

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 – MAY 22, 2012

CLOSED SESSION

**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 54957; PERSONNEL ISSUES**
Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Manager and the City Attorney.
- CS-3 GOVERNMENT CODE SECTION 54956.8; 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 one parcel.
- **Property: DeGarimore Central Coast Marine Fuel & Ice Lease Site 101.5W/105.2**
Negotiating Parties: DeGarimore 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 – MAY 22, 2012
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 CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF MAY 8, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 AWARD OF CONTRACT TO ASSOCIATED PACIFIC CONSTRUCTORS OF MORRO BAY FOR THE PROJECT NO. MB-2012-H1: STATE PARK MARINA MAINTENANCE DREDGING PROJECT; (HARBOR)

RECOMMENDATION: Adopt Resolution.

A-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY; (ADMINISTRATION)

RECOMMENDATION: Approve and send attached response letter to the Presiding Judge of SLO County Superior Court and the Grand Jury.

A-4 REQUEST FOR APPROVAL OF AMENDMENT #2 TO THE LEASE AGREEMENT FOR LEASE SITE 122-123/122W-123W (HARBOR HUT, 1205 EMBARCADERO); (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 21-12 for Lease Site 122-123/122W-123W approving Amendment # 2 to the lease to extend the term 10 years.

A-5 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING CITIZEN COMPLAINTS AND INTERNAL AFFAIRS INVESTIGATIONS; (CITY ATTORNEY)

RECOMMENDATION: Approve and send attached response letter to the Presiding Judge of SLO County Superior Court and the Grand Jury.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 25-12 DECLARING THE INTENTION TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2012/13 FISCAL YEAR FOR THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID); (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Hold a public hearing, record testimony for/against the continuation of the MBTBID, and adopt/reject/amend Resolution No. 25-12.

B-2 INTRODUCTION AND 1ST READING OF THE ORDINANCE 578 AMENDING MODIFYING SECTION 17.44.020.1 PROVIDING SPECIFIC REGULATIONS AS TO WHEN ADDITIONAL ONSITE PARKING WILL BE REQUIRED FOR EXISTING COMMERCIAL BUILDING(S) CONVERTING FROM ONE USE TO ANOTHER WITHOUT NEW CONSTRUCTION OR NEW ADDITIONS, FOR THE MAPPED SPECIFIC NORTH MAIN STREET COMMERCIAL AREA; (PUBLIC SERVICES)

RECOMMENDATION: Open the public hearing and receive testimony; accept the Planning Commission recommendation to adopt the proposed Ordinance amendment that would allow for modification to Section 17.44.020.1; make a motion to approve Ordinance No. 578 by number and title only

C. UNFINISHED BUSINESS

C-1 DISCUSSION ON LOCAL SPORTFISHING BUSINESSES; (HARBOR)

RECOMMENDATION: Council review the issue and give direction to staff based on the requests/recommendations provided by the sportfishing operators.

D. NEW BUSINESS

D-1 PRESENTATIONS ON ALLOCATION OF 2012/13 AVAILABLE COMMUNITY PROMOTIONS COMMITTEE MONIES; (ADMINISTRATION)

RECOMMENDATION: Receive presentations from the Morro Bay Chamber of Commerce and the Tourism Business Improvement District; discuss and request any additional information needed for a budgetary decision to be made at the June 12, 2012 Budget Hearing.

D-2 UPDATE ON PAVING PROJECT NO. MB2012-S2, 2012 STREET REHABILITATION PROGRAM AND DISCUSSION OF PAVING SCHEDULE; (PUBLIC SERVICES)

RECOMMENDATION: Review the project calendar and any potential paving schedule issues or adjustments

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 772-6205 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION 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: 05/22/2012

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 8, 2012
VETERAN’S MEMORIAL HALL – 6:00P.M.

Mayor Yates called the meeting to order at 6:00 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
	Jamie Boucher	City Clerk
	Rob Livick	Public Services Director
	Mike Pond	Fire Chief
	Eric Endersby	Harbor Operations Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CLOSED SESSION REPORT – City Attorney Robert Shultz reported that City Council met in Closed Session and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Haylie Bright, Marketing Director for Perry’s Parcel & Gift located at 785 Harbor, presented the Morro Bay Business report. Perry’s is a locally owned and operated business that used to be the Morro Bay Mail Center. They are your “One-Stop-Shop” location where you can find a full service business solution center - faxing, copying, packing and shipping, notary, secure shredding, secure mailboxes and much more. They are also Morro Bay’s best kept secret for gifts for all ages. Please visit their website at www.perrysparcel.com to learn more.

Susan Brown, Manager at MV Transportation, advertised the upcoming trolley season. They are also looking for one more summer trolley driver. Morro Bay Transit is also offering Free Bus Rider Training classes for seniors. The next one is being held on Wednesday, May 23rd at 1pm at the Senior Center.

Hank Roth thanked all those responsible for helping sponsor the wonderfully attended Morro Bay Kite Festival. He also stated that the Writers Conference is in town.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 8, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

Garry Johnson reminded everybody that the absentee ballots went out on Monday, May 7th. He thanked those involved with the car show, especially those that helped the Bay Cruisers feed the early arriving participants.

Betty Winholtz addressed 3 issues in the staff reports – safety, fiscal responsibility and planning management. Regarding Item A2, Resolution Approving Matching Funds for the 2012 BTA Grant Application, she spoke on bike planning stating that she feels the report is incomplete as there is a map that shows the suggested crossing in front of the high school but doesn't have a map of the beach tract which is also being asked to be considered and approved. She is opposed to where the bike lane is being proposed in front of the high school due to safety concerns. She also spoke on Item A3, Request to Approve a Response to the Grand Jury Regarding City Employee Vacation and Sick Leave Accumulation Pay, stating that we have unfunded liability of sick leave hours at a half million dollars and there is nothing in the report that states that this will be corrected. She also spoke on Item A4, Annual Reporting on the Morro Bay Tourism Business Improvement District and Scheduling of a Public Hearing, which shows that the TBID overspent their budget and she questioned how that can happen without it coming back to the Council. And finally spoke on Item D2, Confirmation of Goals from the 2012 Goal-Setting Workshop, where it states we will be starting our streets rehabilitation project right away. She wants to know how we will be dealing with the Resolution passed that states that there will be no construction after Memorial Weekend.

Cathy Novak spoke on Item D1, Discussion on Local Sportfishing Businesses. She feels it's important to pool our resources and offer assistance so that these businesses can make it into the future. She proposed some short and long term goals that she shared. Her short term goals were as follows: 1) reduction in mooring and/or dockage fees; 2) allow for quarterly or semi-annual payment of fees; 3) additional signage on the waterfront and allow for the potential of a small temporary building that can be used as a satellite location. For the long term she proposed Council discuss the possibility of locating a sport fishing and tackle shop on an existing lease site just south of the South T-Pier that could be "co-op'ed" and be comprised of the local owner operator boats joining forces together under one roof. This would relocate sport fishing operations to one area; provide an opportunity for multiple businesses to consolidate overhead costs; and, provide a public-private partnership with the fishing industry.

Jeremiah O'Brien thanked everybody involved for their support of the fishermen – "we couldn't have done it without you" and "you have made all the fisherman in town happy".

Joan Solu commended Council on taking a look at the PERS 2-Tiered benefit structure with the employee groups. She then spoke on Item A3 stating that Council should address the employee's ability to accumulate unlimited sick leave hours. She feels sick leave hours should be capped at a certain number of days which would stem the flow of cash going out. She encouraged Council work with staff to come up with ideas and solutions. She also asked for Council's support on Item A4, approving the planned Public Hearing date for the May 22nd Council meeting. She also stated that the TBID was not over budget and that the TBID's efforts have brought in 7% more revenue in TOT Tax and asks for Council's continuous support.

MINUTES - MORRO BAY CITY COUNCIL
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VETERANS MEMORIAL HALL - 6:00 P.M.

Brian Stacy thanks the Mayor and Council and Rob Schultz for the letter written on the Seismic Study. He also spoke on Item A5 and asked that if we add to the grant, that the association formed would give local fisherman the opportunity to participate and have a vote.

John Barta also let the public know that the absentee ballots are out – the election has begun. He states that 53% of Morro Bay voters vote absentee. He feels the most important issue is the WWTP and that there are some candidates who have avoided taking a stand on that issue. He encouraged voters not to cast their ballots for somebody who won't stand up and take a stand.

Susan Stewart is pleased to see we have included developing an Economic Development Program on the City's Goal Setting workshop. She thinks it would be a great use of Community Promotions Committee dollars. While tourism is an important part of the community, we were founded with ranching, farming, fishing and it was actually incorporated because of the power plant. We need to hopefully develop a program that would bring in light industry that could help facilitate head of household wage earner jobs.

Mayor Yates closed the public comment period.

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 THE REGULAR MEETING OF APRIL 24, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION APPROVING MATCHING FUNDS FOR THE 2012 BTA GRANT APPLICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution.

A-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY; (ADMINISTRATION)

RECOMMENDATION: Approve and send attached response letter to the Presiding Judge of SLO County Superior Court and the Grand Jury.

A-4 ANNUAL REPORTING ON THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT AND SCHEDULING OF A PUBLIC HEARING; (ADMINISTRATIVE SERVICES)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 8, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

RECOMMENDATION: Set the date for the public hearing to be held on May 22, 2012 in order to continue the MBTBID activities and assessments.

A-5 AUTHORIZATION TO AMEND THE GRANT AGREEMENT FROM THE NATURE CONSERVANCY FOR SUPPORT OF FORMATION OF A COMMUNITY FISHING ASSOCIATION TO ADD \$50,000 TO THE GRANT; (ADMINISTRATION/HARBOR)

RECOMMENDATION: Authorize an amendment to add \$50,000 to the existing grant from The Nature Conservancy (TNC).

A-6 AMENDMENT NO. 2 TO THE LEASE AGREEMENT FOR LEASE SITE 78-81/78W-81W, LOCATED AT 701 EMBARCADERO, BETWEEN THE CITY OF MORRO BAY AND VAN BEURDEN INVESTMENTS; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 20-12 approving Amendment No. 2 to the Lease Agreement for Lease site 78-81/78W-81W between the City of Morro Bay and Van Beurden Investments.

A-7 REQUEST FOR APPROVAL OF AMENDMENT #2 TO THE LEASE AGREEMENT FOR LEASE SITE 122-123/122W-123W (HARBOR HUT, 1205 EMBARCADERO); (CITY ATTORNEY)

Item A-7 was pulled from the agenda prior to the meeting and will be heard at a future meeting.

Councilmember Smukler pulled Items A-2, A-4 and A-5 and Councilmember Borchard pulled Item A-3 from the Consent Calendar.

MOTION: Councilmember Johnson moved the City Council approve Items A-1 and A-6 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

Councilmember Smukler pulled Item A-2 questioning the location and safety of the proposed bike path and crossing. Public Services Director Rob Livick answered that this location will offer the best direct connection to the 2 bike paths.

MOTION: Councilmember Smukler moved the City Council approve Items A-2 of the Consent Calendar. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

Councilmember Borchard pulled Item A-3 as she was concerned about the City's response to the Grand Jury, especially in items 9 and 10. She wants to feel comfortable that we are seeing the issues and moving towards resolving the situation. She knows that we need to address this through the negotiation process.

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Councilmember Johnson said that during her attendance at the last month's Mayor's meeting, this report was a major item of discussion that needs to be addressed. The part that bothers her the most was that staff said that there is no fiscal impact.

Councilmember Smukler feels we should be taking a look at the unfunded liability and that staff's response letter was weak. He feels it is important to provide the citizens with an annual yearly reporting of these accumulations as well as strive to address a cap.

No motion was made on this item and instead, Mayor Yates instructed staff to return to the May 22, 2012 meeting with a stronger letter as well as come back with a public report, or a time frame that a public report will be made available, that addresses #10 of the Grand Jury request. All council concurred with this request.

Councilmember Smukler pulled Item A-4 questioning the over-expenditure of funds in the TBID Budget without Council's involvement. His concern is that it happened and it could happen again.

City Manager Andrea Lueker stated that these funds were specifically an accounting difference between an invoice with our prior marketing company and the City, which involved more with when items were received as opposed to being over budget. City Attorney Rob Schultz responded that this isn't abnormal as the City loans money to the TBID throughout the entire fiscal year because they haven't received funds from their TOT prior to that month. He also stated that this shouldn't be a problem starting in July, 2012 as with the 501 (c) 6 we won't be involved to the degree we currently are with their finances.

MOTION: Councilmember Smukler moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Mayor Yates and carried unanimously 5-0.

Councilmember Smukler pulled Item A-5 asking how to ensure that participation/involvement of the local fisherman would be equitable. Harbor Director Eric Endersby stated that is has always been the intent to involve all interested parties as this process moves forward.

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

MINUTES - MORRO BAY CITY COUNCIL
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Recreation & Parks Director Joe Woods presented his staff report stating that on April 10, 2012 the City Council adopted Resolution 16-12 which initiated the proceedings to levy the annual assessment to fund the maintenance of the Cloisters Park and Open Space. Staff was then directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2012/13. Staff is recommending that Council adopt Resolution 22-12 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space as well as approve the Engineer's Report.

Councilmember Smukler is anxious to see monies being able to be put into a deferred maintenance and capital improvement account. Mr. Woods feels that outsourcing the maintenance should redistribute the monies spent which hopefully will realize savings which can then be put into a deferred maintenance account.

Councilmember Smukler says that the neighborhood wants to be able to see a financial accounting of the monies spent each year. Mr. Woods will be implementing informal community meetings once or twice a year.

Councilmember Borchard wondered if a list could be put together prioritizing the capital improvements projects needed to be done with the monies that were able to be accumulated. She would also like to see the feedback from the informal meetings that will be held to assess how the maintenance plan is working and how the contractor is performing.

Councilmember Johnson wondered when the RFP would be going out – she requested that it go out by May 22, 2012. Mr. Woods stated it was 85% complete. She also wondered when these community meetings would take place.

It was decided that there would be a Community Meeting held in Mid-September.

Mayor Yates opened the hearing for public comment.

Dawn Beattie, resident of the Cloisters, thanked Mr. Woods, Council and staff for their work to date. She feels the issue is fairness; it is not fair for the Cloisters' residents to continue to pay for something everybody gets to use. She remembers hearing that once the area was built out, the developers assumed that the maintenance of the park would have reverted back to the City. She would like to see the Assessment overturned. If not and an RFP goes out, she realizes that the price may not be different but at least the job will get done. She stated that she would like to be involved in the RFP process.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler is willing to uphold the assessment. He likes the concept of a neighborhood meeting and wants to see a budget report made available to the Cloister residents. He is happy to see that we are looking towards deferred maintenance. He also feels that the Cloisters community should have input on the RFP process prior to it going out.

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Councilmember Johnson feels that we should be gathering information from the Cloisters community as the RFP is put together and thinks it's only fair to meet with them prior to putting it out to see what their expectations are.

Councilmember Borchard agrees with a lot of what both councilmembers said. She is hopeful that this is going to be a turning point for us and is confident there will be a different measure of accountability from Council. She is looking forward to making this a better process for everyone. She suggested doing an email notification to the Cloister's residents which could afford them the opportunity for input prior to the RFP goes out.

Mayor Yates stated that he will be voting against this Assessment as he always has (with one exception).

MOTION: Councilmember Borchard moved for adoption of Resolution 22-12 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineer's Report. The motion was seconded by Councilmember Smukler and passed 3-2 with Mayor Yates and Councilmember Leage voting no.

B-2 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented his staff report stating that on April 10, 2012, the City Council adopted Resolution 17-12 which initiated the proceeding to levy the annual assessment to fund the maintenance of the North Point Natural Area. Staff was also directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2012/13. Based on the Engineer's Report, the fiscal impact is estimated at \$5,645. It is staff's recommendation to adopt Resolution 23-12 declaring the intent to levy the annual assessment for the maintenance of the North Point Area and approve the Engineer's Report.

Councilmember Borchard wanted to be assured that this maintenance will be included in the RFP with the Cloisters property.

Councilmember Smukler wanted to be assured that we will be attempting to begin a deferred maintenance account for North Point Area as well.

Mayor Yates opened the hearing for public comment; seeing none, the public hearing was closed.

MOTION: Councilmember Borchard moved for adoption of Resolution 23-12 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineer's Report. The motion was seconded by Councilmember Johnson and passed 4-1 with Mayor Yates voting no.

MINUTES - MORRO BAY CITY COUNCIL
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C. UNFINISHED BUSINESS – None

D. NEW BUSINESS

D-1 DISCUSSION ON LOCAL SPORTFISHING BUSINESSES; (ADMINISTRATION)

City Manager Andrea Lueker presented her staff report stating that she left the report vague so that the Council could brainstorm.

Councilmember Leage stated that the City has a problem on its hands. Sportfishing has been a business that has been in town since the 1940's and has been a big tourist draw for us. We are now down to 2 sportfishing boats. He feels that this is still a business that can be profitable. We are currently turning people away as there are not enough facilities to take people out. He feels we need to help these people stay in business. He feels that the Co-op idea is a terrific idea for the future but that we need to do something now.

Mayor Yates agrees and feels that the best idea, in the short term, is to put a temporary shack down on a parking lot at the Embarcadero as it would give visibility. He also expressed interest in making something happen fast.

Councilmember Smukler is hearing that a Co-op kind of operation would be equal opportunity as to who could use it. It would be fairly managed and hard for somebody to launch a campaign to try and scuttle that as it benefits all. It's also an opportunity for loading and unloading as well as offers some office space. He supported getting the current sportfishing businesses together along with the Harbor Department to begin working on getting this concept started.

Councilmember Johnson wondered how much we would lose in revenue if we were to reduce dock fees for sportfishing and commercial fishing vessels. She also asked if the Harbor Department was willing to meet with the sportfishing people in an effort to get this project started. Harbor Director Eric Endersby stated that they definitely were available.

Councilmember Borchard is 100% supportive of the Co-op space but is worried that we are getting ahead of ourselves. She feels we are a year away from being able to have a Co-op.

Mayor Yates requested that Virg's, the Rita G and Mr. Endersby come back with a proposal to the May 22, 2012 Council meeting. All Council members concurred with this request. There was no motion made on this item.

D-2 CONFIRMATION OF GOALS FROM THE 2012 GOAL-SETTING WORKSHOP;
(ADMINISTRATION)

City Manager Andrea Lueker presented the Goal Setting Workshop Outcomes and Success Factors for 2012 for Council's approval as presented by the goal setting workshop facilitator.

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Councilmember Borchard is ready to start implementing and working towards implementing the goals – both short and long term.

Councilmember Johnson is also ready; in fact we have already started with some of them.

Mayor Yates is very pleased as well as this report articulates exactly where we were at the goal setting meeting.

Councilmember Smukler requested that Council and staff look at Goal #2 – Sustainability; third bullet – *Review of Disaster Preparedness Plan*. He would like to see the following change made on the Success Factor: “*Last review occurred in January, 2008 with plan adoption by Resolution No. 05-08. Next review schedule Winter 2013, if requested.*” He would like to see “if requested” stricken from the success factor language. He also wanted to ensure that staff is confident with our movement towards an Economic Development Plan. He is glad to see that we continue to stress fixing our streets and potholes.

MOTION: Councilmember Johnson moved for adoption of the Goal Setting Workshop Outcomes and Success Factors for 2012 with the one change on page 2, Objective 1, 3rd Bullet – strike the words “if requested”. The motion was seconded by Councilmember Lege and carried unanimously 5-0.

D-3 PUBLIC SERVICES DEPARTMENT - COLLECTIONS/WWTP DIVISION
REORGANIZATION AND POSITION UPGRADE; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report requesting a reorganization of the Collections/WWTP Division with the current WWTP Division Manager taking over responsibility of the Collections Division. This action would also require a reclassification of the WWTP Manager into a higher range. This reorganization and associated personnel action allows the department to respond to State mandated and local programs in Wastewater Collections as well as eases the heavy workload in capital project management.

Councilmember Smukler asked if there would be any other implications to this move such as a future reclassification of other positions. And while this current request may cost \$6,300, will there be other associated costs involved with the upgrade such as merit increases.

Mr. Livick stated that they are attempting to create a more efficient department.

MOTION: Mayor Yates moved to approve the Public Services Department wastewater operation reorganization and authorize the associated reclassification of the Wastewater Division Manager. The motion was seconded by Councilmember Lege and failed 2-3 with Councilmembers Borchard, Johnson and Smukler voting no.

Councilmember Borchard can't support this due to the unknown costs of positions to be realigned; she wants to know the total costs of everything.

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Councilmember Smukler and Councilmember Johnson concur – they can't support this without all associated costs.

MOTION: Councilmember Borchard moved staff to come back with more information regarding the reclassification and potential changes to pay structures. The motion was seconded by Mayor Yates and carried unanimously 5-0.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Johnson requested an informational report, to be placed on the consent calendar, from the Police Department on skateboarding and its rules. Mayor Yates and Councilmember Borchard concurred.

ADJOURNMENT

The meeting adjourned at 9:08 p.m.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A-2

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 17, 2012

FROM: Eric Endersby, Harbor Director

SUBJECT: Award of Contract to Associated Pacific Constructors of Morro Bay for the Project No. MB-2012-H1: State Park Marina Maintenance Dredging Project

RECOMMENDATION:

Staff recommends the City Council award the State Park Marina Maintenance Dredging Project contract No. MB-2012-H1 to Associated Pacific Constructors (APC) in the amount of \$1,159,000.00.

FISCAL IMPACT:

Currently the City has \$1,290,000 in active grant funding from the California Department of Boating and Waterways for the project, with just under \$37,000 spent to date from those grants. With an estimated \$200,000 in future costs expected with our engineering, construction, monitoring, testing, and mitigation consultants to bring the project to completion, our grant funding will be fully expended. The shortfall in grant funding, \$106,000, will come from revenues available in the State Park Marina Fund managed by the Harbor Department. These funds are from concession revenues received from the operation of the marina under the City's agreement with State Parks. There currently is approximately \$176,000 available in that fund.

BACKGROUND:

In October 2002, the City entered into an agreement with State Parks for the City to take the lead on a major dredging and rehabilitation project at the State Park Marina. An EIR for this larger project was certified by the City in 2008. However, due to high cost estimates and funding constraints, the non-dredging improvements were put on hold. In 2010, an addendum to the EIR was certified by the City for a modified, dredging-only project. In 2011 the Dredged Materials Management Team, the multi-agency body tasked with evaluating dredging projects in California, deemed that of the approximate 79,000 cubic yards of material identified in the project to be dredged, approximately 36,000 of those yards were suitable for disposal in the Nearshore Disposal Site just off the sandspit. The remaining 43,000 yards will have to be disposed of upland.

Prepared By: EE

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The City has received all of the permits necessary for dredging; however, since to date no economical site has been identified for upland disposal, only the 36,000 yards suitable for Nearshore disposal are being dredged at this time as “Phase I.” This material is located in the channel leading into the marina from in front of the Natural History Museum up to the first finger of docks in the marina that extend perpendicular to shore from the parking lot.

“Phase II,” if undertaken, would include dredging of the inner-basin areas under the slips. Since the Coastal Development Permit for both phases of the project is a five-year permit, the City will have approximately four more years to identify and secure additional funding to complete the inner-basin dredging portion of Phase II or, alternatively, the City could opt out of the operating agreement with State Parks altogether and cease pursuing the project. These options are only being presented here as a matter of information; no action or direction from Council is being sought by staff at this time.

DISCUSSION:

The City has retained Anchor QEA for consultant work on the permitting and design portions of the Phase I portion of the project, and MarWal Construction for the bidding and construction management portions of the project. The project Notice to Bidders went out on April 25, 2012, and bids were due by 2:00 p.m. on May 16, 2012.

Project bids were opened on May 16, 2012 with 3 bids received. The low bid was submitted by APC in the amount of \$1,159,000.00. The other two bids came in at \$1,160,000.00 and \$1,655,595.00, respectively. The Engineer’s estimate for the project is \$1,150,000.00.

After the bid is awarded, the City will issue a Notice to Proceed. APC will have forty-five days to prepare all required pre-construction submittals to the City’s satisfaction. Once the submittals are deemed satisfactory, a second Notice to Proceed will occur for the physical work scope portion of the contract; the actual dredging. The contractor has ninety days to complete the dredging. After the work is complete, the contractor has seven days to complete all post-construction submittals.

Staff anticipates that actual mobilization and dredging will begin approximately mid-July provided things go as-planned.

CONCLUSION:

Staff recommends that Council award the State Park Marina dredging project contract to Associated Pacific Constructors of Morro Bay so that Phase I of the dredging project can occur. All of the necessary permits are obtained, and Anchor QEA is working diligently on completing the necessary ongoing conditions of those permits to keep the project moving forward.



AGENDA NO: A-3

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 15, 2012
FROM: Jamie Boucher, City Clerk
Rob Schultz, City Attorney
SUBJECT: Request to Approve a Response to the Grand Jury Regarding City Employee
Vacation and Sick Leave Accumulation Pay

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 report Entitled "Pay Me Now or Pay Me Later".

FISCAL IMPACT

There is no immediate fiscal impact.

BACKGROUND

On February 28, 2012, the City received a report prepared by the San Luis Obispo County Grand Jury entitled "Pay Me Now or Pay Me Later" (attachment A). The report makes the following findings:

1. There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.
2. With the exception of Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buyback or payoff of accumulated sick leave either annually or upon leaving city employment.
3. The City of Paso Robles, with only 165 employees, has more than 47,000 hours of accumulated vacation on its books and an enormous unfunded liability of \$1,646,575.
4. The City of Paso Robles has a policy stating that no employee can exceed one-and-one half times their annual accumulation or they will lose their vacation time.
5. The City of Paso Robles is in gross violation of its own policies governing accumulated vacation time; 40% of City employees exceed the stated policy.
6. The City of Paso Robles has not updated its personnel rules and regulation since 1989.
7. The City of Atascadero has admittedly and blatantly violated its own policies on

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

- vacation time for more than 20 years.
8. The City of Atascadero has not acted to date on any policy changes related to its accumulated vacation problem, in spite of the recommendations of the City Attorney.
 9. The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.
 10. Most jurisdictions do not update their personnel rules and regulations after MOU's are developed with each bargaining unit. All personnel rules are incorporated into any new MOU's but personnel rules are not always updated accordingly.

The report makes the following recommendations:

1. All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.
2. All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.
3. The City of Paso Robles should review and update its Personnel Rules and Regulations.
4. The City of Paso Robles should take immediate steps to stop additional vacation accumulation in violation of its own policies.
5. In order to reduce its unfunded liability, the City of Paso Robles should consider a multi-year program to pay off accumulated vacation time.
6. The Atascadero City Council should immediately address the recommendations made by their City Attorney for dealing with the problem of maximum allowable vacation time, implement one of the recommendations and adhere to it.
7. The City of Atascadero should consider a multi-year program to pay off accumulated vacation time and sick leave; and thereby reduce its unfunded liability.
8. The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.
9. All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.
10. All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability problem.

The report specifically requires the Morro Bay City Council to submit a response to Findings #'s 1, 2, 9 and 10 and Recommendations #'s 1, 2 and 8-10 to the Presiding Judge of the San Luis Obispo Superior Court by May 30, 2012.

DISCUSSION

The Grand Jury report focuses its attention on their understanding of each of the San Luis Obispo County municipality's policies regarding vacation and sick leave accumulation as well as the rules and regulations governing these accumulations. Their investigation resulted from a citizen complaint and was expanded to include all cities in the County.

One important fact to realize, all of the policies guiding an employee's ability to accumulate leave, whether it be vacation, compensatory or sick is defined in each group's MOU/Resolution/Agreement. In the case of sick leave accumulation, it is also governed by each group's PERS Contract. In order to facilitate a change to any leave policy, requires a meet and confer process, and quite possibly, a contract amendment with PERS.

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.

CONCLUSION

After review of both the "Findings" and Recommendations" found in the Grand Jury Report, as well as the City's response to each, it is staff's hope that the attached letter can be approved and sent onto the Presiding Judge of San Luis Obispo County Superior Court.



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6201

May 8, 2012

Presiding Judge Barry T. LaBarbera
Superior Court of California
1050 Monterey Street
San Luis Obispo, CA 93408

Re: Grand Jury Report entitled "Pay Me Now or Pay Me Later"

Dear Judge LaBarbera:

On behalf of Council of the City of Morro Bay, thank you for the information provided by the Grand Jury in the report entitled "Pay Me Now or Pay Me Later". This report was presented and reviewed by the City Council at their meeting held on May 22, 2012. After carefully considering the report and its findings and recommendations, the City Council offers the following responses:

FINDINGS:

Grand Jury Finding #1: There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.

City Response: *The City Council partially disagrees with this statement. "Substantial" is not defined. However, what is evident is that accumulation of vacation is not an uncommon employee benefit and can be an effective tool to promote employee productivity and security, as well as manage operating costs. While we can only respond to the City of Morro Bay employees' unused accumulation of vacation time, the City is aware that there are some employees who have reached and/or are reaching their maximum allowable accumulation. However, all accumulations fall within the current bargaining unit's Memorandum of Understanding (MOU). As per all MOU's, vacation accruals are dealt with as of November 1st of each calendar year. The City does not deem this accumulation "substantial".*

ADMINISTRATION
595 Harbor Street

CITY ATTORNEY
595 Harbor Street

FINANCE DEPARTMENT
595 Harbor Street

FIRE DEPARTMENT
715 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero Road

POLICE DEPARTMENT
850 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Avenue

RECREATION & PARKS
1001 Kennedy Way

Grand Jury Finding #2: With the exception of Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buyback or payoff of accumulated sick leave either annually or upon leaving city employment.

City Response: *The City Council partially agrees with this statement. The City of Morro Bay does allow unlimited accrual of sick leave. However, the City of Morro Bay does not pay out any sick leave to employees who leave city employment prior to retirement. The City does allow retiring employees for certain bargaining groups to cash out a portion of their sick leave at a small percentage of their base pay based on the applicable rules in place for their bargaining group and MOU.*

Grand Jury Finding #9: The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.

City Response: *The City Council partially agrees with this statement. In all but one of the City's MOU's/Resolutions/Agreements there is a provision stating "Employees exceeding the xxx hour maximum (differs based on bargaining unit) as of the pay period containing November 1 will be paid off for vacation time exceeding the xxx hour maximum. Payment shall be computed based upon the employee's base hourly rate of pay as of June 30 of the same calendar year. Vacation pay out will occur in the first pay period occurring on or after December 1". The City's POA does not have this stipulation in their MOU and in fact cease accruing vacation time if they reach their maximum accrual. As of today's date, there are some City employees who currently exceed the 300 hours the Grand Jury detailed in their report; however, 300 hours is a number randomly selected and not a limit currently found in any groups' MOU/Resolution/Agreement. Each City employee's accumulation to date still falls within their MOU language as this isn't handled until November 1 of each year. In addition, the City strongly encourages its employees to use their vacation time.*

Grand Jury Finding #10: Most jurisdictions do not update their personnel rules and regulations after MOU's are developed with each bargaining unit. All personnel rules are incorporated into any new MOU's but personnel rules are not always updated accordingly.

City Response: *The City Council partially agrees with this statement. The City concedes that our Personnel Rules and Regulations are in need of updating. However, it has never been our policy nor do we intend on making it policy to update the Personnel Rules each time an MOU is modified. The reasoning behind this policy is because in order to change or update the Personnel Rules and Regulations, the City must meet and confer (bargain) in good faith with all affected represented employee groups (conceivably the same group or groups that the City reached agreement with and thus initiated the update). Meeting and conferring with three represented employee groups and two unrepresented groups can be time-consuming. Further, the Personnel Rules and Regulations are meant to provide City-wide guidance, while MOUs provide more specific detail on topics that may apply to a smaller segment of the City or of the represented employee group. If every MOU change was to be reflected in the Personnel Rules and Regulations, there wouldn't be a need for one or the other document.*

RECOMMENDATIONS:

Grand Jury Recommendation #1: All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.

City Response: *The City Council agrees with this recommendation and will continue in our efforts to reduce the allowed maximum accumulation totals found in each individual MOU/Resolution/Agreement. In regard to the Current MOU/Resolution/Agreement, the allowed maximum accumulated vacation time was developed after negotiating in good faith with employees and are aimed at balancing employee's needs for flexibility in accumulating and taking vacation time with the City's desire to manage the liability. The City reviews all accumulated leave time, not just vacation accumulation, at least annually and works with and strongly encourages its employees to use their vacation time to ensure compliance with the City's policies and various MOUs.*

Grand Jury Recommendation #2: All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.

City Response: *The City of Morro Bay disagrees with this recommendation and does not believe its Personnel Rules and Regulations are in conflict with the MOUs/Resolution/Agreement for represented employee groups. The Personnel Rules and Regulations apply to all City employees while an MOU applies to only the employees represented by that bargaining unit. Further, if there is a conflict between the Personnel Rules and Regulations and the MOU, the MOU prevails. As described under Finding 10 above, updating the Personnel Rules and Regulations requires the City to meet and confer with every represented employee group, a time consuming process.*

Grand Jury Recommendation #8: The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.

City Response: *The City Council not only agrees with this recommendation but wants to ensure the Grand Jury that we enforce the language found in each MOU's/Resolution/Agreement for each bargaining group regarding the accumulation of vacation time.*

Grand Jury Recommendation #9: All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.

City Response: *The City Council partially agrees with this recommendation. The City does monitor employees' vacation and compensatory accumulated balances and encourages the use of those hours. However, the City cannot mandate the use of those hours and it is unrealistic to think that the City will not incur further unfunded liabilities. The balance of accumulated leave time is not a static number; rather it increases and decreases as employees earn and use their accumulated time or leave city employment; it is also based upon the wages earned by employees at*

the time of use or payout of unused leave, as appropriate. Further, it is quite common for there to be a two- to four-month lag between an employee who leaves the City and a replacement being hired, that frequently results in salary savings sufficient to fund the exiting employee's leave pay out, if necessary.

Grand Jury Recommendation #10: All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability problem.

City Response: *The City Council agrees with this recommendation. As indicated under the City response to Recommendation #9, the City continuously monitors their employees accumulated vacation balances and encourages the use of those hours. In addition, the City currently posts on its website the last three (3) years of Comprehensive Annual Financial Reports (CAFRs) wherein the value of annual leave accruals are provided. Citizens can readily access these posted reports and compare changes in accrual balances from year to year.*

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

Sincerely,

William Yates
Mayor



GRAND JURY

RECEIVED

FEB 28 2012

ADMINISTRATION OFFICE
CITY OF MORRO BAY

February 28, 2012

CONFIDENTIAL

Mayor William Yates and Council
City of Morro Bay
595 Harbor St
Morro Bay CA93442

Dear Mayor Yates and Council:

The San Luis Obispo County Grand Jury has completed the attached report titled **"Pay Me Now or Pay Me Later."** This copy of the report is being provided to you two days in advance of its public release, as required by California Penal Code §933.05 (f), which states:

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Please check the last page of text of the report for the timing of your response, if any, as required by the Penal Code. Sections 933 through 933.05 of the Penal Code are attached for your reference.

Please keep in mind that this report must be kept confidential until its public release by the Grand Jury.

Respectfully,

A handwritten signature in cursive script that reads "Norman A. Baxter".

Norman A. Baxter, Foreperson
2011-2012 San Luis Obispo County Grand Jury

Enclosures

California Penal Code

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

PAY ME NOW OR PAY ME LATER

CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY

INTRODUCTION

This report is a study of actual employee vacation and sick leave accumulation, and the rules and regulations governing these accumulations, in each San Luis Obispo County municipality.

ORIGIN

This Grand Jury investigation resulted from a citizen complaint and was expanded to include all cities in the County.

PROCEDURE

The Grand Jury obtained information for this report from the following sources:

1. Personnel Rules and Regulations from all seven cities in San Luis Obispo County
2. All Memorandums of Understanding¹ (MOUs) from all seven cities. Memorandums were for all bargaining units² in each jurisdiction; they identify vacation, sick leave and overtime policies in each city, unit by unit.
3. A record of each city employee, identifying his or her accumulated sick leave, vacation and overtime

¹ Memorandum of Understanding is an understanding reached as a result of meeting and conferring on hours, wages and working conditions pursuant to California law.

² Bargaining units are police and fire safety personnel, management employees, confidential (at will and exempt employees, usually working for management personnel) and miscellaneous employees, who are usually non-safety personnel, e.g., parks, building, planning.

4. Calculations of the potential unfunded liability³ for vacation time in each jurisdiction, based upon current data submitted
5. Follow-up communication with a city if there was any question about the data received
6. Calculations of accumulated vacation time at a conservative \$35 per hour based upon when the documentation was received by the 2011-2012 Grand Jury

NARRATIVE

CITY OF ARROYO GRANDE

Each employee unit has a different amount of maximum accumulated time that can be carried for vacation and sick leave. Vacation time can vary from 200 to 225 hours, except for management personnel who can accumulate up to 750 hours of vacation time. The City requires all employees to use at least 80 hours of vacation time annually after one year of service.

The Grand Jury found that there is only one employee who has exceeded the maximum amount of vacation time allowed; that person was grandfathered in when the rules were changed.

The City allows up to 480 hours of accumulated sick leave. Annually, an employee has the option of being paid 25% of his/her unused sick leave for the preceding twelve months. In lieu of payment, an employee may opt to transfer 25% of his/her unused sick leave to vacation credit.

Overall, the City has 83 full and part-time employees with a total of 7,232 hours of accumulated vacation time on its books and only one employee who exceeds the allowable accumulated time. The employee average is about 87 hours or 11 days of vacation.

The City currently has an unfunded liability for accumulated vacation time in the amount of \$253,120. As a result, the City appears to be managing its leave time very well.

³ Unfunded liability is the payment owing for accumulated vacation time at a future date when an employee leaves the city, and is paid out of general operating funds available to the city at the time of payout. Usually, final payments are at a rate of pay higher than that being earned at the time the vacation was accumulated.

CITY OF ATASCADERO

The City of Atascadero has a policy limiting vacation accrual, but has not enforced its own policy for over 20 years, thereby causing a major problem for the City. The City's policy clearly states, "Employees shall cease to accumulate vacation once their accrued vacation balance has reached two (2) times their annual accrual rate."

On October 25, 2011, the City Attorney provided a legal analysis to the City Council regarding restrictions on accrual of vacation, general principles and past practices, and submitted the following options for the City Council to consider:

- Maintain existing practice
- Revise Personnel Rules to reflect current practices
- Begin enforcing current rules, which would require a meet and confer process with employee bargaining units
- Allow employees to take time off and enforce the vacation cap gradually
- Create a new Personnel Rule for vacation accrual

The City Attorney developed these options for the City Manager and the City Council to help resolve this problem. As of this writing, however, no action has been taken by the City Council.

The City of Atascadero has unlimited accrual of sick leave and a "Stay Well" bonus program. Once eligible, an employee may opt to receive a pay-off equal to one-third of the unused annual allotment of sick leave. The City does not pay off accumulated sick leave when an employee leaves the City, with the exception of Mid-management personnel. Mid-management personnel are entitled to receive payment at their hourly rate for one-half of their accumulated sick leave.

The City of Atascadero currently has 116 employees with 25,352 hours of accumulated vacation time on its books and unfunded liability for accumulated vacation time of \$887,320. The average accumulated vacation time per employee is more than 218 hours or approximately 27 days, which is the second highest total in the County.

The City is managing its vacation time poorly and has built up a significant unfunded liability as a result.

CITY OF GROVER BEACH

Employees may earn up to 280 hours of vacation time a year, depending upon how long they have been with the City. The City has a "Buy Back" program for vacation when accumulation exceeds 60% of the authorized time allowed. Employees may be paid a maximum of 80 hours of compensation for vacation accumulation in any calendar year. This approach minimizes unfunded liability.

Employees with less than five years with the City may accumulate a maximum of 20 days, while employees with five to ten years may accumulate up to 25 days. Employees with over ten years with the City may accumulate a maximum of 34 days. Any vacation exceeding this amount will be forfeited, unless approved by the City Administrator in advance.

Management and Confidential unit employees may accumulate up to 632 hours of vacation time, depending on how many years they have worked for the City.

Sick leave may be accumulated up to 2,000 hours, and management personnel may be paid a maximum of 672 hours upon leaving city employment. However, effective with new contracts, the sick leave buy back policy has been suspended. Some accumulated sick leave may be applied to the Public Employee Retirement System (PERS), depending on the existing contracts at the time of retirement.

At present, the City has a total of 55 employees with 10,496 hours of accumulated vacation time on its books and unfunded liability for accumulated vacation time in the amount of \$367,360.

The relatively high unfunded liability may cause some concern, as the average vacation accumulation per employee is 190 hours or about 24 days. However, it appears as if the City is

managing its accumulated vacation time quite well; it addresses the issue on an annual basis in an effort to limit its liability.

CITY OF MORRO BAY

The City of Morro Bay has a vacation accumulation policy ranging from 10 to 20 days per year. Employees may carry forward one year of their maximum allowable annual accumulation of vacation time. There is a "buy back" program for some employees when they exceed the maximum allowable accrual time.

The City has a policy that once an employee reaches the maximum vacation accumulation, the employee may not continue to accrue vacation time. However, City records indicate that several employees appear to have more time on the books than allowed by City rules and regulations. The City Manager is authorized to grant approval to exceed the maximum allowable accrual of vacation, but it is not known if such approval has been granted officially.

Management and Confidential Unit employees may accumulate up to 400 hours of vacation time.

The Grand Jury noted that twelve employees have over 300 hours of accumulated vacation time, four employees have over 400 hours and two employees have in excess of 600 hours.

The City has no limit on sick leave accumulation and there is a pay-off policy between 25% and 35% of sick leave accumulation when the employee leaves City employment, depending upon the bargaining unit.

The City has a total of 98 full and part-time employees with total accumulated vacation time of 14,766 hours and unfunded liability for accumulated vacation time of \$516,810. The average vacation accumulation per employee is about 151 hours or 19 days.

The City appears to be managing accrued vacation time reasonably well, but it does have some long-time employees who may cause a financial problem when they leave City employment.

CITY OF PASO ROBLES

The City of Paso Robles has a policy governing how many vacation hours an employee may accumulate on an annual basis. This accumulation is based upon time in service and ranges from 80 to 160 hours, except for Management and Confidential Unit employees who may accrue up to 200 hours.

In the City's Personnel Rules, under Section 16.02 (c), however, the policy states: "At no time may an employee have a total balance of vacation days in excess of one-and-one-half times its current, annual accrual rate. Excess vacation accrued in this manner shall be lost if not taken within 60 days of the date the maximum accumulation is reached."

The Grand Jury found that 67 of 165 City employees, or 40%, exceed the maximum vacation allowed, even though the City has a policy of paying off vacation time up to one week per year, if the employee has at least three weeks of vacation accumulated. It is obvious that the City does not follow its own vacation accrual policy.

The Grand Jury investigation revealed that the City has an enormous problem of accumulated vacation time and related unfunded liability. The largest accumulation is among the Police Department and Management and Confidential Unit employees, the two highest paid units in the City. This situation magnifies the problem because the cost of payout per employee in these two units exceeds the cost of payout per employee in the Miscellaneous Unit (non-safety personnel).

Currently, the City has 47,045 total hours of accumulated vacation on its books and unfunded liability for accumulated vacation time of \$1,646,575 because it does not enforce its maximum vacation accumulation policy. The 165 City employees have an average of 285 accumulated vacation hours or more than 36 days per employee, which is the highest accumulation in the County.

In contrast, the City of San Luis Obispo has 50,429 hours on its books for 345 employees, for an average time accumulated vacation time of only 18.25 days per employee.

The City of Paso Robles has unlimited accrual of sick leave, as do most of the cities in the county.

The Grand Jury also noted that the City of Paso Robles appears to have a set of personnel rules and regulations that has not been updated since 1989. As a result, there may be significant outdated policies and procedures that require a thorough review by the City Council and staff.

CITY OF PISMO BEACH

In the City of Pismo Beach, vacation time varies with the employee bargaining unit. Generally, employees can receive up to 20-22 days, depending upon time with the city, and may accrue up to 44 days or two times the employee's annual accrual rate.

The City has no cap on accumulated sick leave accruals; however, payment of accrued sick leave cannot exceed 480 hours. Some time may be converted to the retirement system, depending upon the existing city contract with PERS.

The City has a total of 85 employees with 8,691 accumulated vacation hours and unfunded liability for accumulated vacation time of \$304,185. Although this number may seem to be cause for concern, the City of Pismo Beach has no employees who exceed the maximum allowed. The City averages about 103 hours of accumulated time or about 13 days per employee. Vacation time appears to be well managed.

CITY OF SAN LUIS OBISPO

In the City of San Luis Obispo, vacation can be accrued up to two times the annual rate allowed for an employee. Depending upon the bargaining unit, the City may buy back from an employee up to 80 hours of vacation time annually.

The City of San Luis Obispo has unlimited accumulation of sick leave and can pay off Miscellaneous Unit employees between 10% and 15% of their accumulation, after an employee

has 20 years with the City. Fire and Police personnel can receive up to 30% payment of their accumulation, depending upon time with the City.

There are so many variations on buy back of time, accrual rates and other forms of compensation that analysis of vacation time is the most meaningful.

The City of San Luis Obispo has a total of 50,740 hours of accumulated vacation time and unfunded liability for accumulated vacation time of \$1,775,900. With 345 employees, however, the City has an average accumulated vacation time of only 147 hours or approximately 18 days per employee.

The City of San Luis Obispo is well within its policy guidelines for vacation accumulation and vacation time appears to be well managed.

SUMMARY TABLES

The two tables below summarize the vacation accrual issues that each municipality in San Luis Obispo County must manage. The first table shows the amount of unfunded liability for vacation accrual by city in the County.

Table 1: Summary of Unfunded Liability for Vacation Accrual

<u>City</u>	<u>Unfunded Liability for Vacation Accrual</u>
Arroyo Grande	\$253,120
Atascadero	\$887,320
Grover Beach	\$367,360
Morro Bay	\$516,810
Paso Robles	\$1,646,575
Pismo Beach	\$304,185
San Luis Obispo	\$1,775,900

Note: Dates of the amount of unfunded liability vary by city. All calculations of accumulated vacation time are based upon when the documentation was submitted to the 2011-2012 Grand Jury in mid-2011, at an average cost of \$35 per hour.

The second table shows the average vacation accrual in hours per employee by city in the County.

Table 2: Summary of Average Vacation Accrual per Employee

<u>City</u>	<u>Average Vacation Accrual - Hours per Employee</u>
Arroyo Grande	87
Atascadero	218
Grover Beach	190
Morro Bay	151
Paso Robles	285
Pismo Beach	102
San Luis Obispo	147

CONCLUSION

After a review of the vacation and sick leave policies of the cities in San Luis Obispo County, and a review of accumulated vacation time for employees, it is apparent that some cities are not in compliance with their own personnel rules, regulations and policies.

Several jurisdictions have excessive accumulated vacation time that places the city in financial jeopardy due to unfunded liability. Employees have been allowed to accumulate excessive vacation time, either as a result of poor management practices or the inability of management to allow vacation time off for employees.

It is obvious that several jurisdictions have, or will have, a considerable problem in paying off accumulated vacation time. Almost all accumulated time is paid off at a **higher** rate than when it was earned, which adds an additional financial burden on all cities.

It is also clear that in some jurisdictions personnel rules and regulations have not been updated for some time. As a result, they do not reflect current practices. Some jurisdictions appear to use employee agreements in lieu of updating their personnel rules and regulations; they incorporate the agreements into the personnel rules by reference.

It is very difficult for an individual who is not familiar with a particular jurisdiction to understand employee benefits fully by reviewing only the Personnel Rules. All Memorandums of Understanding should be reviewed, as well.

FINDINGS

1. There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.
2. With the exception of the Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buy back or payoff of accumulated sick leave either annually or upon leaving city employment.
3. The City of Paso Robles, with only 165 employees, has more than 47,000 hours of accumulated vacation on its books and an enormous unfunded liability of \$1,646,575.
4. The City of Paso Robles has a policy stating that no employee can exceed one-and-one-half times their annual accumulation or they will lose their vacation time.
5. The City of Paso Robles is in gross violation of its own policies governing accumulated vacation time; 40% of City employees exceed the stated policy.
6. The City of Paso Robles has not updated its personnel rules and regulations since 1989.
7. The City of Atascadero has admittedly and blatantly violated its own policies on vacation time for more than 20 years.
8. The City of Atascadero has not acted to date on any policy changes related to its accumulated vacation problem, in spite of the recommendations of the City Attorney.
9. The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.

10. Most jurisdictions do not update their personnel rules and regulations after MOUs are developed with each bargaining unit. All personnel rules are incorporated into any new MOUs, but personnel rules are not always updated accordingly.

RECOMMENDATIONS

1. All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.
2. All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.
3. The City of Paso Robles should review and update its Personnel Rules and Regulations.
4. The City of Paso Robles should take immediate steps to stop additional vacation accumulation in violation of its own policies.
5. In order to reduce its unfunded liability, the City of Paso Robles should consider a multi-year program to pay off accumulated vacation time.
6. The Atascadero City Council should immediately address the recommendations made by their City Attorney for dealing with the problem of maximum allowable vacation time, implement one of the recommendations and adhere to it.
7. The City of Atascadero should consider a multi-year program to pay off accumulated vacation time and sick leave, and thereby reduce its unfunded liability.
8. The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.

9. All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.

10. All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability issue.

COMMENDATIONS

The Cities of Arroyo Grande, Pismo Beach and San Luis Obispo are managing their accumulated vacation time extremely well.

REQUIRED RESPONSES

All cities are required to respond to Findings 1, 2 and 10, and Recommendations 1, 2, 9, and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Paso Robles is required to respond to Findings 1-6 and 10, and Recommendations 1-5, 9 and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Atascadero is required to respond to Findings 1, 2, 7, 8, and 10, and Recommendations 1, 2, 6, 7, 9, and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Morro Bay is required to respond to Findings 1, 2, 9, and 10, and Recommendations 1, 2 and 8-10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera 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

The email address for the Grand Jury is: GrandJury@co.slo.ca.us

RESOLUTION NO. 21-12

**APPROVAL OF AMENDMENT #2 TO THE LEASE AGREEMENT
FOR LEASE SITE 122-123/122W-123W LOCATED AT
1205 EMBARCADERO, BETWEEN THE CITY OF MORRO BAY
AND TROY AND HEATHER LEAGE DBA THMT INC.**

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

WHEREAS, the City is the lessor of certain property on the Morro Bay waterfront described as Lease Site 122-123/122W-123W and Extension 122W-123W, located at 1205 Embarcadero; and,

WHEREAS, Troy and heather Leage, dba THMT Inc., is the lessee of said property; and

WHEREAS, the City and the proposed tenant, THMT, Inc. have agreed to an amendment to the lease agreement to add ten years on the existing lease agreement so that the new termination date shall be June 30, 2033 and requires that no later than June 30, 2016, Tenant shall complete refurbishment, remodeling and repairs on the buildings on the premises valued at a minimum of \$150,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the Mayor is hereby authorized to execute Amendment #2.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of May, 2012 on the following vote:

AYES:

NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Jamie Boucher, City Clerk

**AMENDMENT #2 TO THE LEASE AGREEMENT FOR
LEASE SITE 122-123/122W-123W**

This Amendment is made and entered into as of this 22nd day of May, 2012 by and between the City of Morro Bay, a municipal corporation of the State of California, (hereinafter "City") and Troy and Heather Leage, dba THMT Inc. (hereinafter "Tenant") to amend that certain ground lease for Lease Site 122-123/122W-123W dated April 27, 1998 (hereinafter "Lease").

WHEREAS, Tenant intends to construct an approximate 680 sq. ft. second level over the existing office, freezer and kitchen preparation area on Lease Site 122-123/122W-123W, estimated to cost \$150,000; and,

WHEREAS, it is mutually beneficial for City and Tenant to acknowledge the improvement to the Lease Site; and,

WHEREAS, the proposed expansion of 680 sq. ft. to add additional storage space and employee break room is in compliance with MBMC 17.36.020 as said additional space shall not be used as additional restaurant service;

NOW THEREFORE, Tenant and City shall provide for the amendment of Lease as follows:

1. SECTION 1.01 TERM:

The Termination Date shall be amended to read "June 30, 2033".

2. CONSTRUCTION OF IMPROVEMENTS

Tenant agrees to obtain the required permits and to complete construction/installation of the 680 sq. ft. second level located on Lease Site 122-123/122W-123W valued at a minimum of \$150,000 by June 30, 2016. Tenant shall submit copies of invoices paid by tenant to verify expenses. Failure to complete said construction and provide proof of expenses by June 30, 2016 will void this Amendment. Tenant agrees that the 680 sq. ft. addition shall be used for additional office space, storage and employee break room for the restaurant and for no other uses.

All other provisions of the lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto execute this Amendment.

CITY OF MORRO BAY

TENANT – Troy and Heather Leage

William Yates, Mayor

Troy Leage

Andrea Lueker, City Manager

Heather Leage

APPROVED AS TO FORM:

Robert Schultz, City Attorney

ATTEST:

Jamie Boucher, City Clerk



AGENDA NO: A-5

MEETING DATE: 5/22/2012

Staff Report

TO: Honorable Mayor and City Council
FROM: Jamie Boucher, City Clerk
Rob Schultz, City Attorney
DATE: May 16, 2012
SUBJECT: Request to Approve a Response to the Grand Jury Regarding Citizen Complaints and Internal Affairs Investigations

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 report Entitled "Citizen Complaints and Internal Affairs Investigations".

FISCAL IMPACT

There is no fiscal impact.

BACKGROUND

On March 20, 2012 the City received a report prepared by the San Luis Obispo County Grand Jury entitled "Citizen Complaints and Internal Affairs Investigations" (attachment A).

The report makes the following findings:

1. The Police Departments of Pismo Beach and Grover Beach and the Sheriff's Department have citizen complaint forms on their websites.
2. The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay do not have citizen complaint forms available on their websites.
3. The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo have an admonition on their citizen complaint forms.
4. The Police Department of Grover Beach and the Sheriff's Department do not have an admonition on their websites.
5. The Police Departments of Paso Robles and San Luis Obispo indicated that they would soon place citizen complaint forms on their websites.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

6. All Police Departments use the policy guidelines proposed by Lexipol.
7. All Police Departments and the Sheriff's Department adhere to the policy guidelines for citizen complaints proposed by POST. However, the Pismo Beach Police Department also adheres to the guidelines of CALEA, a national organization.
8. The Sheriff's Department has an outdated system of video recording in their vehicles and lacks the ability to store video data efficiently. The storage of DVDs is inefficient, requires too much space and slows retrieval time when it is necessary to utilize the information.

The report makes the following recommendations:

1. The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay should add citizen complaint forms to their websites.
2. The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo should remove the admonition from their complaint forms.
3. The Sheriff's Department should upgrade its vehicles with digital recording devices in order to enhance safety for all personnel, reduce download time and storage space required, and improve the ability to retrieve information, thereby providing better service overall.

The report specifically requires the Morro Bay City Council to submit a response to Findings #'s 2, 6 and 7 and Recommendations #'s 1 and 2 to the Presiding Judge of the San Luis Obispo Superior Court by June 18, 2012.

DISCUSSION

The San Luis Obispo County Grand Jury released a report in June of 2005 entitled, "Citizen Complaints against Law Enforcement Agencies, Internal Affairs Investigations." The City responded to this report, in accordance with CPC 933(c), in September of 2005.

In October of 2011, the Grand Jury sent a letter to the Morro Bay Police Chief, stating that "Given the fact that most current Police Chiefs and the Sheriff were not in office at the time the original report was issued, the 2011-2012 SLO County Grand Jury would like to interview you for an update on the responses of your agency to the 2004-2005 SLO County Grand Jury report." Police Chief Olivas responded to their request and was interviewed by the Grand Jury. In March 2012, the Grand Jury submitted a new report to the City entitled, "Citizen Complaints and Internal Affairs Investigations," and asked for a response from the legislative body. Staff has prepared the attached response for Council's review and approval.

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.

CONCLUSION

After review of both the “Findings” and Recommendations” found in the Grand Jury Report, as well as the City’s response to each, it is staff’s hope that the attached letter can be approved and sent onto the Presiding Judge of San Luis Obispo County Superior Court.



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6205

May 16, 2012

Presiding Judge Barry T. LaBarbera
Superior Court of California
1050 Monterey Street
San Luis Obispo, CA 93408

Re: Grand Jury Report entitled "Citizen Complaints and Internal Affairs Investigations"

Dear Judge LaBarbera:

On behalf of Council of the City of Morro Bay, thank you for the information provided by the Grand Jury in the report entitled "Citizen Complaints and Internal Affairs Investigations". This report was presented and reviewed by the City Council at their meeting held on May 22, 2012. After carefully considering the report and its findings and recommendations, the City Council offers the following responses:

Findings:

Grand Jury Finding #2: The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay do not have citizen complaint forms available on their websites.

City Response: *The City Council agrees with this statement.*

Grand Jury Finding #3: The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo have an admonition on their citizen complaint forms.

City Response: *The City Council agrees with this statement.*

Grand Jury Finding #6: All Police Departments use the policy guidelines proposed by Lexipol.

City Response: *The City Council agrees with this statement.*

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
595 Harbor Street

POLICE DEPT.
850 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way

Grand Jury Finding #7: All Police Departments and the Sheriff's Department adhere to the policy guidelines for citizen complaints proposed by POST.

City Response: *The City Council agrees with this statement.*

Recommendations:

Grand Jury Recommendation #1: The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay should add citizen complaint forms to their websites.

City Response: *The Morro Bay Police Department has implemented this recommendation and created an active link to the Morro Bay Police Department Citizen Complaint form on the Police Department page of the City of Morro Bay web site.*

Grand Jury Recommendation #2: The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo should remove the admonition from their complaint forms.

City Response: *The City of Morro Bay has implemented this recommendation and removed the current admonition from the complaint form and replaced it with the following statement:*

Any person who knowingly makes a false complaint against a Peace Officer is subject to civil suit and money damages. Civil Code Section 47.5.

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

Sincerely,

William Yates
Mayor



RECEIVED

MAR 20 2012

ADMINISTRATION OFFICE
CITY OF MORRO BAY

GRAND JURY

March 20, 2012

Confidential

Mayor William Yates
City of Morro Bay
595 Harbor St
Morro Bay CA 93422

Dear Mayor Yates and City Council:

The San Luis Obispo County Grand Jury has completed the attached report titled "**Citizen Complaints and Internal Affairs Investigations.**" This copy of the report is being provided to you two days in advance of its public release, as required by California Penal Code §933.05 (f), which states:

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Please check the last page of text of the report for the timing of your response, if any, as required by the Penal Code. Sections 933 through 933.05 of the Penal Code are attached for your reference.

Please keep in mind that this report must be kept confidential until its public release by the Grand Jury.

Respectfully,

Norman A. Baxter, Foreperson
2011-2012 San Luis Obispo County Grand Jury

Enclosures

NB:sm

CITIZEN COMPLAINTS AND INTERNAL AFFAIRS INVESTIGATIONS

SUMMARY

This Grand Jury report informs the public about their rights to file a complaint with a police agency and it describes the police agency process used to investigate that complaint.

This 2011-2012 Grand Jury investigation found that the San Luis Obispo County Sheriff's Department, under the leadership of the newly elected Sheriff Ian Parkinson, has made great strides in improving the handling of citizen complaints and internal affairs investigations by reestablishing its Internal Affairs Unit, now known as the Professional Standards Unit.

The 2011-2012 Grand Jury also found that police departments in San Luis Obispo County implemented recommendations made in the 2004-2005 Grand Jury report and adhere to established state standards in handling citizen complaints and conducting internal affairs investigations. Police departments in San Luis Obispo County also make use of modern video technology to record police interaction with the citizens of the county.

INTRODUCTION

Citizens are often concerned as to what recourse is available to them if they have a complaint about police personnel, and how they can file an official complaint against those officers.

Citizens are also concerned about the process utilized by police departments in investigating their own officers, and how their specific complaint will be handled.

California Penal Code Section § 832.5(a) states: "Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of those departments or agents, and shall make a written description of the procedure available to the public."

The 2011-2012 Grand Jury (hereafter referred to as the current Grand Jury) reviewed the current policies of San Luis Obispo County police agencies governing complaints received from citizens about police actions, and how those agencies investigate citizen complaints.

ORIGIN

The current Grand Jury decided to update the 2004-2005 Grand Jury (hereafter referred to as the previous Grand Jury) report on the same topic.

The current Grand Jury noted that almost all Chiefs of Police and the Sheriff are new to their office since the previous Grand Jury report. The current Grand Jury determined that a review of policies, practices and procedures relating to citizen complaints would be valuable to the citizens of the county.

METHOD

The Grand Jury requested and received written policies and procedures for handling citizen complaints and internal affairs investigations from all seven municipal police departments in the county and the Sheriff's Department.

The Grand Jury reviewed the previous Grand Jury report on citizen complaints, its findings and recommendations, and the responses provided by the Chiefs of Police and the Sheriff.

After reviewing the current policies of all police agencies, the Grand Jury arranged to interview all Chiefs of Police and the Sheriff. Those interviewed were as follows:

- Steve Annibali, Chief of Police, Arroyo Grande Police
- Jerel Haley, Chief of Police, Atascadero Police
- Steve Gesell, Commander, Atascadero Police
- Jim Copsey, Chief of Police, Grover Beach Police
- Tim Olivas, Chief of Police, Morro Bay Police

- Lisa Solomon, Chief of Police, Paso Robles Police
- Jeff Norton, Chief of Police, Pismo Beach Police
- Deborah Linden, Chief of Police, San Luis Obispo Police
- Ian Parkinson, Sheriff, San Luis Obispo County
- Jim Voge, Commander, San Luis Obispo County Sheriff's Department

NARRATIVE

The previous Grand Jury report noted that not all police agencies were consistent in how they handled citizen complaints or the investigative process. During the interview process with the Chiefs of Police and the Sheriff, the current Grand Jury was advised that all agencies now have a similar policy, provided by Lexipol.¹

Lexipol also provides policy suggestions in almost every area of law enforcement, and it has become the most common tool utilized by law enforcement agencies, along with policy direction provided through the offices of the Peace Officers Standards and Training Commission (POST).

The Commission on POST was established by the California Legislature in 1959 to set minimum selection and training standards for California law enforcement. The POST organization, with more than 130 staff members, functions under the direction of an Executive Director appointed by the Commission.

POST funding comes from the Peace Officers Training Fund (POTF). The POTF receives money from the State Penalty Assessment Fund, which in turn receives money from penalty assessments

¹ Lexipol is the leading provider of risk management resources for public safety organizations, delivering its services through a unique, web-based development system with an integrated training component. The Lexipol system has helped law enforcement agencies reduce risk and stay ahead of litigation while communicating clear and concise policy guidance to their employees.

on criminal and traffic fines. Therefore, the people who violate the laws that peace officers are trained to enforce fund the POST Program.

The POST Program is voluntary and incentive-based. Participating agencies agree to abide by the standards established by POST. More than 600 police agencies participate in the POST Program and are eligible to receive the Commission's services and benefits, which include:

- Job-related assessment tools
- Research into improved officer selection standards
- Management counseling services
- The development of new training courses
- Reimbursement for training, and
- Leadership training programs

All police agencies in San Luis Obispo County, with the exception of Pismo Beach, adhere to the policies and procedures of POST. Pismo Beach is the only San Luis Obispo County agency that is accredited by the Commission on Accreditation for Law Enforcement (CALEA), which is a national accreditation program. However, Pismo Beach does follow POST guidelines through CALEA, as POST and CALEA are similar in nature.

Over 600 California agencies follow POST guidelines, and only a few California agencies participate in CALEA.

During the interview process with the Chiefs and the Sheriff, the Grand Jury asked a number of questions with regard to citizen complaint procedures.

Does your agency provide citizen complaint forms to individuals who request them?

All agencies provide citizen complaint forms and make brochures that explain the complaint process available to the public.

Are the forms available in Spanish?

All agencies have their forms available in Spanish, and they all subscribe to a service through AT&T that provides telephone interpreters as needed.

Do you have any Spanish language personnel who can assist a complainant?

All agencies have access to some Spanish-speaking personnel and, as previously noted, they can use the service provided by AT&T for other interpreting needs.

Do you have your citizen complaint forms on your Internet site?

Pismo Beach, Grover Beach and the Sheriff's Department have citizen complaint information on the web. Paso Robles and San Luis Obispo stated that they will be placing the information on their websites soon. Arroyo Grande, Atascadero and Morro Bay do not have the information on their websites at this time.

If a citizen makes a complaint, how is the initial complaint handled and by whom?

In all instances, the complainant has the opportunity to discuss the complaint with a supervisor when the initial complaint is made. The complainant may stop an interview with a supervisor at any time. The complaint is then forwarded to a supervisor or commanding officer, if it cannot be resolved at the first level. Ultimately, the final decision regarding the handling of the complaint rests with the Chief of Police or Sheriff. The Sheriff Department's new system will be discussed separately as it merits special attention.

Can a complainant take the forms and return them at a later date? If so, what is the process when the form is returned?

Every department responded that complainants are free to take forms with them and return them at a later date.

Does the form used by your department advise individuals that they are committing a crime by filing a false report?

Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo Police Departments have an admonition on their complaint forms. The admonition states that if a citizen files a false report against an officer they can be charged with a misdemeanor.

Arroyo Grande, Pismo Beach and the Sheriff's Department do not have the admonition on their complaint forms. However, the Pismo Beach Police Department also had the admonition on its website. Subsequent to the current Grand Jury interview with Chief of Police Jeff Norton, the admonition was removed from the website. The admonition could have been interpreted to be threatening, thereby dissuading citizens from filing a complaint.

California Penal Code requires that a citizen sign a form stating that they are aware that a false report filed against a police officer can be found a misdemeanor.²

A California Appellate Court has ruled that Section 148.6 of the penal code is constitutional, and citizens may be prosecuted for filing a false report.³ However, Federal Courts have ruled the section is unconstitutional under Federal law because it deprives a citizen of their right to complain about a public official.⁴

Leading California police personnel attorneys have advised their clients that section 148.6, although held to be constitutional by the California Supreme Court, is basically unenforceable because federal constitutional law generally trumps state constitutional law in the area of citizens' rights. Consequently, they have advised their clients to remove the admonition from all complaint forms.

² California Penal Code 148.6

³ *People vs. Stanistreet* (2002) 29 Cal. 4th 497- California Supreme Court,

⁴ *Chaker vs. Crogan* (2005) 428 F. 3rd 1215- Court of Appeals, 9th Circuit

How are complaints handled after the initial filing?

After a decision is made to investigate the complaint, it is assigned to an investigator. All police departments appear to conduct a complete and thorough investigation into each complaint. In all cases, the investigation ultimately is reviewed by the Chief or Sheriff and, in consultation with staff, a decision is made as to what, if any, disciplinary action is required.

Who determines who will investigate a complaint?

If the investigation requires an internal affairs investigation, the Chief of Police or the Sheriff, in concert with staff, will make a determination as to who will handle the investigation. In all cases, an officer senior to the officer being investigated will conduct the investigation. In rare instances involving a senior officer or the Chief of Police, cities have used outside investigators to conduct an impartial investigation.

There are **four possible findings** to all investigations pursuant to Penal Code Section 832.5.

Unfounded: The investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code 832.5 (c)).

Exonerated: The investigation discloses that the alleged act occurred, but the act was justified, lawful and/or proper.

Not Sustained: The investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained: The investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

What is the process after the investigation is completed?

Upon completion of the investigation, a recommendation will be made to the Chief of Police or the Sheriff as to what, if any, disciplinary action is required. Based upon the above criteria, a determination will be made if the complaint is sustained or not sustained.

What is the complainant advised after the investigation is complete?

All departments notify the complainant that the investigation has been completed, and the findings pursuant to the four categories: unfounded, exonerated, not sustained or sustained. It is often difficult to explain to a complainant why they cannot be privy to additional information; however, Government Code 3300, The Peace Officer's Bill of Rights, protects the personnel files of all police officers. Based upon existing state law, complainants are not entitled to be notified of any disciplinary action taken against an officer.

Do you have a specific person or persons assigned to internal affairs investigations?

Because police departments in San Luis Obispo County are relatively small, they do not have a special internal affairs unit or personnel assigned specifically to internal affairs. The San Luis Obispo County Sheriff's Department is an exception and will be discussed separately.

Do you ever use outside investigators if you believe there may be a conflict of interest in using department personnel?

As previously noted, outside investigators are not usually used; however, if the complaint involves the Chief of Police or the Sheriff, or even a high-ranking member of the department, it is possible to utilize the services of an outside investigator.

What kind of a log do you keep with regard to citizen complaints filed?

All departments maintain a master log of citizen complaints. The log includes administrative complaints that have been handled informally, as well as complaints that resulted in internal affairs investigations. These complaint logs are usually separate. Minor complaints are purged from an officer's personnel files after a prescribed period of time, usually based upon the department's own policies. Informal counseling does not require retention of file documents.

All Chiefs of Police and the Sheriff indicated that they utilize a master log to track officers' activities and the number of complaints against any individual officer. The Sheriff's Department has a unique system of tracking.⁵

All departments maintain the log for a period of time required by law, usually five years if an internal affairs investigation was a part of the complaint process.⁶

How are your personnel trained to conduct internal affairs investigations?

All departments train their personnel in Internal Affairs Investigation through POST-certified training schools. Departments are reluctant to utilize personnel who have not received POST training in internal affairs investigations. In such cases, a POST-certified supervisor will monitor the investigation.

Is in-house training conducted on the handling of internal affairs investigations?

Departments continuously train their personnel either through external courses or Lexipol training in-house.

⁵ Discussed under a separate heading for the Sheriff's Department

⁶ The State of California requires at least five year retention for citizen complaints. The statute of limitations is four years for misconduct. Internal Affairs and statewide guidelines recommend twenty-five year retention for officer-involved shootings.

Do you have any community outreach programs to encourage citizens to come forth with complaints if they feel justified in doing so? In that same regard, do you have any programs encouraging citizens to come forth with positive comments and commendations about police personnel?

All Chiefs and the Sheriff indicated that they participate in community activities, such as service clubs, homeowner groups, and local organizations, where they encourage citizens to come forward with any comments about the department. There is no concerted effort to solicit complaints; however, all indicated that they are always open and responsive to citizen input.

Do you have any specific technology that is utilized to assist your agency when conducting internal affairs investigations, such as mini-video cameras, personal recording devices, in-vehicle video or other similar technology?

All departments have cameras, recording devices and other technology to assist them in documenting events, and they use such technology when conducting an internal affairs investigation. It is often easier to show a complainant a video of their actions in a given situation than to try to convince them that there was no wrongdoing on the part of an officer. Conversely, if an officer has committed an act of misconduct, it is easier for the department to take corrective action with the aid of such technology.

Many departments have the ability to download videos when an officer arrives at the station, and each department maintains digital recordings of all activities. The Sheriff's Department is currently unable to download video from patrol vehicles and must maintain DVDs in their evidence storage area, which is cumbersome, requires excessive storage space and is not time efficient.

Many officers have individual recording devices that they activate when at the scene of an incident, and the video cameras in the vehicles can often observe activity at a great distance when an officer leaves the vehicle.

All Chiefs and the Sheriff agreed that new technology has aided them enormously in being able to supervise personnel and provide additional safety for officers; it has also assisted in effectively resolving many citizen complaints.

SAN LUIS OBISPO COUNTY SHERIFF'S INTERNAL AFFAIRS UNIT

Under the previous administration, the Sheriff's Department did not have an Internal Affairs Unit. At that time, the Sheriff would receive a complaint and decide if it should be handled as an Administrative Inquiry (AI) or an Internal Affairs (IA) investigation. AIs did not receive a tracking number.

Under the new administration, the Sheriff's Department does not conduct AIs, only IA investigations. As a result, all citizen complaints are tracked and recorded. Statistically, this may give the impression that citizen complaints have increased under the new Sheriff. However, the percentage of sustained complaints has been reduced and the overall tracking of citizen complaints has been improved.

During his 2010 election campaign, Sheriff Ian Parkinson made a commitment to restore an Internal Affairs Unit to the Sheriff's Department. On February 14th 2011, this unit was reestablished and renamed.⁷

The Sheriff employed Jim Voge, retired Commander from the Los Angeles Police Department, to head the new unit. Commander Voge has over 33 years of experience and ran the Los Angeles Police Department's Internal Affairs Unit comprised of 278 employees. Commander Voge is currently creating a new Internal Affairs School for Central Coast police agencies, and he is seeking POST approval for such training.

⁷ Information was based upon documents submitted to the current Grand Jury by the Sheriff's Department.

The Sheriff's Department advised that it had implemented a system called IA PRO, in response to the question "Do you maintain a log of citizen complaints?" IA PRO is a software program that aids in the investigation and retention of citizen complaints. The Professional Standards Unit provides a number through IA PRO to every citizen complaint and maintains both an electronic and hard copy of every investigation.

This IA PRO system allows the department to monitor the behavior of its officers because all complaints are tracked. Under the previous administration, when complaints were taken and resolved at the station level by supervisors, a record of the complaint was not always maintained. As a result, an officer may have had several complaints in the past, but without proper recording of the complaints there was no way to identify officers who may have needed correction.

Commander Voge has now trained all supervisors in the Sheriff's Department regarding proper investigative procedures for citizen complaints.

CONCLUSION

Based upon interviews and documents that were submitted to the current Grand Jury, it appears that all police agencies in San Luis Obispo County are now conducting investigations into citizen complaints in a positive and effective manner. The recommendations made by the previous Grand Jury have been implemented.

As a result of the previous Grand Jury recommendations, all police departments in the county have implemented the changes suggested and improved their citizen complaint process. All departments now adhere to the guidelines suggested by POST and Lexipol, particularly with regard to maintaining proper complaint logs and following up on citizen complaints in a timely manner.

FINDINGS

1. The Police Departments of Pismo Beach and Grover Beach and the Sheriff's Department have citizen complaint forms on their websites.
2. The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay do not have citizen complaint forms available on their websites.
3. The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo have an admonition on their citizen complaint forms.
4. The Police Department of Grover Beach and the Sheriff's Department do not have an admonition on their websites.
5. The Police Departments of Paso Robles and San Luis Obispo indicated that they would soon place citizen complaint forms on their websites.
6. All Police Departments use the policy guidelines proposed by Lexipol.
7. All Police Departments and the Sheriff's Department adhere to the policy guidelines for citizen complaints proposed by POST. However, the Pismo Beach Police Department also adheres to the guidelines of CALEA, a national organization.
8. The Sheriff's Department has an outdated system of video recording in their vehicles and lacks the ability to store video data efficiently. The storage of DVDs is inefficient, requires too much space and slows retrieval time when it is necessary to utilize the information.

RECOMMENDATIONS

1. The Police Departments of Arroyo Grande, Atascadero, Paso Robles, San Luis Obispo, and Morro Bay should add citizen complaint forms to their websites.
2. The Police Departments of Atascadero, Grover Beach, Morro Bay, Paso Robles, and San Luis Obispo should remove the admonition from their complaint forms.
3. The Sheriff's Department should upgrade its vehicles with digital recording devices in order to enhance safety for all personnel, reduce download time and storage space required, and improve the ability to retrieve information, thereby providing better service overall.

COMMENDATIONS

The San Luis Obispo Sheriff's Department is to be commended for implementing a new Internal Affairs Unit. Sheriff Ian Parkinson is to be commended for following through on a campaign promise in such a timely manner.

Additionally, the employment of Commander Jim Voge and the implementation of the IA PRO system represent a vast improvement in the Sheriff's ability to monitor the conduct of his personnel.

REQUIRED RESPONSES

The City of Arroyo Grande is required to respond to Findings 2, 6 and 7, and Recommendation

1. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Atascadero is required to respond to Findings 2, 3, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Grover Beach is required to respond to Findings 1, 3, 6, and 7, and Recommendation 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Morro Bay is required to respond to Findings 2, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Paso Robles is required to respond to Findings 1, 5, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of San Luis Obispo is required to respond to Findings 2, 3, 5, 6, and 7, and Recommendations 1 and 2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **June 18, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The Sheriff's Department is required to respond to Findings 1, 4, 6, 7, and 8, and Recommendation 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 19, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera 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

The e-mail address for the Grand Jury is: GrandJury@co.slo.ca.us

California Penal Code

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.



AGENDA NO: B-1

MEETING DATE: 05/22/2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 9, 2012
FROM: Susan Slayton, Administrative Services Director/City Treasurer
SUBJECT: Resolution No. 25-12 Declaring the Intention to Continue the Program and Assessments for the 2012/13 Fiscal Year for the Morro Bay Tourism Business Improvement District (MBTBID)

RECOMMENDATION:

Council to hold a public hearing, record testimony for/against the continuation of the MBTBID, and adopt/reject/amend Resolution No. 25-12.

FISCAL IMPACT:

Estimated revenue for 2012/13 is \$571,500 in assessments, dedicated to marketing expenditures (\$488,127), support for the Visitors Center (\$50,000), and a cost allocation charge by the General Fund for AGP Video filming expense (\$6,000). The remaining \$27,373 covers the gap loan provided by the General Fund for the 2010/11 revenue shortfall.

SUMMARY:

This is the annual reaffirmation of the MBTBID and authorization of the 3% assessments, as required by State law. Staff requests that Council hold the public hearing to receive testimony for and/or against the continuation of the MBTBID, then adopt, reject or amend Resolution No. 25-12 as appropriate.

DISCUSSION:

State law requires the City Council to annually renew business improvement districts, and receive annual reports for each fiscal year. Those reports were provided in the May 8, 2012 staff report.

Staff requests that Council hold the public hearing to receive testimony for and/or against the renewal of the MBTBID, then adopt, reject or amend Resolution No. 25-12 as appropriate.

Prepared By: SSlayton

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

RESOLUTION NO. 25-12

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
DECLARING THE INTENTION TO CONTINUE THE PROGRAM AND
ASSESSMENTS FOR THE 2012/13 FISCAL YEAR FOR THE MORRO BAY
TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID)**

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

WHEREAS, the Parking and Business Improvement Area Law of 1989, Section 36500 et seq., of the California Streets and Highway Code authorizes cities to establish and review business improvement areas of the purpose of promoting tourism; and

WHEREAS, on April 13, 2009, the City Council held a public hearing and first reading of Ordinance 546 to establish the Morro Bay Tourism Business Improvement District (MBTBID), and approved Ordinance 546 at its April 27, 2009 meeting; and

WHEREAS, the advisory board has requested the renewal of the TBID for the 2012/13 fiscal year to continue its activities; and

WHEREAS, all other findings of Ordinance 546 to establish the TBID remain unchanged; and

WHEREAS, on May 8, 2012, staff presented the annual report for the fiscal year 2010/11 (the second year of the TBID), the adopted budget for 2011/12, and the budget plan for 2012/13, all of which are attached to this Resolution as Exhibit A; and

WHEREAS, the annual report and budget plan generally describe the activities to be marketing activities, which attract and extend overnight stays in Morro Bay hotels, support for the Visitors Center, whose outreach to potential visitors is key, and a cost allocation charge by the General Fund for AGP Video filming expense; and

WHEREAS, it is the intention of the City Council to levy and collect 3% assessments from the hoteliers within the TBID for the 2012/13 fiscal year; and

WHEREAS, the City Council conducted a public meeting on May 8, 2012, to affirm the annual report and budgets, and set the public hearing date as May 22, 2012, at 6:00 p.m. (or soon thereafter as possible), said hearing to be held in the Morro Bay Veterans Memorial Hall located at 209 Surf Street, Morro Bay, California, in accordance with the California Streets and Highway Code Sections 36524 and 36525; and

WHEREAS, on May 22, 2012, the City Council conducted a public hearing regarding the renewal of the TBID for the 2012/13 fiscal year, at which affected businesses had the opportunity to protest the TBID renewal, with the following results:

FOR:

AGAINST:

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Morro Bay as follows:

1. That the above recitations are true and correct, and incorporated herein by reference.
2. That the City Council, having affirmed the annual report and budgets on May 8, 2012 at a regular meeting, declares its intention to renew the Morro Bay Tourism Business Improvement District for the 2012/13 fiscal year, and to levy and collect 3% assessments from hoteliers.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 22nd day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, Mayor

JAMIE BOUCHER, City Clerk

CITY OF MORRO BAY

2012/13 PROPOSED ANNUAL BUDGET

MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT

	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>2010/11</u> <u>Actual</u>	<u>2011/12</u> <u>Amended</u> <u>Budget</u>	<u>2012/13</u> <u>Proposed</u> <u>Budget</u>
Beginning cash balance	\$ -	\$ 47,260	\$ 66,630	(27,373)	(27,373)
Revenues from:					
Assessments	48,682	380,375	398,696	460,000	571,500
Interest	-	1,069	228	500	-
Subtotal	48,682	381,444	398,924	460,500	571,500
Expenditures for capital outlay:					
Tourism promotion	(1,422)	(362,074)	(486,927)	(404,500)	(488,127)
Transfers to General Fund	-	-	(6,000)	(56,000)	(56,000)
Revenues over (under) expenditures	47,260	19,370	(94,003)	-	27,373
Ending cash balance	\$ <u>47,260</u>	\$ <u>66,630</u>	\$ <u>(27,373)</u>	<u>(27,373)</u>	<u>-</u>

NOTES:

In 2010/11, funding for the Visitors Center was approved; total transfer for 2012/13 is \$6,000 for AGP Video and \$50,000 for the Visitors Center.



AGENDA NO: B-2

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council

DATE: May 14, 2012

FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Kathleen Wold, AICP – Planning and Building Manager

SUBJECT: Introduction and 1st Reading of the Ordinance 578 Amending Modifying Section 17.44.020.1 Providing Specific Regulations as to when Additional Onsite Parking will be Required for Existing Commercial Building(s) Converting from One Use to Another Without New Construction or New Additions, for the Mapped Specific North Main Street Commercial Area

RECOMMENDATION

Staff recommends that the City Council:

- 1) Open the public hearing and receive testimony;
- 2) Accept the Planning Commission recommendation to adopt the proposed Ordinance amendment that would allow for modification to Section 17.44.020.1; and
- 3) Make a motion to approve Ordinance No. 578 by number and title only.

BACKGROUND

At the December 13, 2010 City Council meeting, Councilmember Borchard requested that staff provide a report on the status of parking in the North Main Street area to include options for modifications or amendments to City requirements which would address buildings where the number of stalls is non-conforming to today standards. At the February 8, 2011 meeting, staff presented a report which contained various options for the Council to consider prior to giving direction to staff. City Council's direction to staff was to prepare a boundary map and an exemption for Section 17.44.020.A.1. On June 14, 2011 staff took forward a boundary map and specific language for the text amendment. Council took action to approve the submitted map and language with the additional language "to not include new construction or new additions" and directed staff to process the Zoning Text Amendment.

Staff presented the amendment to the Planning Commission at their April 18, 2012 meeting as follows:

Except in the North Main Street Commercial Parking Area as defined in Figure 17.44.020(3) as codified at the end of this chapter where all changes in uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Staff modified the amendment to exclude the following language “as defined in Figure 17.44.020(3) as codified at the end of this chapter” to ensure that the North Main Street Commercial Parking area as defined by the City Council is incorporated into the amendment. The Planning Commission forwarded a favorable recommendation on this amendment by Resolution #19-12.

DISCUSSION

The amendment will modify Section 17.44.020.1 to read as follows:

17.44.020 PARKING FACILITIES

A. Off-Street Parking — General Requirements

1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion. **Except in the North Main Street Commercial Parking Area as defined in Figure 17.44.020(3) as codified at the end of this chapter where all changes in uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking.**

ENVIRONMENTAL DETERMINATION

A Negative Declaration was prepared for the project as there were no environmental impacts associated with the project. The environmental document was posted for review and comment for a thirty day period beginning on March 16, 2011 and ending on April 16, 2011. The State Clearing House number is 2012031058.

PUBLIC NOTICE

Notice of this item was published as a 1/8th page in the San Luis Obispo Tribune newspaper on April 7, 2012 notifying all Morro Bay residents of this Zoning Text Amendment.

CONCLUSION

The proposed Zoning Text Amendment will allow the existing buildings within the North Main Street Commercial Parking Area to convert from one use to another without having to provide additional parking.

ATTACHMENTS

Attachment A – Ordinance No. 578

Attachment B – Planning Commission Resolution

Attachment C – California Environmental Quality Act, Negative Declaration, State Clearinghouse #2012031058

ATTACHMENT A

ORDINANCE NO. 578

AN ORDINANCE OF THE CITY OF MORRO BAY ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17 OF THE MUNICIPAL CODE AMENDING SECTION 17.44.020.1

THE CITY COUNCIL City of Morro Bay, California

Case No. A00-014 (Local Coastal Plan/Zoning Ordinance Amendment)

WHEREAS, it is the purpose of the Zoning Ordinance of the City of Morro Bay to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

WHEREAS, the proposed amendment will provide specific regulations as to when additional onsite parking will be required for existing commercial building(s) converting from one use to another without new construction or new additions for the mapped specific North Main Street Commercial Area; and

WHEREAS, it is important to have clear, consistent, easy to use regulations within the Zoning Ordinance; and

WHEREAS, the Planning Commission of the City of Morro Bay, on April 18, 2012 after a duly noticed PUBLIC HEARING, did forward a recommendation, by adoption of Planning Commission Resolution #19-12 that the City Council amend Title 17 (Zoning Ordinance) Section 17.44.020.1 "Facilities Required"; and

WHEREAS, on May 22, 2012, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating parking in the specific North Main Street Commercial Area; and

WHEREAS, the City Council finds that a Negative Declaration was prepared to evaluate the environmental impacts of the proposed ordinance amendments, and determined that no significant impacts would result from the adoption of these amendments; and

WHEREAS, following the PUBLIC HEARING, and upon consideration of the testimony of all persons, both written and oral, the City Council accepted the Planning Commission recommendation and approved the following amendment:

17.44.020 **PARKING FACILITIES** A. Off-Street Parking — General Requirements

1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more

Based on the following findings:

1. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well being of the persons residing or working in the neighborhood.
2. That the proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan.

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Morro Bay, California, as follows:

SECTION 1: Title 17 of Morro Bay Municipal Code (Zoning Ordinance) is amended as contained in this Ordinance and made a part of this ordinance:

SECTION 2: To implement the amendment adopted herein, the City Council of the City of Morro Bay, California, hereby directs as follows:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter; and
2. The City Council of the City of Morro Bay hereby finds that the Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act; and
3. Pursuant to Section 17.64.080 No amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission.

INTRODUCED at the regular meeting of the City Council held on May 22, 2012 by motion of _____ and seconded by _____.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

William Yates, Mayor
City of Morro Bay

Jamie Boucher, City Clerk
City of Morro Bay

APPROVED AS TO FORM:

ROBERT W. SCHULTZ, Esq.
City Attorney

ATTACHMENT B

RESOLUTION NO. 19-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORRO BAY, ANNOUNCING FINDINGS AND RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT #A00-014 TO THE MORRO BAY MUNICIPAL CODE SPECIFICALLY TITLE 17 “ZONING ORDINANCE”, SECTION 17.44.020.1 “FACILITIES REQUIRED”

THE PLANNING COMMISSION CITY OF MORRO BAY

WHEREAS, the Planning Commission of the City of Morro Bay held a duly noticed public hearing on April 18, 2012 to consider the amendments to Title 17 Section 17.44.020.1 and recommended approval of said amendments to the City Council; and as follows:

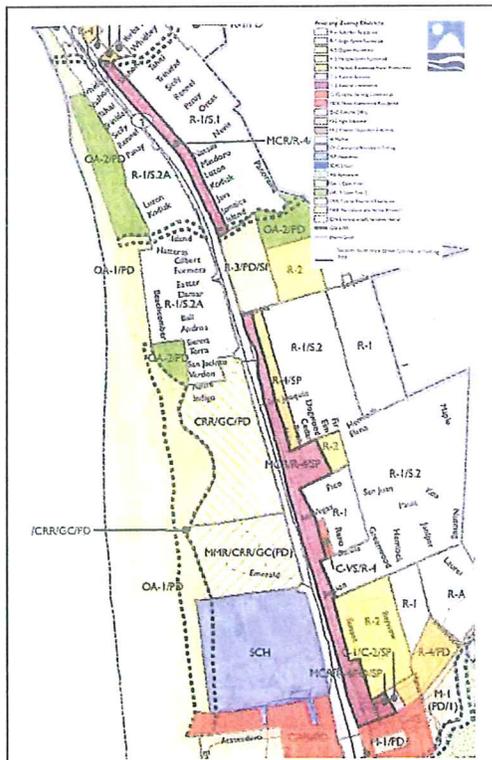
17.44.020 Parking facilities

A. Off-Street Parking — General Requirements

1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion. . **Except in the North Main Street Commercial Parking Area as defined in Figure 17.44.020(3) as codified at the end of this chapter where all changes in uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking.**

Figure 17.44.020(3) North Main Street Commercial Parking Area Boundary Map



WHEREAS, the Environmental Coordinator determined that the proposed text amendment complies with the City of Morro Bay objectives, criteria and procedures for implementation of the California Environmental Quality Act (CEQA) in that environmental review pursuant to CEQA resulted in a Negative Declaration; and

WHEREAS, following the public hearing after consideration of the staff report and consideration of all comment by persons written and oral, the Planning Commission did recommend approval of the amendments to the City Council, based on the following findings:

The proposed text amendment is consistent with the General Plan and Local Coastal Plan and the purposes of Chapter 17.44 Parking, Driveway and Loading Facilities.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Morro Bay, California, as follows:

That the above recitations are true and correct and constitute the findings of the Commission in this matter; and, That the Commission does hereby recommend approval of the amendment to Title 17, Section 17.44.020.1 to the City Council; and,

PASSED, APPROVED, AND ADOPTED, by the Planning Commission of the City of Morro Bay, on the day of April 18, 2012 by the following vote to wit:

AYES: 5

NOES: 0

ABSENT: None


Rick Grantham, Planning Commission Chairperson

ATTEST:


Rob Livick, Public Services Director

ATTACHMENT C

City of Morro Bay
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442
805-772-6261

Public Notice of Availability
Document Type: Mitigated Negative Declaration

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT
CITY OF MORRO BAY
March 14, 2012

The City has determined that the following proposal qualifies for a

Negative Declaration Mitigated Negative Declaration.

PROJECT TITLE: Zoning Ordinance Text A00-014. Amending Section 17.44.020.1

PROJECT LOCATION: Citywide

CITY: Morro Bay **COUNTY:** San Luis Obispo

CASE NO.: A00-014

PROJECT DESCRIPTION: The amendment will modify Section 17.44.020.1 providing specific regulations as to when additional onsite parking will be required for existing commercial building converting from one use to another without new construction or additions.

LEAD AGENCY: City of Morro Bay

CONTACT PERSON: Kathleen Wold

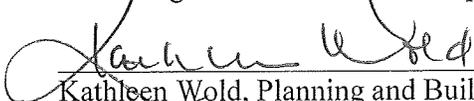
TELEPHONE: (805) 772-6211

ADDRESS WHERE DOCUMENT MAY BE OBTAINED:

Public Services Department
955 Shasta Avenue
Morro Bay, California 93442
(805) 772-6261

PUBLIC REVIEW PERIOD: Begins: March 16 to April 16, 2012

Anyone interested in this matter is invited to comment on the document by written response or contacting the Public Services Department.


Kathleen Wold, Planning and Building Manager
Signature

City of Morro Bay
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442
805-772-6261

N E G A T I V E D E C L A R A T I O N

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY OF MORRO BAY
955 Shasta Avenue
Morro Bay, California 93442
805-772-6210

The State of California and the City of Morro Bay require, prior to the approval of any project, which is not exempt under CEQA, that a determination be made whether or not that project may have any significant effects on the environment. In the case of the project described below, the City has determined that the proposal qualifies for a Negative Declaration.

PROJECT TITLE: Zoning Ordinance Text Amendment #A00-014.

PROJECT LOCATION: Citywide

CITY: Morro Bay **COUNTY:** San Luis Obispo

CASE NO.: A00-014

PROJECT DESCRIPTION: The amendment will modify Section 17.44.020.1 providing specific regulations as to when additional onsite parking will be required for existing commercial building within the North Main Street commercial area when converting from one use to another without any new construction or additions.

The following is the proposed ordinance change. Words in bold have been added to the existing text.

Section 17.44.020.1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion. **Except in the North Main Street Commercial Area where all changes in uses including more intense uses will not be required to provide additional onsite parking not to include new construction or new additions.**

FINDINGS OF THE: Environmental Coordinator

An environmental impact report is not required pursuant to the California Environmental Quality act of 1970, Division 13 of the Public Resources Code of the State of California. The environmental review process and negative declaration filing are pursuant to Title 14, Division 6 Chapter 3, Article 6, Section 15070 of the California Administrative Code.

INITIAL STUDY AND CHECKLIST

I. PROJECT INFORMATION

Project Title: Amendment to Parking , Driveway and Loading Facilities
Section 17.44.020.1 Facilities Required.
Case Number: #A00-014

Project Description: The amendment will modify Section 17.44.020.1 providing specific regulations as to when additional onsite parking will be required for existing commercial building within the North Main Street commercial area converting from one use to another.

The following is the proposed ordinance change. Words in bold have been added to the existing text.

Section 17.44.020.1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion. **Except in the North Main Street Commercial area where all changes in uses including more intense uses will not be required to provide additional onsite parking not to include new construction or new additions.**

Lead Agency: City of Morro Bay Phone: (805) 772-6261
955 Shasta Ave Fax: (805) 772-6268
Morro Bay, CA 93442

Project Applicant: City of Morro Bay Phone: (805) 772-6261
955 Shasta Ave Fax: (805) 772-6268
Morro Bay, CA 93442

Project Landowner: Various Phone: _____
Project Agent: Not Applicable Phone: _____
Fax: _____

Project Location: North Main Street Parking Area (see map)
Assessor Parcel Number(s): Multiple parcels in study area
General Plan Designation: Mixed Use Area F
Zoning: MCR (Mixed Commercial Residential)

Surrounding Zoning and Land Uses	
North	Commercial and residential
South	Commercial and residential
West	Highway One
East	Residential

Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

_____ California Coastal Commission

II. ENVIRONMENTAL SETTING AND IMPACTS

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or is "Potentially Significant Unless Mitigated", as indicated by the Environmental Checklist:

1. Aesthetics	10. Land Use/Planning
2. Agricultural Resources	11. Mineral Resources
3. Air Quality	12. Noise
4. Biological Resources	13. Population/Housing
5. Cultural Resources	14. Public Services
6. Geology/Soils	15. Recreation
7. Greenhouse Gas Emissions	16. Transportation/Circulation
8. Hazards/Hazardous Materials	17. Utility/Service Systems
9. Hydrology/Water Quality	18. Mandatory Findings of Significance

Environmental Setting:

The proposed project is a text amendment to the City’s municipal code. The amendment will modify Section 17.44.020.1 providing specific regulations as to when additional onsite parking will be required for existing commercial buildings within the North Main Street area converting from one use to another without new construction.

The purple area delineated on the map below is the North Main Street Parking Area. The area is a narrow commercial strip running along Main Street. Many of the subject properties are developed with older buildings and have limited parking due to these properties being developed under older codes. As such it restricts the reuse of these building when they are vacated because they cannot provide parking to today’s standards. The amendment would allow new uses in these building without having to provide additional parking as long as there is no expansion or new construction and the new uses are allowed in that zone district.

The area is zoned MCR (Mixed Commercial Residential). The purpose of this zone is to allow and regulate a mix of compatible commercial uses with residential uses in districts where a strip commercial area is in close proximity to a residential neighborhood, to broaden the range of commercial market opportunities and to provide a review procedure to protect the residential neighborhood from unsafe or unhealthy conditions. Because the district is in close proximity (walking or biking distance) to the residential uses that utilize the businesses, the demand for parking is reduced. In recognition of this reduced parking demand this code amendment seeks to provide an exception which will allow reuse of a building without bringing the parking up to today’s standards. Because all uses in the district require a discretionary permit, each new use will be reviewed on a case by case basis to ensure that use is compatible with the neighborhood and all environmental impacts have been addressed.

III. ENVIRONMENTAL CHECKLIST

1. AESTHETICS: Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?				X
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within view of a state scenic highway?				X
c. Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?				X

Impact Discussion: a., b., c. and d. A substantial adverse impact to a scenic vista occurs if a project would significantly degrade a scenic landscape as viewed from public roads or areas. The text amendment proposed only modifies existing code requirements when additional parking is required on a commercial use within the North Main Street area, it does not modify any regulations concerning aesthetics, heights of buildings or lot coverage which may indirectly affect aesthetics. State Route 1 is an Officially Designated State Scenic Highway through Morro Bay, and Highway 41, is an eligible state scenic highway, though not officially designated. The text amendment proposed only modifies existing code requirement when additional parking is required on a commercial use within the North Main Street area, it does not modify any regulations concerning trees, rock outcroppings or historic buildings.

The text amendment proposed only modifies existing code requirement concerning when additional parking is required on a commercial use within the North Main Street area, while this may result in an intensification of uses within an existing building without the provision of additional on-site parking all uses will be consistent with zoning and general plan designations and the rules governing those designations. Therefore, any potential for this modification to parking to result in a degradation of visual character or quality of the city will be minimal. This amendment does not apply to new development but rather to existing building and therefore will not result in an increase in light or glare.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to aesthetics and no mitigation measures are necessary.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

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<p>2. AGRICULTURAL RESOURCES:</p> <p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocol adopted by the California Air Resources Board.</p> <p>Would the project:</p>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>a. Convert prime farmland, unique farmland, or farmland of statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</p>				x
<p>b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p>				x
<p>c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</p>				x
<p>d. Result in the loss of forest land or conversion of forest land to non-forest use?</p>				x
<p>e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?</p>				x

Impact Discussion: a., b., c., d., and e. The project proposes a text amendment to the City of Morro Bay's Zoning Ordinance modifying Section 17.44.020.1 It will provide specific regulations as to when additional onsite parking will be required for existing commercial buildings within the North Main Street area converting from one use to another. These regulations will not affect agricultural lands including but not limited to prime farmland, unique farmland or land of statewide importance. Since the amendment will only affect existing buildings in the built environment there will be no potential for a loss of forest land or pressures to convert farmland or forest land to other uses. As such there is no potential for environmental impacts related to agricultural and forestry resources.

Mitigation and Residual Impact: The proposed project will not result in any impacts to agricultural or forestry resources; therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

CASE NO.: A00-014

DATE: March 9, 2012

<p>3. AIR QUALITY</p> <p>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.</p> <p>Would the project:</p>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>a. Conflict with or obstruct implementation of the applicable air quality plan?</p>				x
<p>b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</p>			x	
<p>c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?</p>			x	
<p>d. Expose sensitive receptors to substantial pollutant concentrations?</p>			x	
<p>e. Create objectionable odors affecting a substantial number of people?</p>				x

Impact Discussion: a., b., c., d., and e.. The proposed amendment is consistent with the goals and policies of the City of Morro Bay General Plan and is consistent with the APCD’s CEQA Handbook and Clean Air Plan. The amendment will not violate any air quality standard or contribute to an air quality violation.

The amendment may contribute to a minor amount of additional traffic generated pollutants as patrons drive through an area looking for parking. This activity is not uncommon in the City and occurs routinely within the older areas of the City where historically parking is minimal or nonexistent. However, the potential for this increase is minor and will not result in a cumulatively considerable net increase of any pollutant or expose sensitive receptors to substantial pollutant concentrations.

The proposed text amendment focuses on the existing built environment and does not change or amend any policies which would affect the generation of odors.

Mitigation and Residual Impact: The proposed project would result in less than significant impacts to air quality therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

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4. BIOLOGICAL RESOURCES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project: a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California department of Fish and Game or U.S. Fish and Wildlife Service?				x
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of fish and Game or U.S. Fish and Wildlife service?				x
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc) through direct removal, filling, hydrological interruption, or other means?				x
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				x
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				x
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				x

Impact Discussion: a., b., c., d., e., and f.. Since the amendment will only affect existing buildings within the built environment there will be no potential for a loss of habitat, wetlands or an impact to identified species. The ordinance amendment will not conflict with any conservation plan or tree preservation policy. As such there is no potential for environmental impacts related to biological resources.

Mitigation and Residual Impact: The proposed project would not result in any impacts to biological resources; therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

CASE NO.: A00-014

DATE: March 9, 2012

5. CULTURAL RESOURCES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>Would the project:</p>				
<p>a. Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?</p>				x
<p>b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?</p>				x
<p>c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</p>				x
<p>d. Disturb any human remains, including those interred outside of formal cemeteries?</p>				x

Impact Discussion: a., b., c. and d.. Since the amendment proposed will only affect the use of existing buildings there will be no potential for a loss of historical, archaeological or paleontological resources normally associated with the development of a site. Since there is no development associated with the ordinance there will be no potential to disturb human remains. As such there is no potential for environmental impacts related to cultural resources.

Mitigation and Residual Impact: The proposed project would not result in any impacts to cultural resources; therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

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6. GEOLOGY /SOILS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Publication 42)				X
ii Strong Seismic ground shaking?				X
iii Seismic-related ground failure, including liquefaction?				X
iv Landslides?				X
b. Result in substantial erosion or the loss of topsoil?				X
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

Impact Discussion: a., b., c., d., and e. Since the amendment proposed will only affect the use of existing buildings within the built environment the proposal will not create new exposures associated with geological events such as landslides, ground shaking, liquefaction or to create erosion issues or issues with stability associated with development. As such there is no potential for environmental impacts related to geology and or soils.

Mitigation and Residual Impact: The proposed project would not result in any impacts to geology or soils; therefore, no mitigation measures are required.

Monitoring: None.

7. GREENHOUSE GAS EMISSIONS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			x	
b. Conflict with an applicable plan, policy of regulation adopted for the purpose of reducing the emissions of greenhouse gases?			x	

Impact Discussion: a. The APCD has no authority to require implementation of GHG reduction measures, as no applicable standard or threshold has been established which could be applied to the project. However, CEQA requires the Lead Agency (City) to implement any feasible alternatives or mitigation measures which would substantially lessen significant environmental effects of a project prior to agency approval (Public Resources Code Section 21002). The project proposes a text amendment to the City of Morro Bay’s Zoning Ordinance modifying Section 17.44.020.1 It will provide specific regulations as to when additional onsite parking will be required for an existing commercial building within the North Main Street area converting from one use to another. Since the amendment will only affect the use of existing buildings there will be no greenhouse gas impacts associated with development. In addition, this amendment does not propose to change the permitted or conditionally permitted uses within the commercial district therefore there will be no change in the amount of greenhouse gas produced through operations. Any potential increase in greenhouse gases that may result from the changes in the parking requirement due to limit parking being provided onsite is offset by those walking or biking to the facility from the adjacent residential neighborhoods.

b. The proposed ordinance change is consistent with the goals and policies of the City of Morro Bay General Plan and is consistent with the APCD’s CEQA Handbook and Clean Air Plan. Impacts would be less than significant.

Mitigation and Residual Impact: The proposed project would result in less than significant impacts to greenhouse gas emissions; therefore, no mitigation measures are required.

Monitoring: None.

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8. HAZARDS/HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				x
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				x
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				x
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?				x
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				x
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				x
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				x
h. Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wildlands?				x

Impact Discussion: a., b., c., d., e., f., g., and h. This amendment does not propose to change the permitted or conditionally permitted uses within the MCR commercial district therefore there will be no change in the way hazardous materials are transported or the quantities transported. All uses within the North Main Street Parking area will continue to be required to obtain a discretionary permit. Under this permit review each use will be subject to review including additional CEQA analysis to ensure compliance. There are no airstrips within this area or within the city. There are no changes proposed which would affect emergency response to the or within the area. As such there is no potential for environmental impacts related to hazardous materials.

Mitigation and Residual Impact: The proposed project would not result in any impacts to geology or soils; therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

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9. HYDROLOGY/WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?				x
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				x
c. Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?				x
d. Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?				x
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				x
f. Otherwise substantially degrade water quality?				x
g. Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary or flood insurance rate map or other flood hazard delineation map?				x
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				x
i. Expose people or structures to a significant risk or loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				x
j. Inundation by seiche, tsunami, or mudflow?				x

Impact Discussion: a., b., c., d., e., f., g., h., i. and j. The amendment does not propose to change the permitted or conditionally permitted uses within the commercial district therefore there will be no increase in amounts of water utilized, increased opportunities to degrade water, increase runoff or expose people to water hazards beyond that under today’s regulations. The amendment will only affect existing buildings within the built environment.

Mitigation and Residual Impact: The proposed project would not result in any impacts to hydrology/water quality; therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

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DATE: March 9, 2012

10. LAND USE AND PLANNING	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Physically divide an established community?				X
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Impact Discussion: a., b. and c. This amendment does not propose to change the permitted or conditionally permitted uses; or any regulations which would then result in the division of an established community or conflict with a habitat conservation plan. The proposed amendment has been reviewed and found consistent with the City’s General Plan/ Local Coastal Plan and Zoning Ordinance.

Mitigation and Residual Impact: The proposed project will result in less than significant impacts to Land Use and Planning.

Monitoring: None.

11. MINERAL RESOURCES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state?				X
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Impact Discussion: a. and b. This amendment will not affect the regulations concerning known mineral resources or result in the loss of any known mineral resource. The amendment is proposed only for an area within the City predominately built and zoned for commercial uses.

Mitigation and Residual Impact: The proposed project would not result in any impacts to mineral resources; therefore, no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

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12. NOISE	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Expose people to, or generate, noise levels exceeding established standards in the local general plan, coastal plan, noise ordinance or other applicable standards of other agencies?				X
b. Expose persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c. Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d. Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X

Impact Discussion: a., b., c. and d.. This amendment does not propose to change any noise regulations or change the types of uses permitted within the area and therefore no impacts will result beyond those under current regulations.

Mitigation and Residual Impact: The proposed project would not result in any impacts to noise therefore, no mitigation measures are required.

Monitoring: None.

13. POPULATION AND HOUSING	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c. Induce substantial growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)?				X

Impact Discussion: a., b. and c. This amendment does not propose to change any regulations which would displace substantial number of people or affect housing stock. The amendment will not affect or change the types of uses only in the subject area and therefore will not have an effect on growth in the area.

Mitigation and Residual Impact: The proposed project would not result in any impacts to population and housing therefore no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

CASE NO.: A00-014

DATE: March 9, 2012

14. PUBLIC SERVICES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in a substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a. Fire protection?				X
b. Police protection?				X
c. Schools?				X
d. Parks or other recreational facilities?				X
e. Other governmental services?				X

Impact Discussion: a., b., c., d., and e. This amendment does not propose to change any regulation that would affect public services and the modifications to parking will not indirectly affect public services. There will be no change in the types of uses allowed within the district or any other changes which would increase the demand for services.

Mitigation and Residual Impact: The proposed project would not result in any impacts to public services; therefore, no mitigation measures are required.

Monitoring: None.

15. RECREATION	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?				X

Impact Discussion: a. and b. This amendment does not propose to change any regulations affecting parks, recreational facilities or indirectly cause an increase in the use of these types of facilities

Mitigation and Residual Impact: The proposed project would not result in any impacts to recreation; therefore no mitigation measures are required.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

CASE NO.: A00-014

DATE: March 9, 2012

16 TRANSPORTATION/CIRCULATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, street, highway and freeways, pedestrian and bicycle path, and mass transit?			x	
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the country congestion management agency for designated roads or highways?			x	
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				x
d. Substantially increase hazards due to a design feature (e.g. limited sight visibility, sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?			x	
e. Result in inadequate emergency access?			x	
f. Conflicts with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance or safety of such facilities?			x	

Impact Discussion:

a., b., c., d., e. and f. This amendment does not propose any changes which would conflict with any adopted policies concerning transportation or circulation, create hazardous conditions or in any way affect public transit, bicycle or pedestrian facilities.

Mitigation and Residual Impact: The proposed project would not result in any impacts to transportation/circulation.

Monitoring: None.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment--Section 17.44.020.1

CASE NO.: A00-014

DATE: March 9, 2012

17. UTILITIES & SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				x
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				x
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				x
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				x
g. Comply with federal, state, and local statutes and regulations related to solid waste?				x

Impact Discussion: a., b., c., d., e., f. and g. This amendment does not propose any changes which would affect utilities. There are no changes which would affect solid waste, wastewater, water or drainage.

Mitigation and Residual Impact: The proposed project would not result in any impacts to utilities.

Monitoring: None.

IV. INFORMATION SOURCES:

A. City / County / Federal Departments Consulted :

City of Morro Bay Public Services Department

B. General Plan

x	Land Use Element	x	Conservation Element
x	Circulation Element	x	Noise Element
x	Seismic Safety/Safety Element	x	Local Coastal Plan and Maps
x	Zoning Ordinance		

C. Other Sources of Information

	Field Work / Site Visit	x	Flood Control Maps
	Calculations	x	Zoning Maps
x	Project Plans / Description	x	Soils Maps / Reports
	Traffic Study		Plant Maps
x	Records	x	Archeological Maps
	Grading Plans	x	Other: County of San Luis Obispo Air Pollution Control District, CEQA Air Quality Handbook, adopted December 2009
	Elevations /Architectural Renderings		
x	Published Geological Maps		
	Topographic Maps		
x	AG Preserve Maps		

D. References

California Department of Conservation, Division of Land Resource Protection. 2008. *Farmland Monitoring and Mapping Program – San Luis Obispo County Important Farmland Map 2008.*

California Natural Diversity Data Base (CNDDB). 2011. Morro Bay North and Morro Bay South USGS 7.5- minute quadrangle overlays. California Department of Fish and Game. Sacramento, California.

City of Morro Bay. 1982. *Proposed Land Use Plan of the Local Coastal Program.*

City of Morro Bay. 1988. *City of Morro Bay General Plan – Visual Resource and Scenic Highway Element.*

City of Morro Bay. 1988. *Circulation Element.*

City of Morro Bay. 2009. *Housing Element.*

V. MANDATORY FINDINGS OF SIGNIFICANCE (Section 15065)

A project may have a significant effect on the environment and thereby require a focused or full environmental impact report to be prepared for the project where any of the following conditions occur (CEQA Sec. 15065):

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Potential to degrade: Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			x	
Cumulative: Does the project have impacts that are individually limited but cumulatively considerable? (Cumulatively considerable means that incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			x	
Substantial adverse: Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?			x	

Impact Discussion:

Potential to Degrade. The proposed project would not substantially degrade or threaten the quality of the environment, habitat or populations of any fish or wildlife species, or important examples of California history or prehistory.

Cumulative. Project-specific impacts, when considered along with, or in combination with, other impacts, do not rise to a level of significance. Project impacts are limited and no substantial cumulative impacts resulting from other projects were identified.

Substantial Adverse. The project does not have environmental effects that could cause substantial adverse effects on human beings, either directly or indirectly. Project impacts are limited and standard mitigation measures would be incorporated that would reduce any potential impacts to a less than significant level.

VI. DETERMINATION

On the basis of this initial evaluation:

The Public Services Director has found that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

The Public Services Director has found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

The Public Services Director has found that the proposed project **MAY** have limited and specific significant effect on the environment, and a **FOCUSED ENVIRONMENTAL IMPACT REPORT** is required.

The Public Services Director has found that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

With Public Hearing

Without Public Hearing

Previous Document : _____

Project Evaluator : _____

Kathleen W. Sed
Signature

3-14-2012
Initial Study Date

Kathleen W. Sed
Printed Name

On behalf of Rob Livick, Public Services Director

City of Morro Bay
Lead Agency

**VII Attachments
none**



AGENDA NO: C-1

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 17, 2012
FROM: Eric Endersby, Harbor Director
SUBJECT: Discussion of Local Sportfishing Businesses

RECOMMENDATION:

Council review the issue and provide direction to staff. Staff is in agreement with the requests/recommendations provided by the sportfishing operators.

FISCAL IMPACT:

Unknown at this time, but likely minimal.

BACKGROUND:

At the May 8, 2012 City Council meeting, Council directed Harbor Department staff to meet and work with the two sportfishing operators in Morro Bay regarding potential areas where a common “co-op” or other joint advertising and/or informational area could be established to promote the sportfishing industry. On May 9th, the Harbor Director met with representatives of both Virg’s Sportfishing and Central Coast Sportfishing at the Harbor Office and discussed the matter. Consultant Cathy Novak attended the meeting as well.

DISCUSSION:

Representatives of each business expressed a concern for the lack of signage to direct people to their respective businesses. After some discussion, both businesses agreed that installing two kiosks or booths would benefit the sportfishing industry as a whole. It is their request to install one kiosk near the South T-Pier and one near the giant chessboard. It was not discussed how the kiosks might be funded.

Each kiosk/booth would have a generic sign at the top that would read, for example, “Sportfishing in Morro Bay.” Each business would then be provided a reasonable area on the kiosk/booth to put their respective business information. In addition, both Virg’s and Central Coast Sportfishing desired some sort of space large enough to have a volunteer that could answer questions, direct patrons to the respective landings, or sell boat tickets. The kiosk/booth would not require any electrical or other utility services since it is not intended to sell any fishing

Prepared By: EE Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

licenses or other items that would require the utilities.

The Harbor Dept. has a small wheelhouse from a fishing vessel that was dismantled years ago in its storage yard that may be a candidate for refurbishment and repurposed for one of the kiosks/booths. Other available nautical items could be sought for the second location and/or construction of a new kiosk/booth altogether could occur.

Virg's and Central Coast Sportfishing are requesting that the Council approve the idea of the two kiosks/booths and to work with the Harbor Department and other necessary departments for design, construction and installation. Furthermore, they are requesting that the City waive any permit fees associated with the kiosks. However, planning, permitting, and sign ordinance issues have not been explored and would be the logical next step should Council wish to proceed.

The discussion regarding a sportfishing co-op was explored and ideas of potential locations were raised. However, no consensus was reached and no long term decisions were made other than the idea to form a co-op sounded like a possibility but not feasible at this time. Staff will continue to work with the two businesses on this idea in the future.

CONCLUSION:

Council directed Harbor Department staff to work with the local sportfishing operators and seek opportunities to assist the industry. Staff met with representatives of both operations and agreed upon some measures that could be taken and are seeking Council direction to proceed.



AGENDA NO: D-1

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 17, 2012
FROM: Andrea K. Lueker, City Manager
SUBJECT: Presentations on Allocation of 2012/13 Available Community Promotion Committee Monies

RECOMMENDATION

Staff recommends the City Council receive presentations from the Morro Bay Chamber of Commerce and the Tourism Business Improvement District. Staff further recommends the City Council discuss and request any additional information from each presenter, but include the funding decision in discussions at the Budget Hearing, scheduled for June 12, 2012 at 4:00 p.m. at the Veteran's Memorial Hall.

FISCAL IMPACT

Not applicable at this time.

BACKGROUND

On February 28, 2012, the City Council discussed an item entitled Discussion of Direction of Tourism and Formation of a Tourism Bureau. Determined at that meeting was the future of the Community Promotions Committee and how the funding for that committee would then be reallocated. At the conclusion of the discussion, the City Council made 6 separate motions. Motion #3, made by Councilmember Smukler, moved to invite the Chamber of Commerce to develop an Economic Development Plan (contemplating use of the Community Promotions funding) and submit to the City Council for review. The motion was seconded by Councilmember Borchard and carried 4-1 with Mayor Yates voting no.

In addition, the Tourism Business Improvement District has also submitted a proposal for the former Community Promotions Committee funding, for ongoing advertising and promotional efforts.

u.w.council.staff report presentations on 2012-13 cpc monies

Prepared By: <u>AKL</u>	Dept Review: _____
City Manager Review: <u>AKL</u>	
City Attorney Review: _____	

Entrepreneurship

Consensus

Customer-focused
Partnership

Economy

Retention

Expansion

Incentives

Leverage

Jobs

Recruitment

Coordination

Assistance

Community



Serving the Morro Bay Business Community & Our Visitors
845 Embarcadero, Ste D.
Morro Bay, CA 93442
May 22, 2012

The Morro Bay Chamber of Commerce, by request of the City Council, is submitting this proposal for a comprehensive economic development program. This proposal builds on the Chamber's professional training and experience in the area of economic development while leveraging City and Chamber resources to achieve an effective program of work.

Chamber CEO, Craig Schmidt, has extensive training and 16 years of experience in economic, workforce and tourism development. Chamber programs, determined by the needs of the business community, traditionally focus on four core competencies that include creating a strong local economy, promote the community, be the advocate for business interests with City, Regional and State Government and provide opportunities for business to be introduced to new, potential clients. It is more common than not for Chambers to contract with government entities to provide these services for their host communities.

Five studies, the Destination 2000 Report, the Morro Bay Vitality Committee Report, the RUDAT Study, the 2020 Vision Report and the Downtown Specific Plan, all call for a comprehensive, city-wide economic development strategy. While detailed in issues and strategies, there was no one group or agency responsible for the implementation. Part of the Chamber's proposal is to review and prioritize those strategies with a timeline and measures of success.

This proposal also focuses on the five key areas necessary for a successful economic development program, Business Retention and Expansion, Business Recruitment, Entrepreneurial Development, Community Development and Consensus Building.

The Business Retention and Expansion component is based on the premise that 60 to 80% of new jobs created in a community are created by businesses that are already there. By assessing and quantifying the issues and barriers that our current businesses face, we can develop strategies that neutralize those challenges and create a climate that is conducive for successful, growing businesses.

Establishing a healthy business climate not only assists businesses currently in the community, but sets an appealing stage to recruit new businesses. On a

recent half-hour drive through of Morro Bay, Chamber Staff identified 40 plus storefront vacancies. This not only creates visual blight, it is not appealing to our visitors and is an unmet potential for new businesses and jobs. This program will track commercial vacancies, identify industries and businesses we want to recruit to Morro Bay, and assemble the framework needed to encourage and support that transition. A budget of \$10,000/year is set aside for recruitment materials and marketing. One such piece from Healdsburg is included in this packet.

Over 50% of small businesses in America fail within the first five years. That small business failure rate has increased by 40% from 2007 to 2010. If that were not staggering enough, California is at the top of that list of all states, with the highest percentage of business failures in their first five years. The top ten reasons for those failures are all issues that can be addressed by the proposal before you. Entrepreneurial development strategies are critical, especially when it is estimated that some 25% of those employed in the Morro Bay area are self-employed. Strategies to encourage and assist entrepreneurs include working with the school system to educate students on the fact that starting their own business is a viable employment opportunity. Working with our partners such as the Small Business Development Center, the Small Business Administration, the SLO Economic Vitality Corporation, the Senior Corps of Retired Executives, Junior Achievement, Cal Poly and Cuesta College, we will develop a business coaching team of business professionals to work with our small business community in all areas of business development free of charge.

With the dissolution of the Community Promotions Committee, there is a void that needs to be filled in our community development programs. The previously mentioned economic studies that have been conducted identify a wide range of community projects as strategies designed to make Morro Bay a more appealing and vibrant community for our businesses and citizens. Such a program supports efforts both in business retention and expansion and in new business recruitment. Projects identified were attractive, functional signage, pocket parks, events and promotions, street furniture and City landscaping, adequate restrooms and drinking fountains. This proposal sets aside \$36,850.00 to make such projects a reality. It is the vision of the Chamber to utilize the experience and expertise of the former Community Promotions Committee to determine budget and priorities, but is completely open to recommendations from the City Council as to its make-up. The last five slides of the PowerPoint presentation list specific programs that the Chamber and the Economic Development Council (EDC) will initiate in the first year of operation. Our success will be measured by establishing a benchmark of economic indicators at the beginning of the program and continual assessing the number of new businesses recruited, of new jobs created, of commercial and light industrial vacancies, of new start-ups, of completed community projects and the feedback from exit surveys from the businesses we serve.

Coordination of this program will require one part-time contract position as Economic Development Coordinator (\$40,000/yr) and a full-time support person (\$30,000/yr). It will also require the position of CEO and Administrative Assistant, both positions and their salaries being provided by the Chamber. The coordinator job description is included in this packet. All of the Chambers budgeted \$189,000 yearly budget will be dedicated to the sole purpose of supporting this proposal.

Finally, none of this will be possible without a consensus building phase that strives to make partnerships and relationships that strive to work together in building a better Morro Bay. We have struggled in the past with this objective, but the Chamber is committed to build a healthy climate and culture where the goals in this proposal can reach their fruition. This program is not dependent on one person or one organization to ensure its success. This program is a partnership between the City and the Chamber and relies heavily on our ability to work together and prosper together.

It is in that context that we submit this proposal for your consideration.

Building a Better Morro Bay

Presented by the Morro Bay Chamber of Commerce

May 22, 2012

THE MORRO BAY CHAMBER OF COMMERCE

We are your local Business Development Professionals

- CEO, Craig Schmidt - 16 years of training and experience in Economic, Tourism and Workforce Development.
 - Graduate, Institute of Organizational Management, Colorado College
 - Graduate, Economic Development Institute, University of Oklahoma
 - Graduate, Business Retention and Expansion International
 - Former Chair, Regional Workforce Investment Board
 - Former Chair, Regional SBDC
 - Former Board Member, State SBDC
 - Former President, Oregon Workforce Alliance
 - Current Board Member, Economic Vitality Corporation

Morro Bay Chamber of Commerce

CORE GOALS

- Promote the Community
- Create a Strong Local Economy
- Provide Networking Opportunities
- Be an Advocate for Business

"The Vision 2020 Report is a visionary document that conveys the priorities and goals held by the Morro Bay residents for their community and its development into the year 2020 and beyond.

One of the City's most challenging visions is to keep the Morro Bay business community vibrant, healthy, and diverse into the year 2020 and beyond. Encouraging citywide support of local businesses and providing opportunities to attract new businesses may realize this vision. Other important tasks to be accomplished to ensure a beneficial business environment include increasing municipal revenues, updating City policies and procedures and implementing the RUDAT Plan."

2020 VISION

December 2005

Morro Bay 2012 Goal Setting

- Goal #2 Create an Economic Development Program:
 - Evaluate partnership opportunity with the Chamber of Commerce.
 - Identify funding to implement program.
 - Pursue the “In Business Together” program as an approach.
 - Streamline Business License process.
 - Determine where obstacles exist and determine how changes can be made.
 - Improve policies and processes that have a negative impact on businesses.
 - Determine where obstacles exist and determine how changes can be made.
 - Business recruitment and retention as a part of the overall **economic** development plan.
 - Participate with “Green Business Certificate Program” with Chamber of Commerce.

THE MORRO BAY CHAMBER OF COMMERCE

We offer the community the **vehicle to implement** the recommendations of....

- ▶ 1994 - The Destination 2000 Report
- ▶ 1996 - The Morro Bay Vitality Committee
- ▶ 1997 – RUDAT Study
- ▶ 2005 - 2020 Vision Report
- ▶ 2010 - The Downtown Specific Plan

The Pillars of Economic Development

- Business Retention and Expansion (BRE)
- New Business Recruitment
- Entrepreneurial Development
- Community Development
- Consensus Building

Business Retention and Expansion

- Access and address the needs of the current business community
- Provide a point person for economic development (Coordinator)
- Develop a free Consultation Program for current business
- Develop stronger presence of Economic Development Partners
- Provide educational and networking opportunities
- Establish a Green Business Program
- Educate the citizenry on the importance of the local business community

*Yearly budget for Coordinator (\$40,000) and support staff (\$30,000)

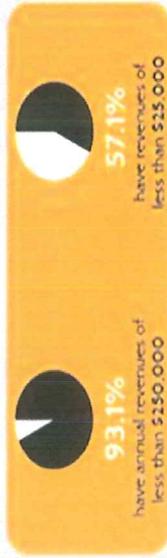
New Business Recruitment

- Create and maintain an inventory of available properties
- Identify targeted industries
- Create a business-friendly environment
- Provide a team of experts to assist relocation
- Provide market research businesses need to know to relocate
- Provide incentive package to encourage new business

*Yearly Budget for Marketing Materials such as print and video to promote Morro Bay as desirable business location, ad placement in professional magazines, trade shows, etc. - \$10,000.00

In the US, 50% of small businesses fail in the first 5 years. Small business failure rates increased by 40% from 2007 to 2010.

U.S. Small Business Profile



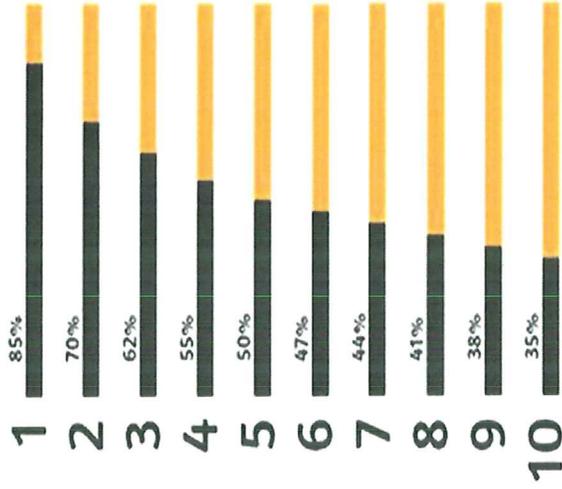
51.6%
business are home-based



62.9%
of home-based businesses have no employees

Success Rates

Years 1 Through 10
Businesses that make it past the hurdles of the first few years have a much greater chance of long-term success.



REASONS FOR FAILURE

- Lack of Experience
- Insufficient Capital
- Poor Location
- Poor Inventory Management
- Over Investment in Physical Assets
- Poor Credit Arrangements
- Personal use of Business Funds
- Unexpected Growth
- Competition
- Low Sales

Entrepreneurial Development

Over 25% of employed are self-employed

Build an entrepreneurial pipeline that....

- Encourages business creation
- Provides education opportunities to ensure success
- Offers information on access to capital
- Develops and utilizes strong partnerships with....

Small Business Development Center

Economic Vitality Corporation

Senior Corp of Retired Executives

Small Business Association

Junior Achievement

Cal Poly and Cuesta College

“The tourist industry is Morro Bay’s primary revenue/income resource and contributes to the character of the community. It is essential to develop the Downtown area and Embarcadero (and North Morro Bay) as attractive and memorable coastal destinations to enhance tourism. The transition between the Downtown and Embarcadero should be maintained as a pedestrian friendly, open space for both tourists and city residents. Additional attractions include providing meeting facilities and accessible information services.”

2020 Vision
December 2005

Community Development

Establish fund for Community Development committee for such projects as...

- Attractive, functional signage
- Attractive City Gateway projects
- Pocket Parks
- Events and Promotions
- Grant-writing
- Street Furniture and City landscaping
- Adequate Restrooms
- Drinking fountains

*Yearly Budget \$36,850.00

Consensus Building

- Communication
- Shared Vision
- Relationships
- Partnerships
- Leveraging Resources

Economic Development Budget

Economic Development Coordinator \$40,000

Support Staff \$30,000

Economic supporting material
and projects \$10,000

Community Development Committee
projects \$36,850

Request from City \$116,850

Chamber Contribution – Staff, rent, IT,
equip., utilities, supplies, Admin, etc \$189,000

Total projected Annual Budget \$305,850

Potential Revenue Sources

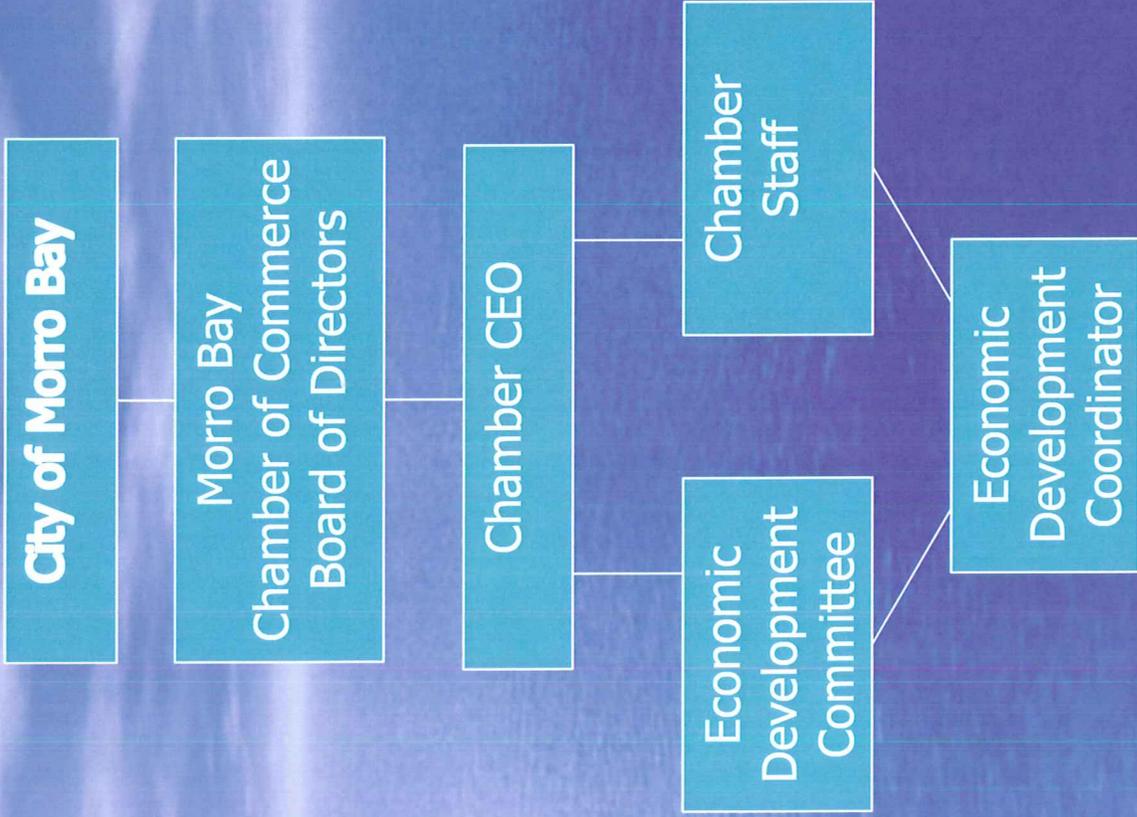
➤ CPC Set-aside \$116,850.00

➤ Total TOT YTD Comparison

➤ 2011-2012 \$1,450,417.00

➤ 2010-2011 \$1,349,473.00

\$ 101,034.00



How Will We Measure Success

- Recruit New Businesses
- More Morro Bay Jobs
- Fewer Vacancies
- New Start-Ups
- Increased Sales Tax
- Client Exit Surveys
- Completed Community Projects

Building a better Morro Bay

The Morro Bay Chamber of Commerce provides the organization, the experience, the resources and the vision to successfully move Morro Bay's economy forward.

Coming together is a beginning; keeping together is progress; ***working together*** is success.

Henry Ford

Business Retention and Expansion

- Address the needs of the current Business Community
 - BRE Survey, Advocacy, Workforce, Resource Directory
- Provide a point person for Economic Development
 - Hire part-time contracted business consultant as Economic Development Coordinator
- Develop a free Consultation Program for Current Business
 - Establish business SWAT team of local business professionals
- Provide Educational and Networking Opportunities
 - Morning Coffee, Business Forum, Economic Roundtable,
- Educate the citizenry on the importance of the local business community
 - Shop Local, Economic Roundtable,

New Business Recruitment

- Identify Targeted Industries
 - Convene Taskforce, Inventory Commercial and Light Industrial Properties
- Create a Business-Friendly Environment
 - BRE Survey, Economic Roundtable, Community Development Committee
- Provide a team of experts to assist relocation
 - Business SWAT Team
- Provide Market Research necessary to relocate
 - Print and video marketing materials
- Provide incentive package to encourage new business
 - City Programs

Entrepreneurial Development

Build an entrepreneurial pipeline that....

- Encourages business creation
 - Partner with School District on Business oriented experiences
- Provides education opportunities to ensure success
 - Small Business Development Center
 - Economic Vitality Corporation
 - Senior Corp of Retired Executives
 - Small Business Association
 - Junior Achievement
 - Cal Poly and Cuesta College

Entrepreneurial Development

- Offers information on access to capital
- Develop and utilize strong partnerships with...

Small Business Development Center

Regional Workforce Investment Board

Economic Vitality Corporation

Senior Corp of Retired Executives

Small Business Association

Junior Achievement

Cal Poly and Cuesta College

Community Development

Establish fund for Community Development committee for such projects as...

- Attractive, functional signage
- Pocket Parks
- Events and Promotions
- Grants
- Street Furniture and City landscaping
- Adequate Restrooms
- Drinking fountains

Just Move Here.

Be our guest for a guided tour of Healdsburg. Meet with key business and civic leaders. Experience what others already know — doing business and living in Healdsburg is good for your bottom line and your life.

Interested in moving or starting a business in Healdsburg?

Take advantage of these free services:

- Assistance in financing your business
- Introductions to key business leaders and elected officials
- Site selection and lease or purchase negotiations
- Planning and permitting advocacy
- Relocation and expansion assistance
- Development of financing and loan proposals
- Advice on housing for employees
- Low interest loans to finance electrical impact and hookup fees
- Assistance to determine if project qualifies for redevelopment financing
- Financial and management consulting
- Workshops, seminars and individual consulting



"People who are interested in moving their business to Healdsburg should come here and spend some time with me. I will show them what business locations and opportunities are available. I will help them get their business established or, if it's an existing business, help them move their business to Healdsburg."

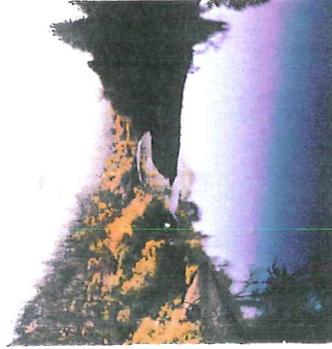
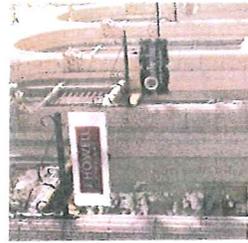
Herb Liberman, Economic Development Coordinator,
City of Healdsburg & Chamber of Commerce



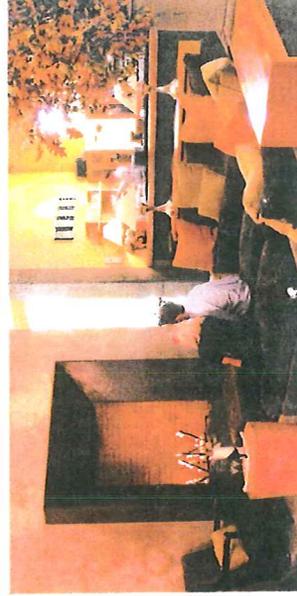
Find more information: www.heidsburg.biz
Herb Liberman, Economic Development Coordinator,
at 707.318.3101 or herb@heidsburg.com.

HEALDSBURG

Mixing BUSINESS with a
WINE COUNTRY lifestyle —
a perfect PAIRING.™



Healdsburg—with its bucolic setting, enviable California climate, quaint sophistication, lively downtown and plethora of activities—is a living paradise. The safe and charming neighborhoods, paired with the family-oriented community, make Healdsburg an ideal business and lifestyle choice.



Dynamic Tourism Industry.

An economically enticing and culturally appealing town located in Northern California's picturesque Sonoma County, Healdsburg is an ideal place to live and do business.

Healdsburg boasts a dynamic tourism industry paired with a strong business community and passionate local residents. The beauty of Healdsburg resides in its central location to major cities as well as the mountains and coast, the town's scenic luster, ideal California weather, and its myriad of people and industries.



Healdsburg is a gateway to the esteemed wine appellations of Alexander Valley, Chalk Hill, Dry Creek Valley, Rockpile and Russian River Valley. The wine industry is a driving economic force, providing jobs, tourist appeal and an attractive lifestyle for the community. Additionally, retail, restaurant and lodging businesses are a focal point of town life—drawing visitors and generating business revenue. Agriculture, construction, education, healthcare, heavy machinery, manufacturing, media, professional services, real estate, recreation and technology industries thrive in Healdsburg.



"Community involvement is a top priority in Healdsburg. The Healdsburg Chamber offers members many networking and volunteer opportunities, including the popular **News at Noon** and **Business After Hours** events."

Craig Schmidt, President - CEO, Healdsburg Chamber of Commerce

Doing business in Healdsburg is smart. Living in Healdsburg is amazing. Both are rewarding economic choices. Our business-friendly local government invites you to become a part of the community. Come meet with us, explore the area and learn about all Healdsburg offers. Whether you're looking to relocate a company, start a business or open a new location, we're here to help make it happen.

Going GREEN in Healdsburg.



We are an environmentally conscious community with a city government that is constantly looking for ways to make Healdsburg a greener city. For instance, we encourage contractors building in Healdsburg to be LEED certified and follow the environmentally sustainable construction standards this certification designates.

"It's like a dream come true. I live four blocks from where I work. I can walk to work, walk home for lunch—I can spend an entire day in Healdsburg.

It's a good combination of business, family and extracurricular."

Andy Esquivel, Agent, State Farm Insurance



We offer electric customers free energy audits and financial subsidies for solar power installation and installing energy efficient appliances. The city of Healdsburg has adopted a bold reduction goal regarding local Greenhouse Gas Emissions (GHG): by year 2010, the goal is to be 20 percent below year 2000 GHG levels.

Healdsburg is one of the few cities in California to operate our own electric utility service, helping keep rates in check. Healdsburg rates are 20 percent lower than the Pacific Gas and Electric Company utility rates (depending on specific rate class and energy use). We are proud that up to 80 percent of Healdsburg's power comes from renewable sources, such as hydroelectric and geothermal energy.

A major focus in Healdsburg is finding ways to connect people to their homes and businesses, without the need for cars. In an effort to get people out of their cars and to provide a recreational outdoor setting, the city of Healdsburg is developing Foss Creek Trail—a pathway that will allow pedestrians and cyclists to walk or bike almost the entire length of Healdsburg.

In Healdsburg, the business community mixes seamlessly with the arts and entertainment sector. In fact, many businesses are part of, or contribute to, the thriving cultural attractions and activities. Locals and tourists alike enjoy the Healdsburg Jazz Festival, summer concerts in the Plaza, art galleries, public library, museums, Raven Performing Arts Theater featuring plays and musical performances, the movie theater, and the farmers market with local growers and purveyors. The active community spirit is on display during the many annual town events such as the Future Farmers of America parade and fair, holiday tree lighting and festival, Mr. Healdsburg Pageant, annual street dance and much more fun!



PALMER

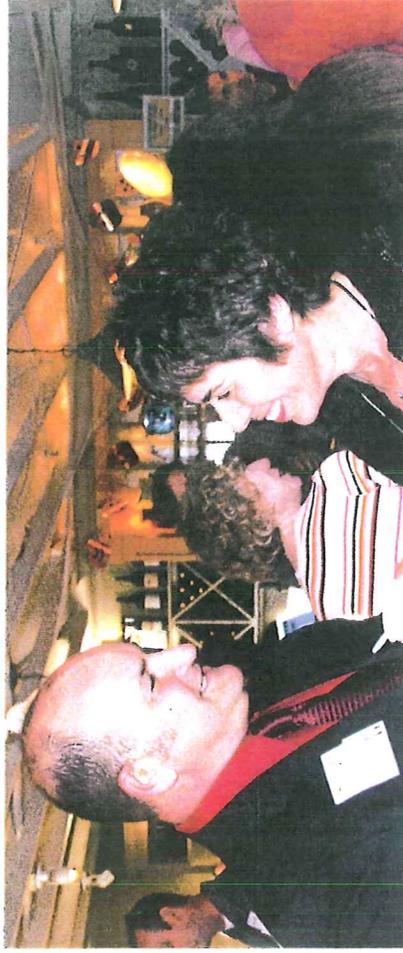
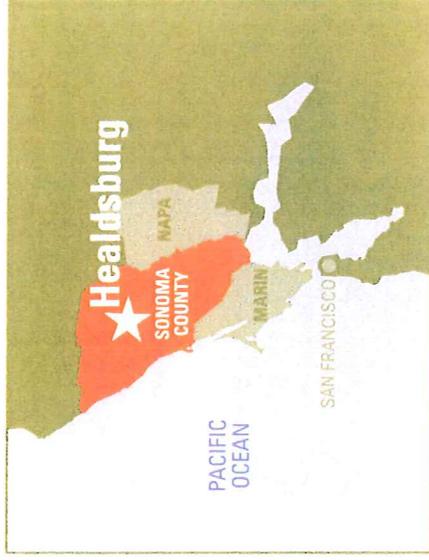
"A distinctive aspect about Healdsburg is we've been able to maintain this unique, small-town feel, but with sophistication. This is a very special place to conduct business. The quality of life cannot be beaten here—it's amazing."

Charlie Palmer, Chef-Owner, Dry Creek Kitchen



Healdsburg is business accessible. As a business community, we welcome corporate ventures, family-owned businesses and independent professionals. Corporate companies, from all sectors of the market, do well in Healdsburg with our business-friendly policies.

Mixing business and the wine country lifestyle truly is a perfect pairing. Healdsburg's small-town charm, agricultural roots and rural location pair well with our proximity to San Francisco, Sacramento and other cities, enabling us to attract highly educated and skilled people to live and work here. The Healdsburg



community is comprised of the ideal age group to gather a successful, talented and energetic workforce. The most populous age range in Healdsburg is 25-44, followed by 45-59 year-olds. Healdsburg (population 11,704) is centrally located in Sonoma County, with easy commute access from surrounding communities, most within a 10- to 30-minute drive. Our ideal location, nearby colleges and universities and vacation-style living makes Healdsburg a winning place to be.



"I was in a corporate life. I came home one day and said to my husband, 'I'm buying a store.' My husband asked me, 'what are you going to have at the end of 10 years?' I replied, 'a lifestyle.' Now it's our store. He's happy. I'm happy. We couldn't have picked a better place to live and have a business."

Sue Sacks, President, Options Gallery Inc.

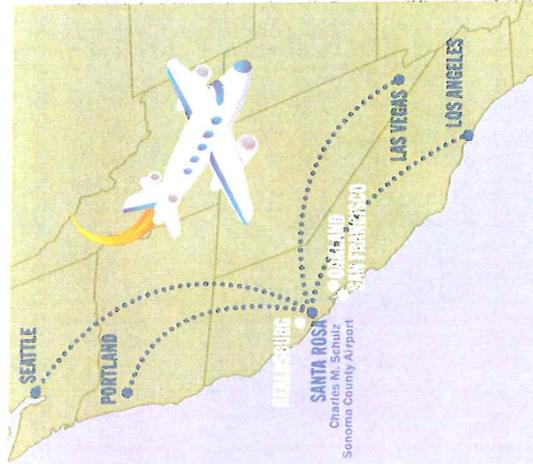
The "crown jewel" of Sonoma County, Healdsburg's gentle sophistication comes from its small-town charm augmented by big-city amenities. We boast a state-of-the-art hospital, public library, excellent public and private educational choices, nearby universities, fitness centers and community pool, easily accessible office complexes, industrial sites, live-work spaces and ease-of-access to Highway 101 for commuting efficiency.



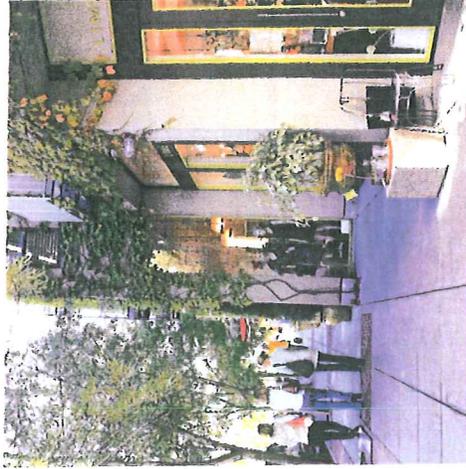
"There is a high level of sophistication in Healdsburg—it's where everybody wants to be. There is a lot of talent here; Healdsburg is a place for people that want to be where the air is clean, the water is clean, where they can bike, and see the vineyards and blue sky. It's a tough place to beat."

Pete Seghesio, CEO, Seghesio Family Vineyards

One rarely has to leave town, but when you do, Healdsburg offers a central location to Santa Rosa, San Francisco, Sacramento, Napa Valley, the Pacific Ocean, Sierra Nevada Mountains and a multitude of small river communities. If meetings or vacation call for further travel plans, San Francisco and Oakland International airports are commutable. Only 15 minutes away is the Charles M. Schulz Sonoma County airport, offering direct flights to Los Angeles, Las Vegas, Portland and Seattle, while the local Healdsburg Municipal Airport is convenient for small plane service. Business or pleasure, it's all right outside the office door when you're located in Healdsburg.



Tourists from around the world seek out Healdsburg as part of their wine country travel experience while locals revel in the lifestyle. Sonoma County's premier wine country town, Healdsburg is a place to make your own. Meander the back roads—exploring your own path to wineries, small farms and hidden gems. Visit the downtown plaza surrounded by enticing shops, stunning art galleries, winery tasting rooms and



assorted culinary delights. If pampering is more your style, spend an afternoon at one of the many elegant spas surrounding the plaza, then relax overnight in one of the luxurious B&B's or hotels.

Healdsburg, and the surrounding areas, is an outdoor enthusiasts playground. Whether you want to go extreme with a hot air balloon ride, ride the trails via horseback, visit Lake Sonoma for boating or camping, canoe or swim the Russian River, hike through the Redwoods, play ball at one of the parks in town, bike the back roads or hit some golf balls, Healdsburg has it covered.

For all these adventures and more, Healdsburg is the place to move your business and family. It's peace of mind.

"Our local support is huge. It's fundamental to our business. Our business has been around for 85 years and without the locals, we wouldn't be here. We also have tourists coming here that comprise a huge part of our day-to-day business. Winery tourism in Healdsburg is unbelievable. Healdsburg is a destination."

Will Seppi, General Manager, Costeaux French Bakery





EDC

MORRO BAY
CHAMBER OF
COMMERCE
ECONOMIC
DEVELOPMENT
COUNCIL

The mission of the Morro Bay Chamber of Commerce's Economic Development Council (EDC) is to create, retain, expand and attract businesses who provide sustainable jobs in the Morro Bay area through public-private partnerships, leveraged funding and support of economic opportunities for Morro Bay companies and entrepreneurs.

The position of Economic Development Coordinator exists within the framework of the Economic Development Council. The council is a committee of and administered by the Morro Bay Chamber of Commerce. The Morro Bay Chamber of Commerce through the efforts of the EDC promotes business growth, job retention and job creation by removing barriers to business growth and addressing common business needs.

Under the auspice of the Chamber, the EDC and its coordinator link businesses, partners, and local governments for expansion/retention and recruitment business opportunities. Assistance includes planning, technical assistance, program applications, referrals, training, regional efforts, interagency coordination and incentives information.

The Economic Development Coordinator works as a key member of the Morro Bay Chamber team whose goal is to enhance the long-term economic vitality of Morro Bay.

The EDC Coordinator is a Morro Bay Chamber of Commerce contract position.

TRAINING & EXPERIENCE

Master's Degree in Planning, Public Administration, or Business or closely related field.

Minimum requirements are a Bachelor's degree in a related field and two years of work experience. Master's degree may substitute for related experience. Work experience above a two-year minimum may substitute for education up to four years.

KNOWLEDGE

Have a working knowledge of modern principles, practices and methods of economic development: operational characteristics, program development, and administration, services, activities, and job creation

Be comfortable working in a fast-paced customer-focused environment

Excellent written and oral communication skills

Ability to work collaboratively, both internally and externally, on important and confidential issues

Proficiency with Microsoft computer systems and word-processing software

Ability to prepare graphic information and concise reports

Ability to work with the public in a competent and friendly manner.

Business, economic, and market forces, indicators, and trends

Marketing, public information, and promotional techniques

Principles, practices, and techniques used in real estate appraisals, prospect management, preparing and reviewing business plans, and the real estate development process.

Land use planning and related regulations.

Long range economic development planning.

Principles and practices of contract development and administration.

Principles and practices of municipal budget preparation and administration.

Pertinent federal, state, and local laws, codes, and regulations including those related to commercial and industrial development and redevelopment.

JOB SUMMARY: Overview of Duties, Responsibilities and Position Requirements

Maintain records and databases of business prospects and contacts

Serve as staff on a variety of boards, commissions, and committees

Prepare and present staff reports and other necessary correspondence.

Occasional travel may be required in and out of Morro Bay

Attend and participate in professional group meetings

Maintain awareness of new trends and developments in the field of economic development and incorporate new developments as appropriate

Respond to and resolve difficult and sensitive citizen inquiries and complaints.

Establish and oversee the management of a comprehensive economic development program.

Coordinate the work of varying levels of staff, contractors and volunteers.

Participate in the development and administration of program goals, objectives, and procedures.

Coordinate multiple contracts, projects and cooperative ventures.

Collect, analyse, compile and present information and data.

Prepare and administer large program budgets.

Prepare clear and concise administrative and financial reports.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Research, analyze, and evaluate new service delivery methods and techniques.

Interpret and apply federal, state, and local policies, laws, and regulations.

Applications may be sent to: Craig Schmidt, CEO
Morro Bay Chamber of Commerce
845 Embarcadero Suite D
Morro Bay, Ca 93442

craigschmidt@morrobay.org
805-772-4467

An Equal Opportunity Employer



May 14, 2012

Dear Honorable Mayor and City Council,

Attached please find the TBID budget that was adopted at our meeting on May 10, 2012. The budget includes \$116,850 that was previously allocated from the General Fund to the Community Promotions Committee for tourism and local event promotion. These funds represent a significant amount of our overall advertising and promotional funds. We strongly believe that this funding will be critical to our ongoing advertising and promotional effort in the future. Any reduction in funding would reduce our advertising, media and event support campaign. This would result in a corresponding negative impact to business in Morro Bay.

The importance of maintaining this critical investment for the future is supported by the following:

- TOT collected for fiscal 2012 is projected to be over \$1,969,362, up \$153,803 or 8.5% from fiscal 2010, the year the TBID started.
- Fiscal 2012 is projected to be second only to fiscal 2007 for record TOT collections. After four years of decline, TOT collected has increased each of the past two years.
- Projections indicate TOT collected will approach \$2,100,000 for fiscal 2013, exceeding the prior all time high by nearly 6%.

Advertising and marketing support through the General Fund and TBID contribution has yielded outstanding results. These results are a direct outcome of many contributing activities not the least of which is the consistent application of core functions such as a sound advertising and promotion campaign. Our ability to achieve the projected results in the future requires a renewed commitment to the formula for success that has brought us this far.

In closing, we look forward to your full support of local and destination marketing funding for the new Morro Bay Tourism Bureau. We are pleased to continue the partnership between the City of Morro Bay and private industry through the MBTBID.

Respectfully,

Morro Bay Tourism Business Improvement District Board

Joan Solu, Chairperson

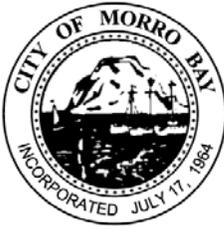
Michele Jacquez, Vice Chair

Destination Marketing
Pro Forma Forecast
Fiscal Year 7/1/11 thru 6/30/12

Revenue	<u>Community Promotions</u>	<u>Visitor Center</u>	<u>Tourism Bureau</u>	<u>Consolidated</u>
Assessment		33,333	464,717	498,050
General Fund	116,850	119,157		236,007
Total Revenue	\$ 116,850	\$ 152,490	\$ 464,717	\$ 734,057
Start Up Costs	0	0	0	0
Expenses				
Wages w/1099		84,190		84,190
Payroll Tax		8,306		8,306
Workmans Comp		728		728
Benefits		3,328		3,328
Total Personnel		\$ 96,552		\$ 96,552
Rent		13,071		13,071
Insurance		1,373		1,373
Other Office Expense		35,570		35,570
Total Office Expense		\$ 50,014		\$ 50,014
Total Visitor Center		\$ 146,566		\$ 146,566
Destination/Local Advertising	49,641		141,588	191,229
Planning, Artwork & Production	6,000		29,000	35,000
Public Relations	8,000		12,000	20,000
Web Site	7,800		31,700	39,500
Billboard	2,000		15,000	17,000
Collateral	4,000		17,000	21,000
BCA Retainer	25,200		58,800	84,000
Total Ad Agency Expense	\$ 102,641		\$ 305,088	\$ 407,729
Community Events	6,000		12,000	18,000
Savor/Trade Shows	-		36,000	36,000
VCB Membership	-		36,000	36,000
County Co-Op Marketing	-		30,000	30,000
Fulfillment	-		-	-
Total Promotion Expense	\$ 6,000		\$ 114,000	\$ 120,000
Total Ad Agency and Promotion Expense	\$ 108,641		\$ 419,088	\$ 527,729
Stakeholder Meeting	3,348		4,200	7,548
AGP	-		6,000	6,000
Jackrabbit	-		14,400	14,400
CTTC Membership	-		285	285
Total Miscellaneous Expense	\$ 3,348		\$ 24,885	\$ 28,233
Contingency	5,000		15,000	20,000
Total Expense	\$ 116,989	\$ 146,566	\$ 458,973	\$ 722,528
Increase/(Decrease) in Cash	\$ (139)	\$ 5,924	\$ 5,744	\$ 11,529

Destination Marketing
 Budget
 Fiscal Year 7/1/12 thru 6/30/13

	<u>Community Promotions</u>	<u>6 Months Visitor Center</u>	<u>Tourism Bureau</u>	<u>Consolidated</u>
Revenue				
Assessment General Fund	115,000	50,000	520,040	520,040 165,000
Total Revenue	\$ 115,000	\$ 50,000	\$ 520,040	\$ 685,040
Start Up Costs	\$ -	\$ 42,500	\$ 7,000	\$ 49,500
Expenses				
Wages w/1099		12,480	78,958	91,438
Payroll Tax		2,405	4,590	6,995
Workmans Comp		300	600	900
Benefits		4,400	3,500	7,900
Total Personnel		\$ 19,585	\$ 87,648	\$ 107,233
Rent		9,600	-	9,600
Insurance		2,500	-	2,500
Other Office Expense		14,800	-	14,800
Total Office Expense		\$ 26,900	-	\$ 26,900
Total Visitor Center and Tourism Bureau		\$ 46,485	\$ 87,648	\$ 134,133
Destination/Local Advertising	50,000		133,000	183,000
Planning, Artwork & Production	6,000		14,000	20,000
Public Relations	8,000		4,000	12,000
Web Site	8,000		24,000	32,000
Billboard	2,000		-	2,000
Collateral	4,000		12,000	16,000
BCA Retainer	12,000		33,000	45,000
Total Ad Agency Expense	\$ 90,000		\$ 220,000	\$ 310,000
Community Events	25,000		-	25,000
Savor/Trade Shows	-		38,000	38,000
VCB Membership	-		44,000	44,000
County Co-Op Marketing	-		30,000	30,000
Fulfillment	-		6,000	6,000
Total Promotion Expense	\$ 25,000		\$ 118,000	\$ 143,000
Total Ad Agency & Promotion Expense	\$ 115,000		\$ 338,000	\$ 453,000
AGP	-		4,000	4,000
Jackrabbit	-		14,400	14,400
CTTC Membership	-		300	300
Total Miscellaneous Expense	\$ -		\$ 18,700	\$ 18,700
Contingency			29,707	29,707
Total Expense	\$ 115,000	\$ 88,985	\$ 481,055	\$ 685,040
Increase/(Decrease) in Cash	\$ -	\$ (38,985)	\$ 38,985	\$ -



AGENDA NO: D-2

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 18, 2012
FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
SUBJECT: Status of Project No. MB-2012-S2: 2012, Street Rehabilitation Program

RECOMMENDATION

Staffs recommends the City Council review the status and provide direction to Staff.

FISCAL IMPACT

The Project is fully funded from accumulated Measure Q Funds and General Funds. Funds allocated in the FY2012 budget will be adequate to construct the project unless significant changes occur.

BACKGROUND/ DISCUSSION

This project, awarded by Council on April 24, 2012, is the first set of streets to be rehabilitated under the City's Pavement Management Plan (PMP), adopted by City Council in June 2011.

This project entails the rehabilitation of 24 sections of roadway on the streets shown on the attached map. This represents 5.7 miles of pavement, over 10% of the City's total transportation network. The project includes major rehabilitation on Main Street – from Highway 1 to Quintana Place and the Embarcadero – from Beach Street to Coleman Drive/Power Plant Driveway, where work, per the contract requirements, is to be concluded before Memorial Day. The project features the use of recycled tire rubber in the asphalt binder, a feature that not only offers a longer lasting pavement, but also provides a beneficial use for a waste material that would otherwise be destined for the landfill. Because of this, the City applied for and was awarded a CalRecycle Grant which contributes over \$40,000 towards project costs. But because of the CalRecycle grant requirements for mandatory training of specifying recycled rubber paving materials, the project could not be advertised for bid until after the said training.

The following is a time line from adoption of the Pavement Management Plan to the current date:

Date	Event
6/28/2011	City Council adopts PMP
7/12/2011	City Council Adopts City budget, setting the funding level for the 2011/2012 Streets Budget
9/11/2011	Road Scouts hired to evaluate streets and prepare construction docs

Prepared By: AL/RL

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

9/28/2011	Decision made to postpone work until spring to get better pricing/as well as working with inclement weather – Typically, the end of paving season prices are higher due to contractors making their profit earlier in the year.
11/8/2011	City Council approves Rubberized Asphalt Grant application
Dec-Jan	Street evaluations, bid item quantities determined
2/7/2012	Rubberized Chip seal grant awarded
2/8/2012	Prepare Plans & Specs for Rubberized Chip Seal
2/27/2012	90% Plans Specifications & Detailed Engineer's Estimate prepared
3/12/2012	Mandatory Rubberized asphalt training
3/13/2012	Advertised for bid
3/15/2012	Plans and Specs finalized, first sets sent out bidders
4/12/2012	Bid Opening, International Surfacing Systems (ISS) Apparent Low Bidder
4/24/2012	City Council awards bid to ISS
4/25/2012	Contract sent to ISS via email
5/2/2012	Pre-construction meet with ISS. They say they want to start by May 14
5/3/2012	Signed contract received from ISS, Notice of construction published on City website
5/6/2012	Contract signed by City Attorney
5/8/2012	Notice to Proceed sent to contractor
5/15/2012 -Present	Phone calls and emails sent to ISS. Problems with paving subcontractor causing delays

Both City staff and the City's contract manager has been unsuccessful in getting a response from ISS regarding their construction schedule and their ability to meet the contract requirement of completing the rehabilitation work on Main Street and Embarcadero Road prior to end of business on May 25, 2012 (Memorial Day weekend). This is a rapidly changing situation and staff will inform City Council of new information as it becomes available.

As of May 21, 2012 the contractor has transmitted many of the required submittals for materials and other contract required documents, but has not submitted a detailed schedule. Our construction manager does not anticipate the contractor planning to perform any work on Embarcadero, Main, or Quintana prior to May 25th. It is also staff's opinion that the contractor will request performing ALL work on those three streets after Labor Day. If that is the case, then the City of Morro Bay will withhold retention until after notice of final completion and no retention will be released at substantial completion.

In addition to preparing the street rehabilitation project, during this same time frame, the Public Services Department Engineering staff is involved with a variety of priority projects, including:

- Preparation of the Adopted Bicycle and Pedestrian Plan
- Revisions to the flood analysis for the wastewater treatment plant project per the California Coastal Commissions requirements for the de Novo hearing
- Grant Applications for:

- North Morro Bay Streets Reconstruction/Green Streets Project
- Two Safe Routes to School projects
- Bicycle Transportation Account Project
- Morro Creek Bridge Funding Application through SLOCOG
- Del Mar Tennis Court project
- Desal Plant Electrical Upgrade Project
- Nutmeg Tank Replacement Project
- Beach and Main Undergrounding Project
- Required Water Board Stormwater Hydromodification Joint Effort
- Stop Sign Warrant Analyses including: Radcliff, and intersecting streets, Morro/Marina, Pacific/Main, Beach/Market, Beach/Morro, Fresno/Marina, Morro Bay Blvd/Market
- Development Review on a variety of residential and commercial projects

CONCLUSION

It was staff's understanding, the contractor (ISS) could perform the critical components of the contract as required prior to Memorial Day. Staff has heard that the contractor is struggling to get their subcontractors and material suppliers to perform in accordance with the dates specified in the contract. As of the publication date and time of this report, staff is still attempting to work with the contractor to get the work performed in accordance with the schedule in the contract.

The following options are or may be applicable to this fluid situation:

- Suspend the portion of Work by Contractor that may impact parking and the tourism industry and commence work after Labor Day, per Resolution 04-03.
- Deem the Contractor has breached the Contract by not performing work as required by contract in a timely manner and seek any and all remedies provided by law.
- Delete Embarcadero and Main Street work from the Contract and rebid those portions for work to begin after Labor Day.

ATTACHEMNTS

1. City Council Resolution 04-03
2. Excerpt from MB-2012-S2 Special Provisions

RESOLUTION NO. 04-03

**RESOLUTION OF THE CITY-COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DISCOURAGING STREET WORK
BETWEEN MEMORIAL DAY AND LABOR DAY**

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

WHEREAS, the City of Morro Bay is host to over one-million visitors every year, the vast majority of whom visit during the summer months; and

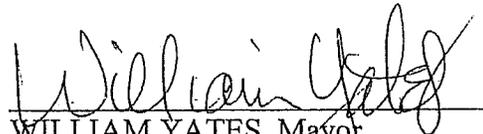
WHEREAS, the City acknowledges the existence of increased traffic and a parking shortage during the summer months; and

WHEREAS, when street work is undertaken during the summer months, traffic congestion often occurs and valuable parking spaces are lost.

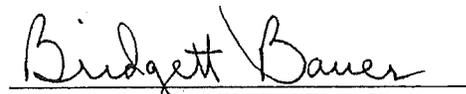
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that it is the City's goal - letting common sense prevail - that all street work, including striping, trenching, re-paving, sealing, tree trimming, and any other street maintenance or improvements that may cause traffic congestion or loss of parking spaces, be undertaken during the nine months from Labor day to Memorial Day.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of January, 2003 on the following vote:

AYES: Elliott, Peirce, Peters, Winholtz, Yates
NOES: None
ABSENT: None


WILLIAM YATES, Mayor

ATTEST:


BRIDGETT BAUER, City Clerk

The contract shall be executed by the successful bidder and shall be returned, together with the contract bonds, to the Agency so that it is received within 10 days, not including Saturdays, Sundays and legal holidays, after the bidder has received the contract for execution. Failure to do so shall be just cause for forfeiture of the proposal guaranty. The executed contract documents shall be delivered to the following address: City of Morro Bay Public Services Department, 955 Shasta Ave, Morro Bay CA 93422

3-1.02 CONTRACT BONDS

Section 3-1.05 of the Standard Specifications is amended to require the Performance Bond to be in a sum equal to 100% of the contract price. The Payment Bond shall also be in a sum equal to 100% of the contract price.

SECTION 4. PROSECUTION AND PROGRESS

Attention is directed to the provisions in Section 8-1.03, "Beginning of Work;" in Section 8-1.06 "Time of Completion;" and in Section 8-1.10, "Liquidated Damages;" of the Standard Specifications and these special provisions.

The Contractor shall begin work within 15 calendar days after the contract has been approved by the attorney appointed and authorized to represent the City of Morro Bay.

So as not to interfere with tourist traffic in the summer months, all work on MAIN STREET and THE EMBARCADERO must be completed prior to May 25th.

All other work shall be diligently prosecuted to completion before the expiration of 45 WORKING DAYS beginning on the fifteenth calendar day after approval of the contract.

The Contractor shall pay to the City of Morro Bay the sum of \$1,900 per day, for each and every calendar day delay in finishing the work in excess of the number of working days prescribed above.