bay will have sufficient funds to develop the Proposal or will secure the resources to do so, and

4. Certifies that the Proposal will comply with any applicable laws and regulations.

5. Appoints the City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

PASSED AND ADOPTED by the Morro Bay City Council at a regular meeting thereof held on the 13th day of September, 2010 by the following vote:

AYES:
NOES:
ABSENT:

_____
JANICE PETERS, Mayor

ATTEST:

_____
BRIDGETT KESSLING, City Clerk

AGENDA NO: D-6

MEETING DATE: September 13, 2010

Staff Report

TO: **Honorable Mayor and Council** **DATE: August 30, 2010**

FROM: **Rob Schultz, City Attorney**
Andrea Lueker, City Manager

SUBJECT: **Discussion on Amending Council Policies and Procedures in Regard to Calling Closed Session; to all Real Property Contracts Going to Closed Session Prior to Open Session; in Regard to Council Liaisons to Advisory Boards; and, in Regard to City Council Input on Hiring and Evaluation of Department Heads**

RECOMMENDATION:

Direct staff to return to the City Council with a resolution amending the Council Policies and Procedures Manual in regard to calling closed session; to all real property contracts going to closed session prior to open session; in regard to Council liaisons to Advisory Boards; and, in regard to City Council input on hiring and evaluation of Department Heads.

> **MOTION: I move that the City Council direct Staff to return to the City Council with a resolution amending the Council Policies and Procedures Manual in regard to calling closed session, real property contracts going to closed session prior to open session, in regard to Council liaisons to Advisory Boards, and City Council input on hiring and evaluation of Department Heads.**

FISCAL IMPACT:

Not applicable.

DISCUSSION:

The City Council asked staff to provide a report on adding to and amending sections of the Council Policies and Procedures Manual regarding calling closed session, real property contracts going to closed session prior to open session, Council appointments to advisory boards and City Council input on hiring and evaluation of Department Heads. Staff provides the following input:

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

Calling Closed Session

1.3.10 CLOSED SESSION MEETINGS (closed to the public)

1.3.10.1 Closed Session Meetings may be called by the majority of the Council and are regulated pursuant to the Brown Act. The most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the City or compromise the privacy interests of employees. Closed sessions should be conducted keeping those narrow purposes in mind.

Real Property Transactions

4.2.8 CLOSED SESSIONS MAY BE HELD TO DISCUSS:

4.2.8.1 Real Property. The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session. (GC ¤ 54956.8). Prior to any final closed session on Real Property, Council will be provided with a copy of the draft agreement.

Council Liaisons to Advisory Boards

6.2 OTHER COUNCIL REPRESENTATION, SUBCOMMITTEES

6.2.1 COUNCIL LIAISON ASSIGNMENTS

The Mayor shall have discretion to assign individual Members of Council to a liaison role with Community organizations or events. At the Mayor's discretion, an additional Council Member can be appointed for each such liaison assignment A Council liaison shall be assigned 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.

The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members may elect to attend commission meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission chair on a regular basis.

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

6.3.3 COUNCIL MEETINGS

6.3.3.1 Members of an advisory board are free to appear and give testimony before Council using the public microphone, after identifying whether they are speaking as a representative of the advisory board or as a private citizen.

6.3.3.2 Reports to Council must be in written form.

6.3.3.3 Advisory boards will provide quarterly reports to the City Council on a rotating member basis.

Council Input on Hiring Department Heads
The Morro Bay Municipal Code section 2.12.090 provides the following:

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 attorney, subject to the provisions of Chapter 2.32 and resolutions, rules and regulations adopted pursuant thereto.

However, in the past there has been City Council input in both the hiring of Department Heads and evaluations of Department Heads. Staff presents the following verbiage for inclusion in the Council Policies and procedures:

5.5 INPUT ON HIRING AND EVLUATION OF DEPARTMENT HEADS

5.5.1 HIRING

In an outside recruitment situation where the City Manager is hiring a Department Head, the City Council, as a group will be invited to an informal social setting, such as lunch, to meet the top candidates for the position. Following the event, Council members will provide the City Manager with any comments regarding the candidates prior to the final decision of the City Manager.

In an internal recruitment situation, the City Manager will provide the hiring plan to the City Council in a closed session, and Council members will have an opportunity for comments, prior to final hiring.

5.5.2 INPUT ON EVALUATION OF DEPARTMENT HEADS

Prior to the City Manager's completion of the annual evaluation of each Department Head (usually in December of each year), the City Council will be asked to submit in writing any comments they would like the City Manager to consider in regard to the performance of the Department Head.

AGENDA NO: D-7
MEETING DATE: 9/13/10

Council Report

TO: **MAYOR AND CITY COUNCIL** **DATE: MAY 20, 2010**

FROM: **COUNCILMEMBER WINHOLTZ**

SUBJECT: **LETTER REGARDING THE REGISTRATION FEE TO ATTEND THE LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING**

RECOMMENDATION:
Council to discuss and approve or amend the attached draft letter.

FISCAL IMPACT: None.

BACKGROUND:
The California League of Cities holds its annual business meeting at the end of its annual conference each September. The annual business meeting is an opportunity for cities to vote on resolutions that form policy. To attend the annual meeting and participate in voting, a city's designated voter must pay to attend at least the last day of the conference. The fee to vote should be eliminated or greatly reduced.

DISCUSSION:
According to the League's website regarding the annual conference resolutions process, "Policy development is a key part of the League's legislative effectiveness. The League's Annual Conference Resolutions process is one way that city officials can directly participate in the development of League policy." However, in order for a city to be present, participate, and vote, its designated voter must register for at least one day of the conference. The fee to attend one day of the conference this year is $250. In essence, a city must pay in order to vote within an organization to which it already belongs.

No doubt the fee is to encourage conference participation. No doubt there are costs associated with holding the business meeting, i.e. room rental fees. However, the amount is excessive, and may be prohibitive (in these financial tight times) for cities who might otherwise want to have a vote on issues that affect them, particularly those cities in the vicinity of the conference.

I suggest sending the attached letter or one similar, to the County Mayors monthly meeting for discussion. If it is received favorably, then a similar letter or resolution should be sent onto the Division to be discussed at a quarterly meeting.

CONCLUSION:
The Council should decide if it supports lowering or eliminating the fee to attend the annual League of California Cities business meeting.

City of Morro Bay

Morro Bay, CA 93442

(805) 772-6200

September 14, 2010

Dear Mayors:

The City Council of the City of Morro Bay requests you agendize for discussion a recommendation to our Division of the League of California Cities. The recommendation is that the designated voting member from a city is not required to pay the registration fee for the annual conference to vote at the annual business meeting.

Currently, in order for a city's designated member to vote on League resolutions, s/he must pay a minimum of one day's conference fee to attend the annual business meeting. This year's one-day fee is $250 for a city official.

If, as part of your discussion, you feel a minimal fee to cover costs, i.e. room rental fees, should be charged and not absorbed by the conference, then the fee should be lowered to cover costs only. Lowering or eliminating the pay-to-vote-fee benefits all cities. In particular, it may encourage greater participation from cities in the vicinity of the annual conference to be involved in League policy formation.

Sincerely,