

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 – TUESDAY, MARCH 22, 2011

**CLOSED SESSION – TUESDAY, MARCH 22, 2011
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.

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

**PUBLIC SESSION – TUESDAY, MARCH 22, 2011
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 24 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 CITY COUNCIL MINUTES FOR REGULAR MEETINGS OF FEBRUARY 22, 2011 AND MARCH 8, 2011, AND THE SPECIAL MEETING OF MARCH 15, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 23-11 AUTHORIZING HINDERLITER, DE LLAMAS & ASSOCIATES (HDL COMPANIES) TO RETAIN COUNSEL TO INTERVENE IN THE CASES OF *CITY OF BRISBANE, ET AL, V. CALIFORNIA STATE BOARD OF EQUALIZATION (BOE) AND DOES 1-500*, AND TO REPRESENT THE CITY OF MORRO BAY'S INTERESTS IN THESE CASES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 23-11, and direct the City Manager to complete HdL Companies' form *Authorization – Motion to Intervene*.

A-3 AUTHORIZATION TO PURSUE CALTRANS TRANSPORTATION PLANNING GRANT FOR A COMPLETE STREETS/GREEN STREET PROGRAM; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution 22-11 authorizing the Public Services Director to pursue the application for a Transportation Planning Grant and to act as the City's representative in administration of the Grant if the application is successful.

A-4 PROCLAMATION DECLARING APRIL 2011 AS "MONTH OF THE CHILD" AND "CHILD ABUSE PREVENTION MONTH" AND APRIL 9, 2011 AS "DAY OF THE CHILD"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-5 PROCLAMATION DECLARING APRIL 2011 AS "FAIR HOUSING MONTH"; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES – NONE.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 REVIEW AND DISCUSSION OF MORRO BAY MUNICIPAL CODE 17.48.320 REGARDING SECONDARY DWELLING UNITS; (CITY ATTORNEY)

RECOMMENDATION: Direct staff on whether to draft changes to the current *Secondary Dwelling Unit Ordinance*.

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.

AGENDA NO:	A-1
MEETING DATE:	03/22/11

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Yates called the meeting to order at 6:30 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	Deputy City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
Joe Woods	Recreation & Parks Director	

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
CLOSED SESSION REPORT – there was no Closed Session report.

PUBLIC COMMENT

Mimi Kalin, representing the San Luis Obispo County Grand Jury referred to Item A-7 (Proclamation Declaring February 2011 as "Grand Jury Awareness Month") and thanked the City Council for placing this Proclamation on the agenda to raise awareness about the Grand Jury. She reviewed the duties of the Grand Jury and noted the deadline to apply for a seat on next year's Grand Jury is March 18, 2011.

The following people spoke on the City's Wastewater Treatment Plant upgrade project and the California Coastal Commission's response to the appeal on this project: Jack McCurdy, David Nelson, Richard Sadowski, and Richard Margesten.

Barbara Doerr addressed Item A-2 (Resolution No. 14-11 Adopting Memorandum of Understanding with the Morro Bay Police Officers Association) and requested clarification on compensation to the POA. She stated it seems better to directly provide pay increases rather than approve somewhat hidden monetary benefits.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

Ms. Doerr also addressed Item A-5 (Authorization for Attendance at the C-MANC Annual Washington D.C. Meeting) stating she reviewed the City’s budget and could not find its travel policy for City staff and elected officials; she requested the budget provide more detail. She recommended the City eliminate funding for travel and provide improved City services.

Joan Solu, representing the Morro Bay Community Foundation, announced the 22nd Annual Dixon’s Spaghetti Feed Dinner Fundraiser will be held on Friday, March 25th. She also referred to Item D-1 (Approve Partnership with Morro Bay Community Foundation to Sell Trolley Advertising for the 2011 Season and Amend Master Fee Schedule) stating the partnership with the Community Foundation would be very beneficial to the City. Ms. Solu stated Del Mar Elementary School, the only elementary school in the City, has been acknowledged as a California Distinguished School.

Marla Jo Bruton addressed Item A-5 and queried the Council regarding an out of state trip to visit medical marijuana dispensaries. She also referred to the last Morro Bay/Cayucos JPA meeting and the discussion regarding a proposal to hire a lobbyist, and that Mayor Yates and Robert Enns would converse with the staff of the lobbyist and present a report to the public. She said she finds this to be a blurry line in the Brown Act as far as elected officials becoming involved in staff’s business. Ms. Bruton referred to Item D-2 (Approval to Send Letter to the City Selection Committee Recommending the Selection of Mary Ann Reiss as the Nominee for Appointment to the California Coastal Commission) and asked how the determination was made for the recommended appointment.

Keith Taylor, Friend of the Fire Department, gave an update on Phase 2 of the Fire Department renovations.

Virginia Hiramatsu, representing Relay for Life, announced the team fundraiser for Relay for Life will be a Bunco “Against Cancer” Party held on March 16th at 6:00 p.m. at St. Timothy’s Church; there will be a Community Kick-Off on March 24th at 6:00 p.m. at the Embarcadero Grill; and the 3rd Annual Relay for Life event is the first weekend in August at Morro Bay High School.

Craig Schmidt, CEO for the Morro Bay Chamber of Commerce, announced the Chamber of Commerce Chili Cook-Off and Beer Fest will be held on Saturday, March 12th from noon – 5:00 p.m. at the Morro Bay Community Center.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

Janice Peters stated working with the California Coastal Commission is a process of education, information and negotiations and a lobbyist for the City comes in helpful for the City when staff is not available to attend meetings. She also addressed Item D-2 and expressed her support for the appointment of Mary Ann Reiss to the Coastal Commission. Ms. Peters also announced Fundraiser Follies “Divas & Crooners” would be held this weekend, February 26 & 27, doors open at 6:30 p.m. at the Morro Bay Community Center.

Dan Glesmann addressed Item A-2 stating as a responsible employer, the City has a duty to partner with its current employees to develop and provide for sustainable pensions; in turn the City Council also has a responsibility to its citizens to develop and maintain sustainable budgets in order to deliver vital public services. He said at this time the largest threat to a sustainable budget is the escalating employee benefit costs. Mr. Glesmann stated the request in the Memorandum of Understanding with the Police Officers Association represents a need to increase by an uncertain amount with no economic concessions in return.

Garry Johnson stated he attended the Coastal Commission meeting when they reviewed the City’s boardwalk, and he felt the Commission was disrespectful to those who addressed them. He also noted there was disrespect shown by a member of the public who was not in favor of the boardwalk.

Anne Reeves asked if the Council meetings are going to become a platform to land blast people.

Gary Hixson stated he has the Gary Hixson Show which airs three days per week.

Mayor Yates closed the hearing for public comment.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR REGULAR MEETING OF
FEBRUARY 8, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

A-2 RESOLUTION NO. 14-11 ADOPTING MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY POLICE OFFICERS ASSOCIATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: This item was pulled from the agenda.

A-3 RESOLUTION NO. 15-11 AUTHORIZING THE EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: This item was pulled from the agenda.

A-4 RESOLUTION RECOGNIZING THE MONTEREY CYPRESS AS THE OFFICIAL CITY TREE; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 18-11.

A-5 AUTHORIZATION FOR ATTENDANCE AT THE C-MANC ANNUAL WASHINGTON D.C. MEETING; (HARBOR)

RECOMMENDATION: Approve authorization for a two-person delegation to attend the California Marine Affairs and Navigation Conference Washington Week meetings scheduled for March 22 - March 24, 2011.

A-6 ADOPT RESOLUTION NO. 16-11 APPROVING SUBMISSION OF PROPOSITION 1B PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT AND SERVICE ENHANCEMENT ACCOUNT GRANT APPLICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 16-11.

A-7 PROCLAMATION DECLARING FEBRUARY 2011 AS "GRAND JURY AWARENESS MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Johnson pulled Item A-6 from the Consent Calendar.

MOTION: Councilmember Johnson moved the City Council approve Items A-1, A-4 A-5 and A-7 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

A-6 ADOPT RESOLUTION NO. 16-11 APPROVING SUBMISSION OF PROPOSITION 1B PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT AND SERVICE ENHANCEMENT ACCOUNT GRANT APPLICATION; (PUBLIC SERVICES)

Councilmember Johnson requested clarification regarding the fiscal impact noted in the staff report.

Management Analyst Janeen Burlingame responded there is no cost to the application process of the grant; she noted costs will come later in the process of the project.

Councilmember Johnson clarified that this approval is for the grant application only.

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPROVAL OF RESOLUTION 17-11 DESIGNATING \$500,000 IN PARKING IN-LIEU FUNDS FOR FORTY (40) PARKING SPACES AT 714 EMBARCADERO; (CITY ATTORNEY)

City Attorney Robert Schultz stated parking-in-lieu fees were established and codified as Morro Bay Municipal Code Section 17.44.020(a7), as a means through which public parking can be provided where it is unfeasible to provide such parking as part of on-site development projects. In 2001, the City purchased the property located at the northeast corner of Market Avenue and Pacific Street for \$500,000 using parking-in-lieu funds. The property at the northeast corner of Market Avenue and Pacific Street provided the City with 40 public parking spaces. In 2002, the City purchased the property located at 714 Embarcadero which currently provides the City with 60 parking spaces. The funds for this purchase, however, were not taken from the parking-in-lieu fund since the City was not sure ultimately what the long term use for this property would be. In 2009, the City Council determined that the property at the northeast corner of Market Avenue and Pacific Street was underutilized because of its location away from the Embarcadero and Downtown area and has recently sold the property. Now that the property at the corner of Pacific and Market has been sold, it is necessary to designate a project for the use of the \$500,000 in-lieu parking fee fund consistent with the requirements of said Section 17.44.020 A7 and Government Code Section 66001(d). Since the property located at 714 Embarcadero was purchased using general funds and currently provides the City with 60 parking spaces that are unencumbered by the parking in-lieu fund, the City can designate 40 parking spaces at 714 Embarcadero as a project for parking in-lieu funds.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

Mr. Schultz recommended the City Council adopt Resolution No. 17-11 designating \$500,000 in parking-in-lieu funds for 40 parking spaces at 714 Embarcadero.

Mayor Yates opened the hearing for public comment.

Barbara Doerr suggested using these funds for needed parking in the City.

Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 17-11 designating \$500,000 in parking-in-lieu funds for 40 parking spaces at 714 Embarcadero; and, direct staff to return with a resolution with a payment schedule for the proceeds of the sale of the Market/Pacific Street properties with Council's managerial policy for those funds. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

C. UNFINISHED BUSINESS

C-1 UPDATE ON MORRO BAY TRANSIT AND APPROVE REVISING CALL-A-RIDE ELIGIBILITY POLICY; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated due to repeated cuts from the State in Transportation Development Act (TDA) funds over the past several fiscal years, resulting in not having enough TDA funds to continue operating Dial-a-Ride, the Council, after several hearings to discuss what type of local transit service could be provided with the State funding allocated to the City, approved changing to a flex fixed route (Morro Bay Transit) effective July 1, 2010. The flex fixed route is a combination fixed route and curb-to-curb (CAR) service that deviates off the fixed route to pick up/drop off passengers who have scheduled a trip before returning on route to the next fixed route stop. Morro Bay Transit fixed route and CAR service has been in operation for almost 8 months with 7 months of ridership data available for review. For the period July 1, 2010 through January 31, 2011, total ridership was 7,212 with average daily ridership being 50 riders per day and the average riders per vehicle service hour being 5 riders per hour. Fixed route trips made up 90% of total Morro Bay Transit trips with CAR making up the other 10%. Ms. Burlingame recommended the City Council receive this update, and approve revising the Call-A-Ride eligibility policy to include all members of the general public, effective February 23, 2011.

MOTION: Councilmember Smukler moved the City Council approve revising the Call-a-Ride eligibility policy to include all members of the general public, effective February 23, 2011; and, direct staff to return with the final transit efficiency group results for Council evaluation and action. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

Mayor Yates called for a break at 8:10 p.m.; the meeting resumed at 8:20 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

D. NEW BUSINESS

D-1 APPROVE PARTNERSHIP WITH MORRO BAY COMMUNITY FOUNDATION TO SELL TROLLEY ADVERTISING FOR THE 2011 SEASON AND AMEND MASTER FEE SCHEDULE; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated the City received a proposal from the Morro Bay Community Foundation (MBCF) to form a partnership to sell trolley advertising for the 2011 season. Over the years, the trolley advertising program has been managed by a combination of City, Chamber of Commerce and MV Transportation staff. At different times, the City had partnerships with the Chamber of Commerce and MV Transportation to garner advertisers for the trolley with the revenue generated split evenly between the City and the agency involved with managing the advertising program. Other work-related commitments limited the effectiveness of being able to sell all advertising spaces available on the trolleys and management of the advertising program eventually came back to City staff that also had other commitments that limited the ability to sell all spaces. The result has been the loss of potential revenue to the trolley program that could be used to offset general fund expenditures for operations. Staff believes the proposal from the MBCF offers a more effective way to sell trolley advertising spaces than has been done in the past due to the incentive for the MBCF to actively pursue the sale of all spaces to generate more revenue for the organization to further their mission to assist children from financially challenged families to participate in recreation programs offered by the Recreation and Parks Department. Because of this, there is the potential to increase the amount of advertising revenue for the trolley program. Ms. Burlingame recommended the City Council approve entering into the trolley advertising program partnership with the MBCF.

MOTION: Councilmember Borchard moved the City Council approve entering into the trolley advertising program partnership with the Morro Bay Community Foundation; and, amend the Master Fee Schedule. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

D-2 APPROVAL TO SEND LETTER TO THE CITY SELECTION COMMITTEE RECOMMENDING THE SELECTION OF MARY ANN REISS AS THE NOMINEE FOR APPOINTMENT TO THE CALIFORNIA COASTAL COMMISSION; (CITY COUNCIL)

Mayor Yates stated Pismo Beach Councilmember Mary Ann Reiss has served as the Central Coast representative on the California Coastal Commission (CCC) since December 2010 after being appointed by former Governor Schwarzenegger. Previously, she was the alternate for Katcho Achadjian. As alternate, Councilmember Reiss has participated in several CCC meetings, and has often appeared before the CCC on behalf of Pismo Beach issues. Her long time experience in Pismo Beach city government and with coastal issues makes her an ideal candidate to continue to represent the South Central Coast. Mayor Yates recommended the City Council approve sending a letter to the City Selection Committee recommending the selection of Councilmember Mary Ann Reiss as the nominee for appointment to the California Coastal Commission.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2011

Councilmember Smukler stated the primary consideration should be that there is local representation on the Coastal Commission. He suggested adding to the letter of recommendation: “or another San Luis Obispo County representative”.

MOTION: Councilmember Borchard moved the City Council approve sending a letter to the City Selection Committee recommending the selection of Councilmember Mary Ann Reiss as the nominee for appointment to the California Coastal Commission. The motion was seconded by Councilmember Johnson and carried with Councilmember Smukler voting no. (4-1)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Johnson requested to agendize a discussion on an aggressive economic incentives program to revitalize the City’s Old Town and North Morro Bay; Council concurred.

Councilmember Leage requested to agendize a discussion on the beautification and paving of the Morro Rock parking area; Council concurred.

Councilmember Smukler requested to agendize a discussion on Bike Racks with Dedication Plaques Program; Council concurred.

ADJOURNMENT

The meeting adjourned at 8:45 p.m.

Recorded by:

Jamie Boucher
Deputy City Clerk

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – MARCH 8, 2011
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

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

Mayor Yates 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 2 parcels.

- 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.

Councilmember Leage left the meeting due to a conflict of interest on Item CS-2.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:45 p.m.

MOTION: Mayor Yates moved the meeting be adjourned. The motion was seconded by Councilmember Borchard and unanimously carried. (4-0)

The meeting adjourned at 5:45 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Yates called the meeting to order at 6:05 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessling	City Clerk
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	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

Linda Williams, representing Morro Bay Beautiful, announced the City-wide Yard Sale “Treasure Hunt Weekend” will be held April 2nd and 3rd.

Sharon Moore, owner of Virg’s Fishing, stated Virg’s has been in business in Morro Bay since 1954 on the Embarcadero. She announced they are looking for a new location on the Embarcadero to move their boats and tackle shop and will keep the City apprised of these changes.

D’Onna Kennedy announced the Central Coast Veterans Support Group will hold its meeting on the third Tuesday of each month at 6:00 p.m. and will be held at the Eagles Lodge in Morro Bay.

Bill Martony expressed his appreciation that the improvement of the Morro Rock parking lot has been brought as a consideration by Council because it is the jewel of Morro Bay.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Jaime Irons announced the 2nd Annual Trail Work Day will be held on March 20th at Black Mountain and Cerro Cabrillo to perform trail maintenance work in cooperation with the California Parks and Recreation Department.

Peter Behman announced a “Luau Fundraiser” will be held on March 20th at the Harbor Hut to raise funds for the 4th of July festivities.

Chris Christianson, Morro Bay 4th Vice-President, expressed thanks for the generous support of the Tourism Business Improvement District Advisory Board, Community Promotions Committee and Morro Bay Chamber of Commerce; because of this support they are well on their way to guaranteeing the 4th of July fireworks will be back again this year.

Gary Richard Arnold expressed displeasure with the direction the government is going towards. He referred to the following website: freedomadvocates.org.

Jack McCurdy announced the Coastal Commission will be reviewing the Morro Bay/Cayucos Sanitary District’s Wastewater Treatment Plant upgrade project on March 11th in Santa Cruz.

David Nelson referred to an article in the *Tribune* regarding permit fees for solar panels where a survey of local governments in San Luis Obispo County provided by the Sierra Club showed a wide variation in permit fees charged to businesses to install solar power, and Morro Bay’s fees were amongst the highest in the County. He said the City should start looking at renewable projects through the California Energy Commission. Mr. Nelson stated the City should purchase the power plant on the Embarcadero and use it to provide renewable energy.

Virginia Hiramatsu, representing Relay for Life, announced the team fundraiser for Relay for Life will be a Bunco “Against Cancer” Party held on March 16th at 6:00 p.m. at St. Timothy’s Church; and there will be a Community Kick-Off on March 24th at 6:00 p.m. at the Embarcadero Grill.

Ken Vesterfelt announced the first Emergency Vehicle Show will be held on April 16th on Main and Morro Bay Boulevard. He also announced the Tip-a-Cop dinner will be held on April 8th at the Community Center.

Craig Schmidt, Chamber of Commerce CEO announced the Annual Chili Cook-Off and Beer Fest will be held on March 12th at the Community Center which a portion of the proceeds will go towards the Morro Bay Community Foundation.

Janice Peters thanked those who supported Fundraiser Follies last weekend.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Brian Stacy stated there was a federally-declared salmon disaster in September 2010 and the federal government failed to fund it. He said there are a lot of fishermen who were not allowed to catch salmon last year and the upcoming season may not be any better. He requested the City Council consider sending a letter of support to the federal government to make funds available for our local fishermen. Mr. Stacy also expressed concern with the community fishing quota bought by the Nature Conservancy and then leased out.

Gary Hixson reviewed the roles he plays on Channel 2 including Jamie Summers on the Biotronic Woman and the Gary Tyler Moore show. He also talked about various other topics.

Richard Margesten addressed public comment on agenda items and stated the law of the State of the California supersedes the Mayor's way of handling this policy.

The following people addressed Item D-1 (Award of the Marketing and Advertising Services Contract) and requested the City Council award the Marketing and Advertising Services Contract to Barnett Cox & Associates in order to provide a different marketing strategy for the City's tourism industry: John Solu, Shaun Farmer, Harold Biaggini, Bill Shewchek, Stan Trapp, and Len Wilhitte.

The following people addressed Item D-1 and requested the City Council award the Marketing and Advertising Services Contract to TJA Advertising in order to maintain the quality in marketing solutions that has been provided the City for the past 15 years: Mike Casola, Janice Peters, Susan Stewart, Ed Krovitz and Bill Stafford.

Jayne Behman, Tourism Business Improvement District Advisory Board Member, stated she felt obligated at the joint Community Promotions Committee/Tourism Business Improvement District Advisory Board meeting to make a decision and yet did not have sufficient time to digest the information provided. She said when an independent contractor's contract is up for renewal, an audit should be conducted that would indicate a correlation between performance and cost. Ms. Behman stated in speaking with other hoteliers and personnel from the Visitor Center and Chamber of Commerce she found the City's infrastructure is inadequate to support any marketing firms, and the hoteliers do not want an increase in their tax structure. She requested the City Council not approve either of these contracts at this time.

John Sorgenfrei, TJA Advertising, stated he is available to answer any questions relating to Item D-1.

John Barta addressed Item D-1 stating Council should consider putting out a narrower request for proposal that is focused solely on an analysis on the City's tourist assets, the City's existing market and competitor's market and the City's preferred market, and how to reach each of those in the future. Mr. Barta urged the City Council not to choose either contract tonight.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Mayor Yates closed the hearing for public comment.

Mayor Yates called for a break at 7:30 p.m.; the meeting resumed at 7:40 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 CITY COUNCIL MINUTES FOR REGULAR MEETING OF FEBRUARY 22, 2011; (ADMINISTRATION)

RECOMMENDATION: This item has been pulled from the agenda.

A-2 RESOLUTION NO. 14-11 ADOPTING MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY POLICE OFFICERS ASSOCIATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 14-11.

A-3 RESOLUTION NO. 15-11 AUTHORIZING THE EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 15-11.

A-4 RESOLUTION NO. 19-11 IDENTIFYING THE PAYMENT SCHEDULE AND TRACKING OF FUNDS FOR THE REPAYMENT OF THE SALE OF THE PACIFIC/MARKET STREET PROPERTIES; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 19-11.

A-5 PROCLAMATION DECLARING APRIL 2011 AS "AUTISM AWARENESS MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-6 PROCLAMATION DECLARING THE 100-YEAR ANNIVERSARY OF CALIFORNIA WOMEN HAVING THE RIGHT TO VOTE IN THE CITY OF MORRO BAY; (CITY COUNCIL)

RECOMMENDATION: Adopt Proclamation.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

A-7 APPROVAL OF PARCEL MAP MB 08-0019 (285 MAIN ST.) WITH ACCEPTANCE OF ASSOCIATED RIGHT-OF-WAY DEDICATION AND ABANDONMENTS; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 20-11 approving the Parcel Map MB 09-0019 with the acceptance of associated Right-of-Way Dedication and Abandonment.

Mayor Yates requested to pull Item A-6 from the Consent Calendar.

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

A-6 PROCLAMATION DECLARING THE 100-YEAR ANNIVERSARY OF CALIFORNIA WOMEN HAVING THE RIGHT TO VOTE IN THE CITY OF MORRO BAY; (CITY COUNCIL)

Mayor Yates pulled this proclamation in order to make a presentation.

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONSIDERATION OF AN AMENDMENT TO MORRO BAY MUNICIPAL CODE TITLE 5 ADDING CHAPTER 5.50 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED “MEDICAL MARIJUANA COLLECTIVES AND COOPERATIVES”; (CITY ATTORNEY)

City Attorney Robert Schultz stated in **1996** California voters enacted Proposition 215, the Compassionate Use Act, which protects qualified patients and their primary caregivers from prosecution under California laws for possession or cultivation of marijuana to treat serious illness pursuant to a doctor’s recommendation. Several years later, in **2003**, the state legislature enacted implementing legislation to allow qualified patients and caregivers to obtain identification cards that insulate them from arrest for cultivation and/or use of marijuana for authorized medical purposes. Although dispensaries are not expressly authorized under these laws, many individuals have used these laws as the legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use. In **June 2005**, Staff recommended to the City Council that they enact an interim urgency ordinance imposing a moratorium on medical marijuana dispensaries until Staff had an opportunity to propose regulations.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

The interim urgency ordinance was not adopted by City Council and Staff was directed to allow medical marijuana dispensaries pursuant to our current municipal code. Pursuant to Council direction, medical marijuana dispensaries were allowed in the City of Morro Bay in the C-1 District by obtaining a business license and with a minor use permit in the MCR District under the category of “drugs”. Based upon Council’s action, in **2006**, the City approved a Medical Marijuana Dispensary at 780 Monterey Street. This location was in the General Commercial zoning district. Staff issued a business license since the sale of drugs (in this case medical marijuana) was an allowable use in the General Commercial zoning district. In **2007**, an application was received for the establishment of a Medical Marijuana Dispensary at 2840 Main Street. This location is in the Mixed Commercial/Residential zoning district, so a minor use permit was required. Staff issued a minor use permit since the sale of drugs (in this case medical marijuana) was an allowable use in the Mixed Commercial/Residential zoning district. The minor use permit was appealed to the Planning Commission. While the appeal was pending, the City Council declared a moratorium on medical marijuana dispensaries. In **2008**, after reviewing the current status of federal and state law and the associated risks and possible consequences of establishing an ordinance allowing medical marijuana dispensaries, the City Council instructed the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. Pursuant to Council’s direction, Ordinance No 547 was enacted in **2009**. In **2010**, the City Council expressed interest in considering an ordinance that would establish provisions for locating and regulating medical marijuana dispensaries (MMDs) within the City of Morro Bay and directed the City Attorney to form a subcommittee to develop a draft ordinance regulating medical marijuana dispensaries. The subcommittee has met on numerous occasions to develop a possible approach to locating and regulating MMDs which entails specifying the zoning districts in which MMDs may be established and developing regulations governing the procedures to be followed in applying for, permitting, revoking and renewing a license required to operate an MMD. Mr. Schultz recommended the City Council review the report and attached draft Regulations and Procedures entitled “Medical Marijuana Collectives and Cooperatives”, and direct staff to return with and Ordinance for Introduction and First Reading with any changes suggested by Council.

Mayor Yates opened the hearing for public comment.

Betty Winholtz requested clarification on several issues such as permits fees, how many dispensaries will be allowed, the distance between a dispensary and a receptor site, how much medical marijuana will be allowed to be purchased, and ownership of dispensaries. She expressed concern that the background checks would only be performed on the owner and/or manager of the dispensary; she feels they should also be performed on all personnel and volunteers.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Ken Vesterfelt stated Sheriff Ian Parkinson is investigating all the current rules and regulations on medical marijuana dispensaries, and perhaps the City Council may want to consider waiting to hear his perspective and the federal regulations.

David Nelson stated it is extortion to charge a sales tax on medication, such as medical marijuana.

John Barta stated this is a controversial issue; however, the people spoke on this issue at the last election and Council needs to implement that decision. He said Council has considerable discretion based on a comprehensive report written by the City Attorney, and to remember there continues to be a conflict with federal law that may have to be dealt with in the future.

Chris James expressed support for allowing those who have medical needs to be able to have safe access to medical marijuana.

Rich Donald, Chairman of the San Luis Obispo Chapter of Americans for Safe Access, referred to a recent court decision wherein the Appellate Court believes California has the right to have medical marijuana sales. He also stated there should not be a limit on how many dispensaries are allowed if the appropriate location is available.

Rennie Wilson stated it is imperative to have a sales tax, as well as an additional tax because of the cost that will be incurred by the City. She said the City should make this a two-part ordinance where the City has a selection process for the dispensary, and then select the appropriate zoning of where the dispensary should be located. Ms. Wilson stated the ordinance should tie the dispensary to the property.

Linda Hill, Board Member of the San Luis Obispo Chapter of Americans for Safe Access, commended Council for their compassion and support for this worthy cause.

Mayor Yates closed the hearing for public comment.

Mayor Yates expressed his support on moving forward with this Ordinance. He stated he is in support of receiving input from the Sheriff on this matter; however, he would like the City to continue with the process.

Councilmember Johnson stated she would like to wait to receive the County Sheriff's report before moving forward with the City's Ordinance. She also said a key component is to receive feedback from the City's Police Chief. Councilmember Johnson stated she recognizes that due to the election results that the Ordinance must go forward; however, there are so many concerns that must be addressed before moving forward with this Ordinance.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Councilmember Borchard stated she has many concerns along with not knowing what the Sheriff's enforcement is going to be on this issue. She said the City has very limited resources for monitoring a collective dispensary. Councilmember Borchard stated she is not supportive of moving forward until these concerns have been alleviated.

Councilmember Leage stated there are so many unknowns and he would like to put this issue on hold until there are more answers from the County and federal government.

Councilmember Smukler stated he is interested in the Sheriff Department's comments. He suggested discussing key policy issues such as crime, primary care status, and regulating quantities. Councilmember Smukler stated he would like Council to direct the City Attorney to pursue this issue with the Sheriff. He suggested issues for a selection committee to review are local sourcing elements and quality control, working with the Sheriff's Department, potential City costs and impacts and developing a plan to cover these costs, and the review of quantity limits. Councilmember Smukler stated a City map and buffer zones would be helpful in the review of potential locations.

Council had consensus that they did not want to be involved in the selection committee; the City Manager would be in charge of appointing the selection committee members who should be key City employees.

Council requested the City Attorney return this item to the City Council as a draft within 45 days or less.

No further action was taken on this item.

B-2 COUNCIL DIRECTION ON THE 2011/2012 CITY GOALS AND BUDGET PRIORITIES; (ADMINISTRATION)

City Manager Andrea Lueker stated in November 2007, the City Council determined that conducting an annual Goal Setting Process was an important part of strategic planning for the City of Morro Bay. As a result in June 2008, the City Council held their first workshop, and has continued the process each year. It is anticipated that if the City of Morro Bay continues with the goals that were established last year, including the direction on pension reform, staff is confident that it can bring to the City Council a structurally sustainable balanced budget. However, since the major revenue sources for the City are fairly stable, including a slight increase in both the Transient Occupancy Tax and Property Tax and flat Sales Tax figures, the biennial budget is not anticipated to have significant additional and available funding above and beyond previous years. Ms. Lueker recommended the City Council review the goals from 2010, the status of each goal, and makes a determination on any new goals for the upcoming year and/or continuing existing goals. It is further recommended the City Council provide input to staff on budget priorities based on the stated goals in order for the initial preparation of the 2011–2013 biennial budget documents.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Mayor Yates opened the hearing for public comment.

David Nelson stated he has not seen any real street repairs other than patching in the last 10 years. He said the infrastructure should be set as a higher priority.

John Barta stated it would cost tens of millions of dollars to repair the streets in the City. He said the City needs to work on bringing in more revenue into the City.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler stated he hopes the City continues with the priority goals of developing and maintaining a structurally sustainable budget, and maintaining the City's infrastructure. He said he would like to continue with the consideration of a capital plan to stay organized, a five-year budget plan, and a pavement management plan. Councilmember Smukler stated more effort is needed revolving around the urban forest, which requires a better plan. He said it is time to focus on volunteerism and form a sub-committee relating to the City's transit program. Councilmember Smukler stated a strategy plan needs to be developed on how to resolve the challenge on the General Plan/Local Coastal Plan.

Council consensus was to refer the Urban Forest Management Plan as a low priority goal to the Public Works Advisory Board and Recreation & Parks Commission.

Council consensus was to appoint Councilmember Borchard and Councilmember Smukler to serve as the transit sub-committee to meet with staff.

City Attorney Robert Schultz stated the review of the General Plan/Local Coastal Plan update will be before the City Council within the next few months.

Councilmember Johnson stated she would like to see a five-year budget and long-range planning. She said the City needs to look at an Economic Development Plan to bring in some money.

Councilmember Borchard stated she supports long-range strategic planning however she has concerns with the present economy. She said the City has taken great strides in selling the City property on Market Street, and creating a Facility Maintenance Fund.

Mayor Yates stated it is impossible to project future expenditures with this economy.

Administrative Services Director Susan Slayton stated in this current economy, planning a budget more than two years ahead would be very difficult. She said some departments are creating long-range capital project plans.

No action was taken on this item.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

Mayor Yates called for a break at 9:30 p.m.; the meeting resumed at 9:40 p.m.

UNFINISHED BUSINESS – None.

D. NEW BUSINESS

D-1 AWARD OF THE MARKETING AND ADVERTISING SERVICES CONTRACT;
(ADMINISTRATION)

City Manager Andrea Lueker stated the City of Morro Bay has gone through an extensive Request for Proposal (RFP) process which was reviewed at the Special Joint Meeting of the Community Promotions Committee (CPC) and the Tourism Business Improvement District Advisory Board (TBID) held on March 1, 2011. At that meeting, both the CPC and TBID, by a vote of 4-2, recommended the City Council award the Marketing and Advertising Services Contract to TJA Advertising. Ms. Lueker recommended the City Council review the recommendations from both the CPC and TBID and makes a final determination on the award of contract.

Mayor Yates stated based on the vote of the Community Promotions Committee and Tourism Business Improvement District Advisory Board at the March 1st meeting and their recommendation he expressed his support for TJA Advertising.

Councilmember Borchard stated it was not a unanimous vote of the two boards on March 1st. She said based on the last 18 months, she does not feel the City has received a measurable rate of return in marketing advertising. Councilmember Borchard stated she supports a more innovative approach and moving forward in a different way with social media.

Councilmember Johnson suggested starting over with a new request for proposal and find out where the City's target audience is. She said she would like to know more about the relationship between the City, the Community Promotions Committee, Tourism Business Improvement District Advisory Board and the Visitor Center.

Councilmember Leage stated he agrees the City should start over and submit a new request for proposal. He said the City is in no better shape than it was years ago and the targeting has been very poorly done.

Councilmember Smukler stated he supports maintaining a three-year revolving request for proposal process. He said he is inclined towards the Barnett Cox & Associates proposal however he still has concerns with the cost. Councilmember Smukler stated he would prefer more dialogue on this issue before making a decision.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2011

MOTION: Councilmember Borchard moved the City Council award the Marketing and Advertising Services Contract to Barnett Cox & Associates. The motion was seconded by Councilmember Leage and carried with Mayor Yates voting no. (4-1)

D-2 DISCUSSION OF THE GREEN BUILDING INCENTIVES PROGRAM; (PUBLIC SERVICES)

Public Services Director Rob Livick stated the “Green Building Incentive Program” was approved by City Council on May 26, 2009 by Resolution No. 24-09. The program was initiated to reward project proponents committed to implementing either broad or focused sustainability measures. Fee rebates vary depending on the level of commitment and/or beneficial outcomes. Integration of green building features into development projects can potentially generate energy, water and materials efficiencies, resulting in reduced operating costs of 20-80% over the life of the building. Reduced operating costs generate increased cash flow, which helps free capital for other investments. Although from a financial standpoint the incentive program is not sustainable without some source of outside funding, Staff does not anticipate a significant increase in rebate requests. Mr. Livick recommended the City Council continue the program, and direct staff to provide an annual update memo to the City Council.

Council consensus was in support to continue the Green Building Incentives Program, and direct staff to provide an annual update memo to the City Council. Council further directed staff to return with a Master Fee Schedule amendment comprised of a formula for deducting the cost for the non-inspected components of the solar photovoltaic system.

No further action was taken on this item.

E. DECLARATION OF FUTURE AGENDA ITEMS – None.

ADJOURNMENT

The meeting adjourned at 10:25 p.m.

Recorded by:

Bridgett Kessling
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – MARCH 15, 2011
CITY HALL CONFERENCE ROOM - 4:00 P.M.

AGENDA NO: A-1
MEETING DATE: 03/22/11

Mayor Yates called the meeting to order at 4:00 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief

PUBLIC COMMENT – None.

RESOLUTION NO. 21-11 DECLARING THE EXISTENCE OF A LOCAL EMERGENCY IN 2011

The City Council received a briefing from staff regarding the damage to the Morro Bay harbor due to the tsunami effects from the devastating earthquake and tsunami that hit Japan on March 10, 2011. A request from the City was sent to Governor Jerry Brown for consideration of federal funding for the damage caused to the harbor that was estimated at \$500,000.

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 21-11 declaring a local emergency in 2011. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

The meeting adjourned at 4:15 p.m.



AGENDA NO: A-2

MEETING DATE: 03/22/2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 11, 2011

FROM: Susan Slayton, Administrative Services Director/City Treasurer

SUBJECT: Resolution No. 23-11 Authorizing Hinderliter, de Llamas & Associates (HdL Companies) to Retain Counsel to Intervene in the Cases of *City of Brisbane, et al, v. California State Board of Equalization (BOE) and Does 1-500*, and to Represent the City of Morro Bay's Interests in these Cases

RECOMMENDATION:

Council to adopt Resolution No. 23-11, and direct the City Manager to complete HdL Companies' form *Authorization – Motion to Intervene*.

FISCAL IMPACT:

The cost is not to exceed \$1,500. The loss of sale tax revenue to the City is not able to be determined. An impact analysis for 1995 is included herewith, which indicates a loss to Morro Bay of \$10,952 in sales tax revenue due to the planned redistribution for that year alone.

SUMMARY:

HdL Companies is the City's consultant that monitors our sales tax revenues, insuring that we receive all of the revenues to which we are entitled. HdL Companies has provided information to the City regarding the lawsuits pending against the BOE, and has offered to file a motion to intervene on behalf of its clients in support of the BOE's position. The requested fee is for the purpose of retaining Wendel Rose Black & Dean to represent HdL Companies' clients, and it is anticipated that the cost per agency will not exceed \$1,500. Staff feels that it is critical that the City participate in this process to avoid sales tax losses, and requests that the City Council adopt Resolution No. 23-11.

BACKGROUND:

In 1995, Municipal Resource Consultants (MRC) submitted over 1,200 local tax petitions to the BOE. These petitions argued that sales tax, rather than use tax, should be applied to out-of-state shipments. This means that the Bradley-Burns 1% portion of the sales tax would be allocated to the location of in-state order desks, rather than shared via the county allocation pools. They also requested the adjustments be made retroactively. The BOE staff continually denied these petitions, citing the Uniform Commercial Code Section 2401, which states that

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

out-of-state sales shipped via common carrier are subject to use tax. The League of California Cities and HdL Companies opposed making the amendments retroactive, and requested that prior to a decision, a full analysis and disclosure of the potential long range financial impact be conducted first so that the impact on all agencies would be better understood. Finally, on July 13, 2010, the BOE elected board upheld the BOE staff's recommendation to deny the petitions.

In February 2009, seven of the original petitioning jurisdictions filed a *Petition for Writ of Mandate* in San Francisco Superior Court. If granted, the Writ would mandate the Board of Equalization to pay the local sales tax revenues in question to the petitioning jurisdictions, with interest. The judge recognized that a ruling in favor of the petitioners will impact every jurisdiction in California, and therefore ordered that every agency have an opportunity to intervene into the lawsuit. The BOE sent out a Notice of Legal Proceedings in January 2011 (Attachment A). If these petitions are granted, the subject local tax, previously shared via the county-wide pools from 1995 forward (and in some cases earlier), will be retroactively redistributed. A 1995 preliminary analysis (Attachment B) by the BOE staff lists Morro Bay as potentially losing \$10,952 for that year alone.

DISCUSSION:

Based on the serious impact of this lawsuit on the City's current sales tax revenues and the retroactive component, staff is suggesting that the City participate in the joint action. HdL Companies has retained Wendel Rosen Black & Dean to file a motion to intervene on behalf of its clients, and anticipates that the cost per agency will not exceed \$1,500. Staff has notified HdL Companies that Council approval is needed before the City can join in this process. Staff requests that Council adopt Resolution No. 23-11, and direct the City Manager to complete HdL Companies' form *Authorization – Motion to Intervene* (Attachment C).

RESOLUTION NO. 23-11

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
AUTHORIZING HINDERLITER, DE LLAMAS & ASSOCIATES
TO RETAIN COUNSEL TO INTERVENE IN THE CASES OF *CITY OF
BRISBANE, ET AL, V. CALIFORNIA STATE BOARD OF EQUALIZATION (BOE)
AND DOES 1-500*, AND TO REPRESENT THE CITY OF MORRO BAY'S
INTERESTS IN THESE CASES**

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

WHEREAS, pursuant to Ordinance No. 519, the City of Morro Bay entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local sales and use taxes; and

WHEREAS, pursuant to Resolution No. 15-11 the City of Morro Bay designated authorized representatives, one of which is Hinderliter, de Llamas and Associates (HdL Companies); and

WHEREAS, HdL Companies has advised the City of the cases of *City of Brisbane, et al, v. California State Board of Equalization (BOE) and Does 1-500* whose petition to redistribute local sales tax prospectively and retroactively could result in sales tax loss to the City, and

WHEREAS, it is in the City's best interests to oppose these cases to protect its sales tax revenues; and

WHEREAS, HdL Companies has offered to retain counsel on behalf of all of its clients to intervene and represent their interests in these cases for a fee not to exceed \$1,500 per client.

NOW, THEREFORE IT IS RESOLVED, that the City Council of the City of Morro Bay authorizes HdL Companies to retain counsel to intervene in the cases of *City of Brisbane, et al, v. California State Board of Equalization (BOE) and Does 1-500*, represent the City's interests in these cases, direct the actions of counsel in these cases, and settle or otherwise resolve these cases in our interest.

LET IT FURTHER BE RESOLVED that the City Council of the City of Morro Bay direct the City Manager to complete HdL Companies' form *Authorization – Motion to Intervene*.

Resolution No. 23-11
Page Two

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 22nd day of March, 2011, by the following vote:

AYES:

NOES:

ABSENT:

NOAH SMUKLER, Vice-Mayor

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-3

MEETING DATE: March 22, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 15, 2011
FROM: Barry Rands, PE - Associate Engineer
Rob Livick, PE/PLS – Public Services Director/City Engineer
SUBJECT: Authorization to pursue Caltrans Transportation Planning Grant for a Complete Streets/Green Street Program

RECOMMENDATION

Staff recommends the City Council adopt Resolution 22-11 authorizing the Public Services Director to pursue the application for a Transportation Planning Grant and to act as the City's representative in administration of the Grant if the application is successful.

FISCAL IMPACT

The Grant requires a minimum 10 percent local match which must be distributed proportionally throughout the scope of work. Local match funds cannot be federal, or money that has already been earmarked for other programs or projects (e.g. local sales tax, special bond measures, private donations, and private foundations). One-quarter of the value of the local match may be used for in-kind services. The Grant cap is \$300,000, therefore the maximum match would be \$30,000, of which, 25% (\$7,500) can be in-kind services. The remaining amount of the match will be paid for proportionately by the Grant partners. The expected cash contribution by the City of Morro Bay is estimated to be no more than \$2,000, which would be funded by that portion of Measure Q set aside for this type of "Green" Grant.

BACKGROUND/SUMMARY

Many of the streets in Morro Bay are distressed to the point that they will require complete reconstruction to achieve a durable pavement surface. Due to recent changes in the enforcement of the Clean Water Act, street reconstruction triggers stormwater compliance measures that have not been previously required. In addition, the California Legislature passed the Complete Streets Act in 2008 that went into effect on January 1, 2011, requiring municipalities to incorporate the needs of all roadway users in their General Plans.

Darla Inglis of the Low Impact Development Center approached us last month to determine our interest in cooperating with other municipalities on the Central Coast in pursuing the application for a Transportation Planning Grant. The Grant would fund a planning effort that would incorporate innovative stormwater management practices and a look at the needs of all

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

users into a transportation planning program. In addition to Morro Bay, the cities of Pismo Beach and Salinas have also expressed interest in partnering in this grant.

DISCUSSION

These factors present the City with a challenge and an opportunity. The challenge is to rethink how the most distressed streets in the City will be reconstructed. Some of the key issues that will need to be addressed in this planning process will be:

- What are the most sustainable methods and materials available for pavement reconstruction on our distressed streets?
- How can we incorporate the needs of all roadway users, including motorists, cyclists, and pedestrians of all ages and abilities?
- What low impact design techniques are most suitable to assure compliance with Clean Water Act requirements without sacrificing usability?
- How can street reconstruction be used to revitalize neighborhoods?

The prospect of funding this planning process with a Transportation Planning Grant and the assistance of the Low Impact Development Center in cooperation with other like-minded municipalities makes for a fortunate opportunity that we will not want to pass up. If we are successful in obtaining the grant, the resulting planning document will not only provide the City with a valuable roadmap guiding us in our street reconstruction agenda, but it will also enhance our ability to successfully compete for other grants to fund actual construction. The results of this planning effort would be incorporated into the required Circulation Element of the City's General Plan.

CONCLUSION

Staff recommends the City Council adopt Resolution 22-11 authorizing the Public Services Director to pursue the application for a Transportation Planning Grant and to act as the City's representative in administration of the Grant if the application is successful.

RESOLUTION NO. 22-11

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA IN SUPPORT OF THE APPLICATION FOR A
TRANSPORTATION PLANNING GRANT**

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

WHEREAS, the State of California has established a Transportation Planning Grant to fund coordinated transportation and land use planning that promotes public engagement, livable communities, and a sustainable transportation system, which includes mobility, access, and safety; and

WHEREAS, in September 2008, Gov. Arnold Schwarzenegger signed into law Assembly Bill 1358, the Complete Streets Act requiring, after January 1, 2011, cities and counties, when updating the part of a local general plan that addresses roadways and traffic flows, to ensure that those plans account for the needs of all roadway users; and

WHEREAS, the City of Morro Bay desires to provide an improved and sustainable transportation network for its citizens; and

WHEREAS, the Low Impact Development Center has agreed to assist the City with the preparation of and match funding for this Grant;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the Public Services Director is authorized to pursue the application for this Grant and to enter into a contract with Caltrans on behalf of the City in the event that the application is successful.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March, 2011 on the following vote:

AYES:

NOES:

ABSENT:

NOAH SMUKLER, Vice-Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

AGENDA NO:	A-4
MEETING DATE:	03/22/11

**PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
PROCLAIMING APRIL 2011 AS "MONTH OF THE CHILD" and
"CHILD ABUSE PREVENTION MONTH"
AND APRIL 9, 2011 AS "DAY OF THE CHILD"
*"We are all Super Heroes, Discover the Power in You"***

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

WHEREAS, Saturday, April 9, 2011, will commemorate the "Day of the Child" celebration "*We are all Super Heroes, Discover the Power in You*" during Children's Day in the Plaza from 10:00 a.m. to 3:00 p.m. in the San Luis Obispo Mission Plaza. A day where children and families can play, learn and interact with the agencies and programs providing services throughout the County; and

WHEREAS, the Month of the Child and Child Abuse Prevention Month is a time to recognize that children's opportunities are our responsibilities, and to commit ourselves to ensuring that each and every child experiences a high quality early environment – at home, at child care, at school and in the community – that will promote their optimal development.

WHEREAS, the City of Morro Bay recognizes that every moment in a child's life is an opportunity for that child to learn, and that the quality of these experiences may determine whether a child succeeds in school and in life, and that all children need caring and loving adults in their lives;

WHEREAS, the activities of this month will provide an opportunity to acknowledge youth and early care and education programs and their dedicated staff, and to raise the awareness of the community, employers and elected officials of the need to improve the quality, availability, and accessibility of such programs;

And, may we remember to listen to and watch the children around us, to have patience and to allow them the opportunity to enjoy the journey of childhood.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay is proclaiming April 2011 as the "Month of the Child", and "Child Abuse Prevention Month" and April 9, 2011 as "Day of the Child".

IN WITNESS WHEREOF I have
hereunto set me hand and caused the
seal of the City of Morro Bay to be
affixed this 22nd day of March 2011

NOAH SMUKLER, Vice-Mayor
City of Morro Bay, California

AGENDA NO: A-5

MEETING DATE: 03/22/11

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING THE MONTH OF APRIL
“FAIR HOUSING MONTH”**

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

WHEREAS, the City of Morro Bay is joining with the United States Department of Housing and Urban Development (HUD) and other housing agencies in celebrating the anniversary of the National Fair Housing Law, Title VII of the Civil Rights Act of 1968.

WHEREAS, the City of Morro Bay encourages fair housing through the sales and rentals, as well as, through its housing rehabilitation programs;

WHEREAS, discrimination in housing is against the law, no person shall be discriminated against because of race, color, religion, sex, handicaps, familial status, or national origin in the sale, rental, or advertising of dwelling, in the provisions of brokerages services, or in the availability of residential real estate related transactions;

WHEREAS, if any City resident believes he or she has been discriminated against, the resident should contact the Department of Fair Employment and Housing District Office at 1732 Palma Dr., #200, Ventura, CA 93003, (805) 654-4514. The Fair Housing Information Office helps to ensure that all residents of the City of Morro Bay and surrounding communities are treated fairly and that all the property owners and landlords abide by the letter and spirit of the Fair Housing Law; and

WHEREAS, the City of Morro Bay, the State of California, HUD and various local agencies are working together to ensure equal treatment of all citizens, we urge everyone to practice the Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that I, Vice-Mayor Noah Smukler and the City Council of the City of Morro Bay, declare the month of April as Fair Housing Month in the City of Morro Bay.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 22nd day of March, 2011

NOAH SMUKLER, VICE-MAYOR
City of Morro Bay, California



AGENDA NO: D-1
Meeting Date: 3/22/11

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 14, 2011
FROM: Rob Schultz, City Attorney
SUBJECT: Review and Discussion of Morro Bay Municipal Code 17.48.320 Regarding Secondary Dwelling Units.

RECOMMENDATION:

Staff recommends that you review the Staff Report and direct staff on whether to draft changes to the current Secondary Dwelling Unit Ordinance.

FISCAL IMPACT:

Fiscal impact is unknown at this time.

BACKGROUND:

On February 14, 2005 the City Council enacted a moratorium on secondary dwelling units in order to bring the City zoning into compliance with Government Code §65852.2. This law, also known as AB 1866, required cities to develop a process by which at least some secondary dwelling units may be permitted through a ministerial process.

On February 21, 2005 the Planning Commission held a public hearing to familiarize the Planning Commission and community with the current State and local regulatory framework, and take public testimony on the topic of secondary dwelling units.

On March 7, 2005 Staff sought direction from the Planning Commission on how to best achieve compliance with State law. The Planning Commission provided feedback as to what the proposed ordinance should entail. Staff then drafted an ordinance that met State laws and balanced local land use needs and objectives.

Prepared By: _____ Dept Review: _____
City Manager Review: _____
City Attorney Review: _____ Page 1 of 3

On April 25, 2005, May 9, 2005 and May 23, 2005 the City Council considered and adopted revisions (attached) to Morro Bay Municipal Code Section 17.48.320 regarding Secondary Units. The revisions adopted by the City Council established a process whereby one could build a small, affordable secondary unit (900 sq. ft.) with minimal city or neighborhood involvement by obtaining a ministerial permit. At the same time, if one desired to build a larger secondary dwelling unit they could continue to do so under Conditional Use Permit standards and processing requirements.

A Summary of Ordinance Amendments adopted by the City Council is as follows:

1. Secondary dwelling units will be permitted ministerially on residentially zoned properties where no more than one residence currently exists.
2. Ministerial secondary dwelling units must meet the same standards as established by zoning for the primary dwelling (setback, height, lot coverage, etc.).
3. Detached structures or new additions to accommodate ministerial second dwelling units may be built up to 50 percent of the existing unit's floor area with a 300-square foot minimum and 900-square foot maximum size.
4. One on-site parking space is required for each bedroom of the secondary dwelling unit not to exceed two spaces in addition to the parking requirements of the primary dwelling.
5. The parking spaces can be open and uncovered however neither may be in tandem with required parking of the principal dwelling unit or secondary unit and cannot be located in the front or street side setback area.
6. The provisions for ministerial secondary dwellings do not prevent larger secondary dwellings from being constructed, provided the zoning for the property allows for the approval of a larger secondary unit through a Conditional Use Permit.
7. Small guesthouses (essentially secondary dwellings without a kitchen) would also be permitted under the same guidelines.

CONCLUSION:

Staff recommends that you review the report and provide direction.

MORRO BAY MUNICIPAL CODE

17.48.320 - Secondary units.

The following supplemental regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements:

- A. Location. Second units may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a second unit. Only one-second unit or one guesthouse is permitted per one primary single-family dwelling on the same lot;
- B. Type of Unit. A second unit may be attached, detached, or located within the living area of the primary dwelling unit on the lot, subject to the standards of this section;
- C. Minimum and Maximum Floor Area. The maximum floor area of a second unit shall not exceed nine hundred square feet, or fifty percent, whichever is smaller, of the existing or proposed living areas of the primary dwelling unit, except that a secondary dwelling unit of three hundred square feet is permitted regardless of the size of the primary dwelling unit. No second unit shall be smaller than three hundred square feet;
- D. Development Standards. Second units shall conform to setback, height, lot coverage, and other zoning requirements applicable to the primary dwelling in the zoning district where the second unit is proposed;
- E. Architectural Compatibility. The architectural design, exterior materials and colors, roof pitch and style, type of windows, and trim details of the second unit shall be substantially the same as and visually compatible with the style and character of the surrounding neighborhood, as determined by the public services director. Color photographs of the street-facing side(s) of the street shall be submitted with the second unit building permit application;
- F. Parking. One additional parking space shall be provided for each second unit with one bedroom and two additional parking spaces shall be provided for units with two or more bedrooms. The parking space can be open and uncovered, however neither may be in tandem with required parking of the principal dwelling unit or secondary unit, and cannot be located in the front or street side setback area. The principal dwelling unit must conform to the parking requirements of Chapter 17.44: Off-Street Parking and Loading;
- G. Use Limitation. Single-family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary units may be rented under a single rental agreement if the owner is not occupying either unit. The terms of the single rental agreement shall not allow sub-lease of one unit. An owner is deemed to occupy a unit if they hold it off of the rental market for their own use;
- H. Emergency Access. A second dwelling unit may be permitted only on a lot with access from a roadway that meets the fire apparatus access road requirements of the California Fire Code Section 902.2.2.1;
- I. Conditional Use Permit. A secondary unit that is larger than nine hundred square feet may be permitted only after obtaining a conditional use permit pursuant to Chapter 17.60. The maximum size of a secondary dwelling unit shall not exceed one thousand two hundred square feet or fifty percent, whichever is smaller, of the existing or proposed living areas of the primary dwelling unit;
- J. Parking Exception. The planning commission may grant exceptions to the limitations of parking subject to appropriate conditions adopted with a conditional use permit in accordance with Chapter 17.44.