

City of Morro Bay

City Council Agenda

Mission Statement

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

**REGULAR MEETING
TUESDAY, MAY 28, 2013**

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

ESTABLISH QUORUM AND CALL TO ORDER

SUMMARY OF CLOSED SESSION ITEMS - The Mayor will read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENTS - Members of the public may address the City Council on any matter that is listed on this Closed Session agenda. Unless additional time is authorized by the City Council, remarks shall be limited to three minutes.

THE CITY COUNCIL WILL MOVE TO CLOSED SESSION

CS-1 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 three parcels.

- **Property: Vacant Lot/Corner of Coral/San Jacinto**
Negotiating Parties: Jeff Edwards and City of Morro Bay
Negotiations: Voluntary Purchase and Sale
- **Property: 887 Atascadero Road**
Negotiating Parties: Clarice E. Righetti Trust and City of Morro Bay
Negotiations: Voluntary Purchase and Sale
- **Property: 307 Morro Bay Blvd**
Negotiating Parties: Scott Meisterlin and City of Morro Bay
Negotiations: Lease Terms and Conditions

RECONVENE TO OPEN SESSION – Announcement of reportable action from closed session, if any.

**PUBLIC SESSION
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
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council 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 AGENDA

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 CITY COUNCIL MEETING OF MAY 14, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 EXECUTION OF A GRANT AGREEMENT WITH THE NATURE CONSERVANCY FOR \$35,000 TO FINALIZE CREATION OF THE MORRO BAY COMMUNITY QUOTA FUND NON-PROFIT AND TO SUPPORT REGIONAL FISHING ASSOCIATION DEVELOPMENT; (ADMINISTRATION/HARBOR)

RECOMMENDATION: Authorize execution of the attached \$35,000 grant agreement with The Nature Conservancy (TNC) to provide staff and outside legal counsel support for formation of the Morro Bay Community Quota Fund (MBCQF) and support of regional fishing associations..

A-3 ANNUAL UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO; (CITY ATTORNEY)

RECOMMENDATION: Review this report and if there are any pending Legislative Bills that are of interest or concern, discuss them with your City Attorney.

A-4 APPROVAL OF TRACT MAP 3031 (1885 IRONWOOD AVE.) AND ACCEPT THE DEDICATION FOR A PUBLIC UTILITY EASEMENT (MORRO DEL MAR PROPERTIES LLC, SUBDIVIDER); (PUBLIC SERVICES)

RECOMMENDATION: Approve the Tract Map 3031 with the acceptance of associated Public Utility Easement.

A-5 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLAN; (PUBLIC SERVICES)

RECOMMENDATION: Staff recommends that this report be received and filed.

A-6 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, SUPPORTING THE EFFORTS IN CELEBRATING THE CITY OF MORRO BAY'S 50TH ANNIVERSARY OF INCORPORATION; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 31-13.

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, SUPPORTING INCREASED FUNDING TO THE CALIFORNIA COASTAL COMMISSION (CCC) TO SUPPORT ENHANCED LOCAL COASTAL PLAN PLANNING AND UPDATES

RECOMMENDATION: Adopt Resolution 30-13

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

RECOMMENDATION: Discuss in open session, the progress to date on the Water Reclamation Facility (WRF) and provide direction to staff as necessary.

D-2 HISTORY AND STATUS OF WATER RIGHTS ISSUES IN THE CHORRO VALLEY; (PUBLIC SERVICES/CITY ATTORNEY)

RECOMMENDATION: Review the staff report on the City's water history and our current ongoing practices related to the City's water rights and issues surrounding the Chorro Valley. After review, public comment and discussion, provide any further direction to Staff.

D-3 RECOMMENDATION FROM THE PUBLIC WORKS ADVISORY BOARD REGARDING THE REQUEST FROM THE MORRO BAY CITIZEN'S TREE COMMITTEE FOR LISTING OF LANDMARK TREES; (PUBLIC SERVICES)

RECOMMENDATION: Approve the listing of the 20 Landmark Trees at ten locations as recommended by the Public Works Advisory Board (PWAB) on May 23, 2013.

D-4 DISCUSSION AND DIRECTION ON FUTURE EXPIRING LEASES AND CONSIDERATION OF PROPOSALS RECEIVED FOR LEASE SITES 30W-33W (COAKLEY – BAY FRONT MARINA), 34W (CRIZER), 35W-36W (VACANT), AND 37W (MEYER – MORRO BAY MARINA INC.); (HARBOR)

RECOMMENDATION: Consider alternatives and provide direction to staff.

D-5 REVIEW OF THE 2008 MANAGEMENT PARTNER STUDY (ASSESSMENT OF CITY ORGANIZATION AND FINANCIAL OPTIONS), INCLUDING PROGRESS ON THE 21 EXPENDITURE CONTROL STRATEGIES, 13 REVENUE CREATION STRATEGIES AND 4 LONG RANGE STRATEGIES AND PROVIDE FURTHER DIRECTION TO STAFF; (ADMINISTRATION)

RECOMMENDATION: Review the attached report on the progress made on the 21 Expenditure Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies from the 2008 Management Partners Assessment of City Organization and Financial Options document and provide staff direction.

D-6 STATUS REPORT ON AMENDMENTS TO THE ZONING ORDINANCE (TITLE 17) AS IT RELATES TO SECTION 17.48.32 (SECONDARY UNITS), SECTION 17.44.020.1 (NORTH MAIN STREET COMMERCIAL AREA PARKING) AND SECTION 17.27 (ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES); (PUBLIC SERVICES)

RECOMMENDATION: Council review the materials presented in the packet by staff and direct staff to submit to Coastal Commission a Local Coastal Plan amendment to include all three Zoning Ordinance Amendments.

E. COUNCIL 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: 5/28/2013

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 14, 2013
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief
	Eric Endersby	Harbor Director
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

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

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – There was no closed session.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT

Colleen Wall, Choir Director at Morro Bay High School, thanked everybody for their support and commitment to the MBHS Music program. She advertised the upcoming Bands on the Run event. She then introduced the Chamber Choir who sang “Chattanooga Choo Choo”

Betty Winholtz spoke on Item B-4, the Toro Lane Abandonment proposal stating that this disturbed her for 3 reasons: ~the community is completely 99% saying don’t abandon; ~the City Council directed staff to come back with options; and, ~there are no options to choose from.

Steve Shively sat on the Selection Committee for the New WRF Consultant and wanted to thank all 5 Councilmembers for giving him the opportunity. He felt the process worked well and that the committee was able to select a very good consultant to move forward with. He encourages the City utilize this same process in the future. And he also encourages more of the community, for and against, to be part of the process as it is the way to be heard.

Debbie Clark, President of the MBHS Music Boosters, advocated for music on behalf the booster's program as they provide for the needs of the MBHS music department and students, filling the gap between the school budget and the needs of the music program, education and scholarships. She invited the community to their inaugural event, Bands on the Run with a spaghetti feed being held on Friday, May 24th and the Fun Run on Saturday, May 25th.

Rigmore thanked the City for the sidewalk repair on Market Avenue between Beach and Surf, it was a beautiful job. She is now looking forward to tree planting. She also hopes the City will grant her son a permit to put concrete by the windows on the Sun Bulletin building.

Brian Stacy is looking for help as he feels he has no civil rights and is being blocked access to law enforcement and civil liberties. He is hopeful that the Council can help get his civil liberty back.

Trina Dougherty spoke on behalf of Eco Rotary advertising their upcoming event – Green Light Eco Faire benefitting Unite to Lights solar reading lights which are distributed worldwide to underdeveloped areas where there is little to no electricity. The event is being held on Sunday, June 2nd from noon – 5pm at St. Timothy's. This is a zero waste event, admission is free, and to date, they have over 30 Eco-focused vendors attending.

Lynda Merrill spoke in support of Item B-2 and B-3, approving the intent to levy the assessments at North Point and Cloisters. She also spoke on Item B-4, the Toro Land Abandonment proposal and she asked Council to terminate the abandonment proceedings as open space is rare, this is priceless property and there may be wonderful future uses. She also supports Item D-1, allowing the Library to use a City facility; she says no to Item D-2 as she says no special privileges please and asked Council to carry on with Item D-3, the WRF Status Report.

John Dinunzio spoke on behalf of the Chamber of Commerce/Economic Development Program advertising 3 upcoming activities/events: ~Morro Bay City Services and Retail Needs Survey urging residents to please fill it out; ~Event Planners Meeting being held on Wednesday, May 29th from 830-1030am at the Fire Dept; and a Job Seeker Academy on June 9th from 830am-430pm at the Veteran's Hall.

Michele Jacquez, Chair of the MBTBID, urged Council's continued support of the Tourism Bureau by passing the Resolution levying the TBID assessments.

Joan Solu, on behalf of the Community Foundation, promoted a fundraising event being sponsored by Studio Fitness benefitting the Community Foundation. She also thanked the City for their ongoing support of the Foundation. Regarding Item B-1, the MBTBID Assessment, she stressed that Morro Bay and the MBTBID has a wonderful, open-line of communication with the Hoteliers and are happy to hear from them at any time. Also, regarding Item A-5, she supports the Morro Creek project feeling it is a wonderful project for the community.

Dawn Beattie, resident at the Cloisters, brought up a request to direct staff to provide history of and further direction to, get the raised overlook at the south end of the Cloisters community beach access rebuilt. And if staff doesn't have the information, to let the Cloisters residents know who they can contact in order to move forward.

Carrie Burton spoke on Item D-5, History and Status of Water Rights Issues in the Chorro Valley. She stated that when these issues started in the Chorro Valley, residents were told they had no contracts, they had no rights and they were done. Since that time, she has found 3 contracts issuing her water on 3 different dates. Her issue lately is - does the City even know what their rights are. She has recently dug up 2 Resolutions from back in 1964 where the County of SLO transferred over a water district to the City of Morro Bay which also included assets such as her wells, her pipelines, her property, the land, etc. The Resolutions also talk about incorporated boundaries and service boundaries of the Chorro Valley.

Susan Stewart encouraged everybody to fill out the Survey that was mailed to residents. It's almost a duplicate of a survey done 20 years ago; the value will be in the comparison from then to now. This is an important way to look at what residents are wanting and feel they are missing in town.

Mayor Irons closed the public comment period.

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FOR THE JOINT CITY COUNCIL/PLANNING COMMISSION MEETING OF APRIL 23, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE CITY COUNCIL MEETING OF APRIL 23, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPOINTMENT OF ONE (1) RECREATION & PARKS COMMISSION MEMBER TO A CURRENT BOARD VACANCY; (ADMINISTRATION)

RECOMMENDATION: Appoint Bob Swain to the vacancy on the Recreation & Parks Commission for the remainder of the term which expires January 31, 2014.

A-4 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR PROJECT NO. MB2012-WC01: MORRO BAY LIFT STATION 3 AND SSFM UPGRADE (PUBLIC SERVICES)

RECOMMENDATION: Authorize staff to file the Notice of Completion for Morro Bay Lift Station 3 and Sanitary Sewer Force Main Upgrade Project and transfer required funds from the Sewer Accumulation fund to the Lift Station 3 SSFM Upgrade project..

A-5 RESOLUTION AUTHORIZING MATCHING FUNDS AND GRANT AGREEMENT FOR THE MORRO CREEK MULTI-USE TRAIL AND BRIDGE PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution 29-13 authorizing execution of the grant agreement and approving matching requirements amounting to 20% of project costs.

Mayor Irons opened up the public comment period for items on the Consent Calendar; seeing none, the public comment period was closed.

Councilmember Christine Johnson pulled Items A-3 and A-5 from the Consent Calendar.

MOTION: Councilmember Nancy Johnson moved the City Council approve Items A-1, A-2, and A-4 of the Consent Calendar as presented. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

A-3 APPOINTMENT OF ONE (1) RECREATION & PARKS COMMISSION MEMBER TO A CURRENT BOARD VACANCY; (ADMINISTRATION)

Councilmember Christine Johnson pulled this item to recognize Bob Swain for his desire to serve on the Commission. Councilmember Noah Smukler thanked Bob Swain for his perseverance.

MOTION: Councilmember Smukler moved the City Council approve Item A-3. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

A-5 RESOLUTION AUTHORIZING MATCHING FUNDS AND GRANT AGREEMENT FOR THE MORRO CREEK MULTI-USE TRAIL AND BRIDGE PROJECT; (PUBLIC SERVICES)

Councilmember Christine Johnson pulled this item stating that in 2012, the bridge over Morro Creek was the #1 unmet bike and pedestrian need in the City. She feels it would be wonderful if it were open by July 4, 2014. She thanked staff for bringing this forward. Councilmember Smukler added that the RFP for this project has been released.

MOTION: Councilmember Christine Johnson moved the City Council approve Item A-5. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

PUBLIC HEARINGS

B-1 RESOLUTION NO. 28-13 CONTINUING THE PROGRAM AND LEVYING THE ASSESSMENTS FOR THE 2013/14 FISCAL YEAR FOR THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID); (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton presented the staff report.

Mayor Irons opened the public comment period for Item B-1; seeing none, the public comment period was closed.

Councilmember Smukler recognized the work put in getting to this point and has been impressed to see the new leadership of the Director of Tourism.

Mayor Irons stated there has been positive movement and the transition has been swift and positive.

MOTION: Councilmember Christine Johnson moved approval of Resolution 28-13, levying the assessments for the 2013/14 fiscal year for the MBTBID. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

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 the staff report.

Mayor Irons opened the public comment period for Item B-2; seeing none, the public comment period was closed.

MOTION: Councilmember Christine Johnson moved to approve Item B-2, 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. The motion was seconded by Mayor Irons and carried unanimously 5-0.

B-3 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)

Recreation & Parks Director Joe Woods presented the staff report.

Mayor Irons opened up the public comment period for Item B-3.

John Lauffer, a Cloisters resident, urged the Council to review the Engineer's Report for accuracy and determination of which costs are applicable. He also supplied a list of questions that he hoped would assist Council in their review. Is the report current, complete and accurate? Which of the estimated costs are to maintain areas that are a special benefit to the residents of the special tax district that are not available to the general public? He maintains that the only special benefit is the watering and maintenance of each of the parcel parkways, between the sidewalk and curb.

Dawn Beattie, a Cloisters resident, questioned the dollar amount in the Engineer's Report. The \$148,944 amount never changes, year to year. She states that the residents have never seen a

true-bottoms up estimate of what contractually needs to get done at how much that will cost. She also states that the breakout of dollar amounts in excess of the outside contractor amount have been hard to come by. Before approving this year's Engineer's Report, she requests that the last section of the report titled "extra work" be expanded to include items in the budget that are not described anywhere else in the report, especially deferred maintenance.

The public comment period for Item B-3 was closed.

Mayor Irons requested that the questions raised by citizens in public comment be answered in the next staff report.

MOTION: Councilmember Smukler moved to approve Item B-3, approving the Engineer's Report and declaring the intent to levy the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Christine Johnson and carried unanimously, 5-0.

B-4 PUBLIC HEARING TO RECEIVE PUBLIC COMMENTS, AND PROVIDE FURTHER DIRECTION TO STAFF AND APPLICANT REGARDING A REQUEST FOR AN ABANDONMENT (E00-103) AND COASTAL DEVELOPMENT PERMIT (CP0-391) TO ALLOW THE ABANDONMENT OF A PORTION OF THE PUBLIC RIGHT OF WAY (ROW) NOT USED FOR PUBLIC STREET PURPOSES USING THE PROCEDURES PROVIDED BY THE CALIFORNIA STREETS AND HIGHWAYS CODE, SECTION 8300 ET SEQ. THE ABANDONMENT IS LOCATED WESTERLY OF THE EXISTING BACK OF CURB OF TORO LANE, BETWEEN YERBA BUENA AND NORTH POINT SUBDIVISION. (GREG FRYE, 3420 TORO LANE, APPLICANT); (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Applicant Greg Frye made a presentation in which he offered an option for the surplus land which he felt would provide more usable land for use by the City as well as sell a smaller, less usable portion of the surplus land. His proposal would require a lot line adjustment trading a section of his land for a section of City owned land. This proposal would increase the land depth from 25 – 40 feet on the northern end and from 20-30 feet on the southern end. The City land would now have a much greater usefulness for our community compared with what the City owns and is more than adequate for additional perpendicular parking increasing the current 4 spaces to possibly as many as 10 spaces with room for loading and unloading. In addition to the lot line adjustment, he would be interested in purchasing the remainder of the surplus land adjacent to his Parcel 1. This surplus land has very little additional use for the City due to the topography, slope and ESH. The City can also generate some revenue from the sale. He feels that this proposal represents a win-win solution for both parties. He requests that Council proceed with a vote for this proposal tonight so that the process can be completed in an efficient and timely manner. He also requests an appraisal to establish the square footage price of the surplus land.

Mayor Irons opened up the public comment period for Item B-4.

Bill Martoney has spoken in the past against the abandonment. He can possibly understand the tradeoff for parking; but doesn't want to sell the northern piece as it is the prime piece. That said, he also doesn't think that any of this should be abandoned. Before considering abandonment, the City has options regarding parking and using this property in total without abandoning it. He would use the northern part as a pocket park.

Dorothy Cutter feels you should save the property until you can think creatively about its future or keep it and sell it for real market price. This property contains more than just the 6000 square feet; it is ocean view and could be sold for hundreds of thousands of dollars. There is no benefit to give it away but it can be of benefit for the future.

Barbara Doerr spoke stating that this idea is short-sighted and counter-productive. She also requested that we look into something environmentally positive for our community; don't transfer public lands to benefit private property owners to create more pollution, hardscape and urban runoff to pollute the ocean and environmentally sensitive natural areas. She requested we plan ahead, do an inventory of vacatable lands and then set policy.

Barry Brannin stated that this City property has a path that runs diagonally through it to the beach. Those that live on the east side of Highway 1 use the path to go down to the beach; this path is also used by surfers. If the Coastal Commission sees that we've cut off coastal access to the beach, they will be confused. There is no public access being proposed on this project.

Nancy Bast agrees wholeheartedly with the previous speakers. This is one of the most picturesque ocean view pieces of land in Morro Bay and we own it; keep it for us.

Bob Geller agrees with the previous speakers. He requests denial of the abandonment. The land is one of our greatest resources, once we give it away, we can never take it back. He urged Council consider all benefits we could lose by doing this tonight.

Applicant Greg Frye responded to questions raised by those speaking in public comment. First, when they went into escrow on this property, the prospect of abandonment had already been raised by the previous owner and had never been on their radar. Second, the City owns the strip of land and while there is a path that goes across their property, there is trespassing across there; providing some kind of public access is fine but giving up the surplus land doesn't change the access. Third, as far as degrading it, right now it's been unmaintained for 50 years; any development would include beautification which could only be a plus. He feels that parking is a big issue and he has done his best to provide something feasible.

The public comment period for Item B-4 was closed.

Councilmember Nancy Johnson likes the proposed changes the applicant has recommended as it gives us additional parking that people want and gives him access and property he can use for his front yard and/or driveway. If we agree to his idea, we aren't cutting people off to the beach as there is access up at North Point as well as access on Yerba Buena.

Councilmember Smukler feels that if we want to move forward we need some more details to include some better understanding of public access possibilities, the parking component as well

as preliminary financial estimates. He also wants to focus on the strength of the public benefit today and in the long term. He is interested in moving forward and evaluating the various options. Knowing the range of property value to both the City and the applicant would be important when making this decision.

Councilmember Leage likes the idea of the property swap. He agrees its 2 transactions and yes, there is benefit for the property owner but there is also a lot of benefit to the City. We need to find out if Mr. Frye is willing to do these separately.

Mayor Irons recognizes that this proposal brings public benefit in the form of additional parking.

Councilmember Smukler feels it's possible to satisfy the historical public access and that we can greatly increase the parking opportunities for the public and we can come up with a fair land value that could be traded or sold. He feels we are fairly close to a win-win situation. His thought is to direct staff to go back to pursue development scenarios with the applicant, reach out to the Coastal Commission and come back with a more clear presentation of the existing public access and the possible new public access and some different parking scenarios.

Councilmember Nancy Johnson feels this is taking more time than it needs to. She thinks we have a really good compromise out there and wants to move forward with the Resolution of Intention to Abandon.

Councilmember Leage agrees with moving forward with the Abandonment.

Councilmember Christine Johnson feels that the applicant has had the benefit of time to prepare a plan while the City hasn't and we do need to do our due diligence. This North Point parking lot will be one of the access points for the Cayucos Morro Bay Bike Path. She feels we need to think about day use parking needs. She also wants to take enough time to ensure we take into account the public benefit. She would like staff come back with 2 or 3 options for parking; better maps, clean daytime photos, what the beach access would be; and possible some proactive dialogue with the neighbors. She also doesn't feel that the Yerba Buena access point is comparable to the access point at this property.

Mayor Irons agrees that moving forward in a continuation type of manner as we work out all the details along with providing a Resolution of Intention. He summarized the item as follows: explore what setback would look like at 20 feet and compare that to the North Point development area; since we are talking about the Coastal Trail, we should reach out to SLOCOG to get their input which can only make it better; parking options; reaching out to the Coastal Commission; public access through the ESH area; fair value of the property; better maps; daytime photos; and reaching out to neighbors. He feels we should challenge ourselves to come to the next meeting with all that information and be prepared.

Staff was directed to bring back the Resolution of Intention along with a staff report answering the questions above to the next Council meeting.

C. UNFINISHED BUSINESS – NONE

D. NEW BUSINESS

D-1 CONSIDERATION OF ALLOWING THE COUNTY OF SAN LUIS OBISPO TO USE THE FACILITY AT 535 HARBOR STREET FOR AN INTERIM LIBRARY DURING THE MORRO BAY LIBRARY REMODEL; (ADMINISTRATION)

City Manager Andrea Lueker present the staff report.

Mayor Irons opened up the public comment period for Item D-1.

Barbara Doerr requested Council do anything SLO County wants to assist in preserving our City's library access during construction. One of our most valuable public assets in this City is our library and we should do what we can to accommodate them.

The public comment period for Item D-1 was closed.

Councilmember Smukler agrees it's a very important service and he is glad we are able to help them.

Councilmember Christine Johnson presented some library facts. She also stated that reasons to have a temporary library location is that it will serve as a delivery location for ordered books and dvd's. There is also a very vibrant book club/discussion group that will be meeting there. The ability to check out some books and dvd's will also be available. There should also be at least 1 public computer on-site. She appreciates the City partnering with the County.

Councilmember Leage approves of this temporary use.

MOTION: Councilmember Christine Johnson moved to approve Item D-1, alternative #3, allowing the County of SLO to use the facility at 535 Harbor Street for an interim library during the Morro Bay Library remodel. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

D-2 REVIEW OF THE MASTER FEE SCHEDULE AS IT RELATES TO MINOR USE PERMIT FEES FOR THE BUSINESS PROPOSED FOR 1700 PARK AVENUE. (TROSS MOBILE AUTOMOTIVE AND R/V REPAIR BUSINESS); (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Mayor Irons opened the public comment period for Item D-2.

Applicant Steve Tross has been trying to get his business started since December 2012 and this permit fee is holding him up. It's a lot of money to pay; he even had to show staff where the location was, they didn't know as it isn't on the address book. These types of fees aren't good for business as they deter people from opening a business in Morro Bay.

Barbara Doerr realizes that we can't waive the fees but maybe we can set up a payment plan if he truly can't afford them. She also felt it necessary to establish a moratorium on any further development of new businesses in that area until we come up with a new General Plan and Local Coastal Plan.

The public comment period for Item D-2 was closed.

Councilmember Nancy Johnson doesn't see any reason to waive the fees; she mentioned that there is an empty auto repair shop on Quintana that wouldn't necessitate a use permit fee.

Councilmember Smukler stated it would be dangerous for the City to waive fees as it opens the door to additional requests. The City is only trying to recover its costs. In this case however it offers up the opportunity to track staff costs as they deliver these kinds of processes which could allow us to be more efficient.

Mayor Irons remembered that the last time a fee waiver was requested, we denied the waiver but offered up a payment plan; he thinks the same can be done here. He also thought it might be a good idea for the applicant to check out other locations that might not require the permit fees. He would also support staff tracking their time and materials but doesn't want the applicant to have to pay more than the specified fee.

MOTION: Councilmember Smukler moved to deny the application for waver of permit fees; work with the applicant on a payment plan; and direct staff to track all building and planning permit staff time across the board and return to council in an appropriate period with a review of the results of that tracking and in this case, do not exceed \$698. The motion was seconded by Mayor Irons and carried unanimously 5-0.

D-3 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report/time line.

Mayor Irons opened up the public comment period for Item D-3.

Don Boatman thanked the Council for electing him to the WRF Selection Committee. The discussions held were honest and fair and he was extremely impressed with the selection committee's choice.

The public comment period for Item D-3 was closed.

There was no Council discussion on this item.

D-4 AUTHORIZE PUBLIC SERVICES DIRECTOR TO FINALIZE THE CONTRACT FOR THE PLANNING CONSULTANT FOR THE NEW WRF AND APPROVE THE DRAFT "SCOPE OF WORK"; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Mayor Irons opened up public comment for Item D-4; seeing none, the public comment period was closed.

Councilmember Smukler recognizes how good he feels about this process. He would like to see additional opportunities to include the public in this sort of capacity whether it's advisory, technical or financial committees. He thinks it would be beneficial to have site tours be public in the form of special public meetings in order to create better understanding and help all of us to be able to come to the best choice.

Councilmember Christine Johnson stated it was important to recognize that the 5 citizen's served the City very well. It should be viewed as a model for the future; by incorporating professionals who live in Morro Bay into the process was very fortunate for us. This also allowed the process to be viewed as professional, transparent and rigorous to the applicant. Based on the interview process, she is confident the team understands Morro Bay and is happy to see the balance that they bring; they have great project management experience and have lots of technical advisors as well.

Mayor Irons had some questions with the provided scope of work, amendments were made as follows: Page 3, Task #3, add ...stakeholder group will be identified with the assistance of City staff **and City Council**...; Page 6, Deliverables, add ...our team will meet with City staff **and Coastal staff** to go over the preliminary conclusions...; and Page 10, Task #13, ...meeting with staff and **Coastal staff**....

MOTION: Councilmember Christine Johnson moved for approval of Item D-4, authorizing the Public Services Director to finalize the contract for the planning consultant services for the new WRF and approve the draft "scope of work". The motion was seconded by Mayor Irons and carried 5-0.

D-5 HISTORY AND STATUS OF WATER RIGHTS ISSUES IN THE CHORRO VALLEY; (CITY ATTORNEY/PUBLIC SERVICES)

This item was moved down on the agenda so Council could address Items D-6 and D-7.

Mayor Irons opened up public comment for Item D-5 and Item D-8.

Lexie Bell who works at the Morro Bay National Estuary Program thanked the City for continuing to work at coming into compliance with their requirements on flow monitoring. They wanted to let the City know they are working on a number of projects in Chorro Valley and working with water users there to look at innovative solutions to winter water storage and other water conservation measures.

Barbara Doerr stated that it appears we are in violation by not having continuous flow monitoring for Chorro Creek; she suggested that if we postpone this item then we need to do something about the continuous flow monitoring in the creek.

The public comment period for Items D-5 and D-8 was closed.

This item was never heard and was continued to a future meeting.

D-6 COUNCIL CONSIDERATION OF REQUESTS FOR PROPOSALS FOR CURRENTLY VACANT LEASE SITES 138-139 (BETWEEN NORTH T-PIER PUBLIC RESTROOM AND CRILL'S), 107W-108W (ADJACENT TO SOUTH T-PIER), AND 49/49W (SOUTH OF ASSOCIATED PACIFIC CONSTRUCTORS); (HARBOR)

Harbor Director Eric Endersby presented the staff report.

Mayor Irons opened the public comment period for Item D-6.

Bill Martoney stated that the three lease sites have potential but haven't been rented due to limitations. He also brought up the fact that the Morro Bay Marina has 10 more years left on it; if the Harbor Department is looking at generating revenue, it may be a site that the City can take over as it's only slips and shouldn't be a big add-on to operate. The money could supplement the loss of income from the power plant.

Barbara Doerr spoke advocating postponement of any action on these RFP's until you have reviewed and established suitable building standards for these parcels. She feels the sites are too small for any development and if developed, may degrade surrounding currently profitable sites. She also thought that once the Library was done using the 535 Harbor site, then the Harbor Department could move up there, in a more central City location and leave the coastal dependent Harbor employees along the Embarcadero.

The public comment period for Item D-6 was closed.

Councilmember Nancy Johnson would like to see the RFP's put out; with the power plant closing we need to move forward, even with small projects. You never know when something has the potential for development unless you try. She does have a small concern with parking at the 138-139 lease site as there is limited parking there.

Councilmember Smukler thinks it doesn't hurt to put these RFP's out. In 138-139, we need to recognize that there could be a loss of parking.

Mayor Irons spoke on lease site 138-139 stating that he knows this site is being used for parking and for storage. He questioned whether or not site 107W-108W was useable or not leading to consideration if the City could build slips on that site. Regarding 49-49W has the potential for recreational fishing slips there.

MOTION: Councilmember Nancy Johnson moved for approval of Item D-6, consideration of requests for proposals for currently vacant lease sites 138-139, 107W-108W, and 4-/49W. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-7 DISCUSSION ON OPENING THE BATHROOM AT LIFT STATION 2 ON THE EMBARCADERO DURING SUMMER MONTHS; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented the staff report.

As the time was approaching 11:00pm, there was Council discussion on continuing the meeting or not.

MOTION: Mayor Irons moved to continue the City Council meeting past the 11:00pm hour. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

Mayor Irons opened up the public comment period for Item D-7.

Barbara Doerr urged Council open this new restroom to the public for year round use. The waterfront should serve visitors of all economic levels and that means numerous, clean restrooms.

The public comment period for Item D-7 was closed.

Councilmember Leage has mixed emotions; any relief for people using restrooms at the restaurants would be nice but this particular restroom is in a funny location and he doesn't feel it will get used very much.

Councilmember Christine Johnson is supportive of opening this restroom on a trial basis over the summer; she also likes that it will give us the opportunity to sign it and sign the nearby parking lot.

Councilmember Nancy Johnson is in favor of opening the restroom for visitors and residents alike. She wants the restroom opened on a year-round basis or at least on weekends in the off tourist season. She agreed we need to sign the parking lot. If a motion was made to only open this for the summer, she would have to vote no as she needs to be responsible to the residents who have repeatedly asked her for this.

Councilmember Smukler definitely agrees with initiating summer usage now, especially pairing it with signage for the parking lot. Then for next year, take a look during budget for beyond the summer months.

MOTION: Mayor Irons moved approval of Alternative #2, opening the bathroom at Liftstation #2 from Memorial Day through Labor Day to include way finding public restroom and parking lot signs with staff to come back with analysis for additional review. The motion was seconded by Councilmember Christine Johnson and carried 4-1 with Councilmember Nancy Johnson voting no.

D-8 REVIEW OF THE 2008 MANAGEMENT PARTNER STUDY (ASSESSMENT OF CITY ORGANIZATION AND FINANCIAL OPTIONS), INCLUDING PROGRESS ON THE 21 EXPENDITURE CONTROL STRATEGIES, 13 REVENUE CREATION

STRATEGIES AND 4 LONG RANGE STRATEGIES AND PROVIDE FURTHER
DIRECTION TO STAFF; (ADMINISTRATION)

Mayor Irons opened up public comment for Items D-6 and D-8 earlier in the meeting; there was no public comment for Item D-8 and the public comment period was closed.

This item was never heard and was continued to a future meeting.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested a status report of the State Park Marina Agreement as it relates to Operations and Management; Mayor Irons and Councilmember Christine Johnson concurred.

Mayor Irons requested the preparation and discussion of a Parking Plan for uses at the Power Plant Parking Lot; Councilmembers Christine Johnson and Leage concurred.

ADJOURNMENT

The meeting adjourned at 11:19pm.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A-2

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: May 21, 2013

FROM: Andrea Lueker, City Manager
Eric Endersby, Harbor Director

SUBJECT: Execution of a Grant Agreement with the Nature Conservancy for \$35,000 to Finalize Creation of the Morro Bay Community Quota Fund Non-Profit and to Support Regional Fishing Association Development

RECOMMENDATION

Staff recommends the City Council authorize execution of the attached \$35,000 grant agreement with The Nature Conservancy (TNC) to provide staff and outside legal counsel support for formation of the Morro Bay Community Quota Fund (MBCQF) and support of regional fishing associations.

ALTERNATIVES

Not applicable.

FISCAL IMPACT

There will be no direct fiscal impact from the grant; granted funds will be used to continue the work of a part-time contract employee in addition to some outside expenses such as legal counsel. The City will supply some in-kind services during the course of the grant to include office space in the Public Services building, telephone, computer use and very limited clerical support.

SUMMARY

To date, the City of Morro Bay has accepted three grants totaling \$255,000 toward the establishment of the MBCQF to support the local commercial fishing industry. What is expected to be the final grant required to complete the MBCQF process has been secured from TNC, and now requires City Council authorization to complete.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

In September, 2010 the City Council approved a \$70,000 grant from TNC to fund fisheries support work in the new West Coast Trawl Individual Quota Program. On May 8, 2012 the City Council approved an amendment to the original grant agreement to add \$50,000 and continue the work until August 31, 2012, when that agreement expired. Also in May 2012, the City Council approved a \$135,000 grant from the National Fish and Wildlife Foundation (NFWF) to create Fishing Community Sustainability Plans in Morro Bay and Monterey as well as support Regional Fishing Association development to continue the progress of the Morro Bay Community Quota Fund.

DISCUSSION

On January 1, 2011, the National Marine Fishery Service (NMFS) implemented a long-planned Individual Quota (IQ) program in the West Coast Trawl Sector of the groundfish fishery. Each owner of Trawl permits was given Quota Share (QS) commensurate with their historical catch level in a 10-year window period. TNC acquired 13 trawl permits in the mid 2000's, six of which were historically associated with Morro Bay fishing operations. Those six permits represent a large proportion of Morro Bay groundfish landings, and keeping these fishing privileges in Morro Bay is critical to maintaining a level of landings to support necessary commercial fishing infrastructure such as fuel, ice, fish buying stations, etc.

TNC and the City have worked together to form a non-profit Morro Bay Community Quota Fund to acquire the QS associated with those six permits and to hold them in the community to be used by local fishermen to the maximum extent possible for long term social, economic and conservation benefits of the area.

More information on the MBCQF can be viewed at www.morrobaycommunityquotafund.org

Staff has now obtained what is expected to be the final grant from TNC to complete the formation of the MBCQF, acquire Trawl Sector QS into the MBCQF, and begin leasing the annual Quota Pounds out to fishermen, thereby generating revenue for the MBCQF in their efforts to be self-sufficient by 2014. This grant will allow the City to pay a part time temporary employee and potentially one intern to complete MBCQF stand-up, support regional fishing association development, and some limited outreach/community representation outside the community as shown in more detail on page one of the attached TNC grant. The grant agreement will terminate on April 30, 2014 at which time the MBCQF is expected to have its own employee(s) and be an independent, self supporting non-profit organization.

CONCLUSION

In 2010 the City of Morro Bay accepted a \$70,000 TNC grant to continue the process of establishing a MBCQF and acquiring QS. In 2012 another \$50,000 was added to that grant, and also in 2012 the City accepted a \$135,000 NFWF grant to create a Fishing Community Sustainability Plan, which was required as part of the community quota fund process. Staff has secured a \$35,000 from TNC to complete the MBCQF start-up process and staff is recommending authorization to execute the grant agreement.

TNC Accounting Information	
Center/Subcenter #:	1050023065
Account #:	5076
Prime Award:	Moore 2234.1

April 23, 2013

City of Morro Bay
 Contact: Andrea Luecker, City Manager
 595 Harbor Street
 Morro Bay, CA 93442

Re: Grant No Marine 04132013 MS

Dear Andrea,

We are pleased to inform you that The Nature Conservancy (the "Conservancy") has agreed to make this Grant to the City of Morro Bay ("Grantee") in the amount of \$35,000 ("the Grant"). This is a subgrant made under a Grant to the Conservancy by the Gordon and Betty Moore Foundation ("Prime Award"). The Grant is also subject to the "Standard Grant Conditions" set out on the attached form (Attachment A).

Purpose of this Grant

This is a final phase of a project begun in December 2010 to assist the City of Morro Bay in formation of an independent non-profit Morro Bay Community quota fund (MBCQF), negotiate purchase of historic trawl sector Quota shares into the fund, arrange financing for the acquisition, and developing an outreach program to support similar groups in Morro Bay and on the California central coast in a Regional Fishing Association. The purpose of this phase of the grant to allow the city of Morro Bay to continue employment of a part time hourly employee to finalize the formation of MBCQF, finalize financing and acquisition agreements, Initiate non-profit corporate files and organizational activity and provide increased outreach services. To achieve these purposes, grantee will do the following:

- A. **MBCQF STAND UP:** Stand up MBCQF as an independent operating non-profit by April 2014, including one part time employee of the non-profit to manage future activities.
 - i. Work with qualified accountant to establish corporate files, books and file first tax return.
 - ii. Hold two board meetings, appoint officers and adopt bylaws.
 - iii. Complete QS acquisition agreement and supervise transition of quota shares to MBCQF, with accompanying NMFS accounts.
 - iv. Engage Quota pound lease manager and supervise QP lease activity.
- B. **REGIONAL FISHING ASSOCIATION DEVELOPMENT:**
 - i. Support formation of a new marketing cooperative in Morro Bay.
 - ii. Support development of other marketing coops or Community quota funds in California.
 - iii. Develop a Memorandum of Understanding on how these groups may work together with existing Trawl Sector regulations to form regional fishing associations to improve environmental and economic performance of the fisheries and support Community participation.
- C. **REPRESENT COMMUNITY AND MBCQF:** Attend PFMC and other related fisheries meetings/workshop as time and budget allow.
- D. **OUTREACH AND COMMUNICATIONS:** Support information exchange between interested community members, other public agencies and fisheries participants, both in Morro Bay and beyond.

Term

This Grant shall start on May 1, 2013 and shall expire on April 30, 2014.

Reporting and Due Dates

The Grantee shall submit a final programmatic report by the end of the grant period (April 30, 2014). The report should summarize the results of the Scope of Work as described above and be no longer than 2-3 pages. Furthermore, periodic verbal reports of progress and communication of issues related to the scope of work should be provided to TNC's project director, Melissa Stevens. This check-in should occur every two months, or sooner if needed:

Final report shall be submitted to:

Melissa Stevens
Project Director
The Nature Conservancy
99 Pacific St Suite 200G
Monterey CA 93940

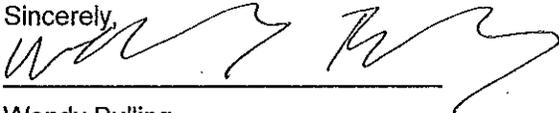
Payment Amount and Schedule

For all of the activities described above, the Conservancy shall pay the Grantee a fixed price total of \$35,000. There will be an initial payment of \$17,500 within 10 business days after the complete execution of this grant agreement. There will be a final payment of \$17,500 upon approval of final report (no later than May 30, 2014).

Payments will be sent to the Grantee at the address above.

Please indicate your acceptance of the terms of this letter and accompanying Grant Conditions by signing the enclosed copy of this letter and returning it to the Conservancy.

Sincerely,



Wendy Pulling
Director, Conservation Programs

Accepted and agreed to:

Andrea Luecker
City Manager
[Grantee]

Attachment A

I. JUSTIFICATION OF SALARY EXPENSES

The Grantee must track employees' actual time spent on this entire TNC privately-funded project in a time and effort reporting system.

II. NO AGENCY

No legal partnership or agency is established by this Grant. Neither party is authorized or empowered to act as an agent, employee or representative of the other, nor transact business or incur obligations in the name of the other party or for the account of the other party. Neither party shall be bound by any acts, representations, or conduct of the other.

III. TERMINATION AND REMEDIES

The Conservancy shall have the right to terminate this Grant by giving 30 (thirty) days written notice to the Grantee of intent to terminate. Should this occur, payment for work satisfactorily completed will be adjusted accordingly. In addition, if in the judgment of the Conservancy the Grantee defaults in performance of Grantee duties under this Grant, whether for circumstances within or beyond the control of the Grantee, the Conservancy may immediately terminate this Grant by written notice to the Grantee. Upon receipt of the termination notice from the Conservancy, the Grantee shall take all necessary action to cancel outstanding commitments relating to the work under this Grant. In the event of termination prior to the originally agreed upon expiration, the Conservancy shall pay any obligations incurred by the Grantee that could not reasonably be canceled. Any Grant funds not expended or committed at the time of termination must be returned to the Conservancy. If at any time the Prime Grant is terminated, this Grant shall also be automatically terminated as of the termination date of the Prime Grant.

IV. CERTIFICATION FOR CONFLICT OF INTEREST DETERMINATION

The Grantee certifies that the information it has provided on the Attachment entitled "Disclosure Form" is true and correct to the best of the Grantee's knowledge. In the event that any material misrepresentation in the Disclosure Form is discovered during the term of this Grant, the Conservancy may elect to declare this Grant null and void and immediately terminate it. In the case of an intentional material misrepresentation, the Conservancy may, at its option, recover damages resulting from the termination and shall be entitled to offset any amounts payable to the Grantee for work satisfactorily completed against such damages. The balance of amounts payable to the Grantee for work satisfactorily completed, if any, shall be paid to the Grantee. Notice of termination shall be given to Grantee's address listed on page 1.

Grantee further agrees that it is prohibited from using any funds for activities related to which there is an apparent or actual conflict of interest between the Grantee and any of Grantee's employees, officers, volunteers, board members, or close relatives of any such persons.

V. LOBBYING AND POLITICAL CAMPAIGNING

The Grantee shall not use any portion of funds transferred under this Grant to engage in any lobbying activities unless the parties specifically agree to such lobbying activities in this Grant. Should Grantee and the Conservancy agree to such lobbying activities, Grantee shall comply with all local, state and federal laws related to lobbying, including but not limited to registration with regulating agencies, public reporting and disclosures, fundraising and expenditure activities, media and advertising, tax obligations, elections and campaigns.

The Grantee shall not use any portion of funds transferred under this Grant to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage

violations of the law or public policy, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with Section 501(c)(3) of the US Internal Revenue Code.

VI. COMPLIANCE WITH LAWS

The Grantee represents, warrants, and agrees that, in connection with the transactions contemplated by this Grant: (a) the Grantee can lawfully work in the United States; (b) the Grantee shall obtain, at its own expense (except to the extent otherwise explicitly stated in this Grant) any permits or licenses required for the Grantee's services under this Grant; and (c) the Grantee shall comply with all statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements of the United States, the State of California, and any other jurisdiction(s) in which the Grantee is organized or authorized to do business, including but not limited to any applicable anti-bribery statutes, which are applicable to the work to be done by the Grantee under this Grant (in each case, an "Applicable Law"). The Grantee shall not take any actions that might cause the Conservancy to be in violation of any of such Applicable Laws.

VII. CERTIFICATION REGARDING MATERIAL SUPPORT AND RESOURCES TO TERRORISTS

The Grantee certifies that none of the funds received under this Grant directly or indirectly funds terrorist activities and that it is not involved in, nor does it fund, either directly or indirectly, any terrorist activities.

IX. EXPENDITURE LIMITED TO DESIGNATED PURPOSES

Grant funds may be spent only in accordance with the provisions of the Grantee's funding request and budget submitted to the Conservancy. Expenditure of Grant funds is subject to modification only with the Conservancy's prior written approval. Any Grant funds not expended or committed for the purposes of this Grant must be returned to the Conservancy.

X. BINDING EFFECT/AMENDMENTS

This Grant shall become binding when signed by the parties. This Grant supersedes all prior or contemporaneous communications and negotiations, both oral and written and constitutes the entire Grant between the parties relating to the work set out above. No amendment shall be effective except in writing signed by both parties.

XI. INTELLECTUAL PROPERTY LICENSE AND USE OF CONSERVANCY NAME/LOGO

Title to any Materials developed with Grant funds vests in the Grantee, with the Conservancy getting free irrevocable license to use, publish or distribute all such copyrighted, trademarked, patented Materials, or inventions, trade secrets or other intellectual property rights. The word "Materials" may include, but is not limited to reports, studies, photographs (and negatives), computer programs, drawings, writings or other similar works or documents, along with all supporting data and material, produced under this Grant. The Grantee agrees to provide the Conservancy, and, if applicable, the Grantor to the Conservancy with copies of the Materials at no cost.

The Grantee may not use the Conservancy's name and/or logo in any way without prior written consent from the Conservancy.



AGENDA NO: A-3

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council **Date:** May 22, 2013
FROM: Robert Schultz, City Attorney
SUBJECT: Annual Update on Current Legislative Bills Pending in Sacramento

RECOMMENDATION

It is recommended that you review this report and if there are any pending Legislative Bills that are of interest or concern, discuss them with your City Attorney.

ALTERNATIVES

There are no alternatives.

FISCAL IMPACT

There is no fiscal impact to provide this report. There is a significant amount of time and expense required to participate in the various committees. These costs have been included in the City Attorney budget.

SUMMARY

Pursuant to Council direction, each year the City Attorney follows and keeps informed on all of the legislative bills that are pending in Sacramento and provides Council with a report on the legislative bills that are important to both the City and the League of California Cities. This report complies with that direction.

BACKGROUND:

During the annual evaluation of the City Attorney, City Council directed the City Attorney to continue to be involved in state legislative issues and provide the City Council with reports on pending legislation. In order to accomplish this goal, the City Attorney has been appointed by the League of California Cities to sit on the Administrative Services Committee; the Housing, Community and Economic Policy Committee; the Medical Marijuana Committee; and the Nomination Committee. These Committees meet four times a year and are comprised of City Officials from around the state. The Committees help to make League policy by reviewing the

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

law and legislation, suggesting broad new policy guidelines and studying key issues impacting cities.

DISCUSSION

A summary of all of the Legislative Bills (1,732) currently pending is available in the Council read file and is available for inspection and review by the public at City Hall. These legislative Bills are being tracked by the League of California Cities and the City Attorney. The following is a brief discussion of the most important pending legislative Bills that the City Attorney will be discussing with our Legislature and their Staff in the upcoming months.

1. AB 5 (Ammiano D) Homelessness. *Oppose.*

This bill would enact the Homeless Person's Bill of Rights and Fairness Act, which would provide that no person's rights, privileges, or access to public services may be denied or abridged because he or she is homeless. The bill would provide that every homeless person has the right, among others, to move freely, rest, eat, share, accept, or give food or water, and solicit donations in public spaces, as defined, and the right to lawful self-employment, as specified, confidentiality of specified records, assistance of legal counsel in specified proceedings, and restitution, under specified circumstances.

2. AB 20 (Waldron R) Obscene matter: minors. *Support.*

This bill would provide that every person who is convicted of a violation of specified offenses relating to obscene matter involving minors, as specified, in which the violation is committed on, or via, a government-owned computer or via a government-owned computer network, or in which the production, transportation, or distribution of which involves the use, possession, or control of government-owned property shall, in addition to any imprisonment or fine imposed for the commission of the underlying offense, be punished by a fine not exceeding \$2,000, unless the court determines that the defendant does not have the ability to pay.

3. AB 22 (Blumenfield D) Sidewalks: repairs. *Oppose*

This bill would prohibit a city, county, or city and county that has an ordinance in operation that requires the city, county, or city and county to repair or reconstruct streets, sidewalks, or driveways that have been damaged as a result of tree growth from repealing the ordinance without the concurrence of the local electorate by majority vote. The bill would also declare that this is a matter of statewide concern.

4. AB 28 (V. Manuel Pérez D) Economic development: enterprise zones. *Support*

This bill would revise various definitions for purposes of the Enterprise Zone Act and modify specified requirements for designating and administering enterprise zones and G-TEDAs, collectively. The bill would impose new requirements on the Department

of Housing and Community Development with respect to the enterprise zone program and modify department and Franchise Tax Board reporting requirements.

5. AB 116 (Bocanegra D) Land use: subdivision maps: expiration dates. *Support*

This bill would extend by 24 months the expiration date of any approved tentative map or vesting tentative map that was approved on or after January 1, 2000. The bill would additionally require the extension of an approved or conditionally approved tentative map or vesting tentative map, or parcel map for which a tentative map or vesting tentative map was approved on or before December 31, 1999, upon application by the subdivider at least 90 days prior to the expiration of the map, as specified. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

6. AB 178 (Gaines, Beth R) Highways: exit information signs. *Support.*

Current law requires the Department of Transportation to adopt rules and regulations that allow the placement, near exits on freeways in rural areas, of information signs identifying specific roadside businesses. Current law prohibits the department from approving the placement of any sign within any urban area with a population of 5,000 or more. This bill would require the department to allow the placement of information signs within an urban area with a population of 50,000 or less if the urban area has had a highway bypass completed since 2002.

7. AB 185 (Hernández, Roger D) Open and public meetings: televised meetings. *Oppose.*

This bill would provide that an audio or video recording of an open and public meeting made at the direction of a local agency may be erased or destroyed 2 years after the recording. This bill contains other related provisions and other existing laws.

8. AB 194 (Campos D) Open meetings: protections for public criticism: penalties for violations. *Oppose.*

This bill would make it a misdemeanor for a member of a legislative body, while acting as the chairperson of a legislative body of a local agency, to prohibit public criticism protected under the Ralph M. Brown Act. This bill would authorize a district attorney or any interested person to commence an action for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of the protection for public criticism is null and void, as specified.

9. AB 229 (John A. Pérez D) Local government: infrastructure and revitalization financing districts. *Support.*

This bill would authorize the creation of an infrastructure and revitalization financing district, as defined, and the issuance of debt with 2/3 voter approval. The bill would

authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years, as specified. The bill would authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases.

10. AB 265 (Gatto D) Local government liability: dog parks. Support if amended.

This bill would provide that a city, county, city and county, or special district that owns or operates a dog park shall not be held liable for any injury or death suffered by any person or pet resulting solely from the actions of a dog in the dog park.

11. AB 325 (Alejo D) Land use and planning: cause of actions: time limitations. Oppose

The Planning and Zoning Law requires an action or proceeding against local zoning and planning decisions of a legislative body to be commenced and the legislative body to be served within a year of accrual of the cause of action, if it meets certain requirements. Where the action or proceeding is brought in support of or to encourage or facilitate the development of housing that would increase the community's supply of affordable housing, a cause of action accrues 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. This bill would authorize the notice to be filed any time within 3 years after a specified action pursuant to existing law. The bill would declare the intent of the Legislature that its provisions modify a specified court opinion.

12. AB 436 (Jones-Sawyer D) Inverse condemnation: comparative fault. Support

Would apply the doctrine of comparative fault to inverse condemnation actions and would require a court or arbitrator to reduce the compensation paid to a plaintiff in an inverse condemnation proceeding in direct proportion to his or her percentage of fault, if any, in the damaging of property that constitutes a taking, as specified.

13. AB 440 (Gatto D) Hazardous substances: releases: local agency cleanup or remedy. Support

Would authorize a local agency to take any action similar to that under the Polanco Redevelopment Act that the local agency determines is necessary, consistent with other state and federal laws, to remedy or remove a release of hazardous substances within the boundaries of the local agency, pursuant to the procedures specified in the bill.

14. AB 473 (Ammiano D) Medical marijuana: state regulation and enforcement. Oppose unless amended.

This bill would create the Division of Medical Marijuana Regulation and Enforcement within the Department of Alcoholic Beverage Control. The bill would grant the division all power necessary to, among other things, establish statewide standards for

the cultivation, manufacturing, testing, transportation, distribution, and sales of medical marijuana and medical marijuana products, and a statewide fee scale in relation to these activities. The bill would require the division to assist in the development of uniform policies for the taxation of medical marijuana businesses and establish a mandatory commercial registration program, as specified, which would include an identification card program.

15. 517 (Achadjian R) Occupational safety and health: local public entities: penalty moneys: grants. *Support.*

Would require any civil or administrative penalty assessed pursuant to the California Occupational Safety and Health Act of 1973 against a school district, county board of education, county superintendent of schools, charter school, community college district, California State University, University of California, or joint powers agency performing education functions to be deposited with the Workers' Compensation Administration Revolving Fund.

16. AB 537 (Bonta D) Meyers-Milias-Brown Act: impasse procedures. *Oppose*

Would authorize the representatives of the public agency or the employee organization, if they fail to reach an agreement, to request mediation. The bill would require that the parties agree upon the appointment of a mediator mutually agreeable to the parties within 5 days of a request by one of the parties. If the parties fail to agree on the selection of a mediator within 5 days, the bill would provide that either party may request the appointment of a mediator, as specified. By requiring a higher level of service by a local public agency, the bill would impose a state-mandated local program.

17. AB 562 (Williams D) Economic development subsidies: review by local agencies. *Oppose*

Current law provides for various programs for economic development activities by state and local agencies. This bill would, beginning January 1, 2014, require each local agency to provide specified information to the public before approving an economic development subsidy, as defined, within its jurisdiction, and to review, hold hearings, and report on those subsidies at specified intervals.

18. AB 616 (Bocanegra D) Local public employee organizations: dispute: factfinding panel. *Oppose.*

The bill would provide that if either party disputes that a genuine impasse, as defined, has been reached, the issue of whether an impasse exists may be submitted to the Public Employment Relations Board for resolution before the dispute is submitted to a factfinding panel.

19. AB 683 (Mullin D) Local government: fines and penalties: assessments. *Support*

Would, until January 1, 2020, authorize a city, county, or city and county to, after notice and public hearing, specially assess any fines or penalties not paid after demand by the city, county, or city and county against real property owned by the person owing those fines or penalties, where the fines or penalties are related to ordinance violations on the real property upon which the fines or penalties would be specially assessed, and the ordinance violations constitute a threat to public health and safety. This bill would require a city, county, or city and county to comply with certain notice requirements.

20. AB 691 (Muratsuchi D) State lands: granted trust lands: sea level rise. *Oppose unless amended.*

Would provide that addressing the impacts from sea level rise for all of its legislatively granted public trust lands shall be among the management priorities of a local trustee, as defined. The bill would require a local trustee whose gross public trust revenues average over \$250,000 annually between January 1, 2009, and January 1, 2014, to prepare and submit to the State Lands Commission, no later than July 1, 2019, except as provided, an assessment of how it proposes to address sea level rise. The bill would permit, but not require, a local trustee whose gross public trust revenues are \$250,000 or less to prepare and submit to the commission an assessment

21. AB 792 (Mullin D) Local government: open meetings. *Support*

The Ralph M. Brown Act requires that the agenda or notice of both regular and special meetings be freely accessible to members of the public, and be posted on the local agency's Internet Web site, if the local agency has one. This bill, if the local agency is unable to post the agenda or notice on its Internet Web site because of software, hardware, or network services impairment beyond the local agency's reasonable control, would specify that the local agency may conduct the meeting as long as the legislative body meets specified requirements, including, among other things, posting the agenda or notice immediately upon resolution of the technological problems, as specified.

22. AB 1229 (Atkins D) Land use: zoning regulations. *Support*

The Planning and Zoning Law authorizes the legislative body of any city or county to adopt ordinances regulating zoning within its jurisdiction, as specified. This bill would additionally authorize the legislative body of any city or county to adopt ordinances to establish, as a condition of development, inclusionary housing requirements, as specified, and would declare the intent of the Legislature in adding this provision.

23. AB 1237 (Garcia D) Local government finance. *Oppose.*

Would specifically require the Controller to prescribe uniform accounting procedures for cities, conforming to Generally Accepted Accounting Principles, and in consultation with the Committee on City Accounting Procedures, which would be created by the bill. The bill would specify the composition of the committee.

24. AB 1333 (Hernández, Roger D) Local government: contracts. *Oppose.*

Would require, with a specified exception, the legislative body of a city, county, or district to review any contract or memorandum of understanding (MOU) with a private party, with a total annual value of \$250,000 or more and containing an automatic renewal clause, at least once every three years on or before the annual date by which the contract may be rescinded.

25. ACA 4 (Olsen R) Legislative procedure. *Support*

The California Constitution prohibits a bill other than the Budget Bill from being heard or acted on by a committee or either house of the Legislature until the 31st day after the bill is introduced, unless the house dispenses with this requirement by rollcall vote entered in the journal, 3/4 of the membership concurring. This measure would add an additional exception to this 31-day waiting period by authorizing a committee to hear or act on a bill if the bill, in the form to be considered by the committee, has been in print and published on the Internet for at least 15 days.

26. SB 33 (Wolk D) Infrastructure financing districts: voter approval: repeal. *Support.*

Would revise and recast the provisions governing infrastructure financing districts. The bill would eliminate the requirement of voter approval for creation of the district and for bond issuance, and would authorize the legislative body to create the district subject to specified procedures. The bill would instead authorize a newly created public financing authority, consisting of 5 members, 3 of whom are members of the city council or board of supervisors that established the district, and 2 of whom are members of the public, to adopt the infrastructure financing plan, subject to approval by the legislative body, and issue bonds by majority vote of the authority by resolution.

27. SB 64 (Corbett D) Proposition 39: implementation. *Support.*

Would require the State Energy Resources Conservation and Development Commission to develop and administer programs, consistent with the California Clean Energy Jobs Act, to provide financial assistance to school districts, cities, and counties to install energy efficiency or clean energy technology in public schools and municipal

facilities. The bill would appropriate for the 2013-14 fiscal year an unspecified sum from the Clean Energy Job Creation Fund to the commission for the above purpose, thereby making an appropriation.

28. SB 211 (Price D) Tax administration: disclosure of information: Franchise Tax Board and cities. *Support*

Current law authorizes, until December 31, 2013, a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board, to exchange tax information, as provided. This bill would extend the authorization until January 1, 2019, and extend the repeal date of the provisions relating to the reciprocal agreements between the Franchise Tax Board and cities. This bill would add an additional limitation on the use of the tax data to require the data to be utilized in a form and manner to safeguard the tax information, as prescribed.

29. SB 313 (De León D) Public Safety Officers Procedural Bill of Rights Act. *Oppose.*

Would prohibit a public agency from taking punitive action, or denying promotion on grounds other than merit, against a public safety officer, because the officer's name was placed on a "Brady list," as defined. The bill would further prohibit the introduction of any evidence in an administrative appeal of a punitive action that the officer's name was placed on a Brady list, except as provided. The bill would specifically not prohibit a public agency from taking punitive or personnel action against a public safety officer based on the underlying acts or omissions for which that officer's name was placed on the Brady list.

30. SB 388 (Lieu D) Public safety officers and firefighters: investigations and interrogations. *Oppose.*

The Public Safety Officers Procedural Bill of Rights Act and the Firefighters Procedural Bill of Rights Act require that, when any public safety officer or firefighter is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department or fire department, that could lead to punitive action, the interrogation be conducted under certain conditions, except as specified. This bill would provide that the above-mentioned conditions apply when any interrogation of a public safety officer or firefighter is conducted, whether or not an investigation of that public safety officer or firefighter is being conducted.

31. SB 391 (DeSaulnier D) California Homes and Jobs Act of 2013. *Support*

Would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording

of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program.

32. SB 470 (Wright D) Community development: economic opportunity. *Support*

Would state the intent of the Legislature to promote economic development on a local level so that communities can enact local strategies to increase jobs, create economic opportunity, and generate tax revenue for all levels of government. The bill would define economic opportunity to include certain types of agreements, purposes, and projects, and declare that it is the policy of the state to protect and promote the sound development of economic opportunity in cities and counties, and the general welfare of the inhabitants of those communities through the employment of all appropriate means.

33. SB 673 (DeSaulnier D) Land use: development project review. *Oppose.*

Would require a city, county, or city and county, including a charter city or charter city and county, prior to approving or disapproving a proposed development project that would permit the construction of a retail or other commercial facility project, as specified, to cause a cost benefit analysis to be prepared, as specified, which would be paid for by the project applicant. This bill would provide that the cost-benefit analysis would include specified assessments and projections including, among other things, an assessment of the effect that the construction and operation of the proposed development will have on the ability of the city, county, or city and county to implement the goals contained in its general plan.

34. SCA 4 (Liu D) Local government transportation projects: special taxes: voter approval. *Support.*

Would provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects requires the approval of 55% of its voters voting on the proposition. This measure would prohibit a local government from expending any revenues derived from a special transportation tax approved by 55% of the voters at any time prior to the completion of a statutorily identified capital project funded by revenues derived from another special tax of the same local government that was approved by a 2/3 vote.

35. SCA 7 (Wolk D) Local government financing: public libraries: voter approval. *Support.*

Would create an additional exception to the 1% limit for a rate imposed by a city, county, city and county, or special district to service bonded indebtedness incurred to fund public library facilities, that is approved by 55% of the voters of the city, county, city and county, or special district, as applicable, if the proposition meets specified requirements.

36. SCA 8 (Corbett D) Transportation projects: special taxes: voter approval. *Support.*

Would provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for transportation projects requires the approval of 55% of its voters voting on the proposition.

37. SCA 9 (Corbett D) Local government: economic development: special taxes: voter approval. *Support.*

Would provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for community and economic development projects, as specified, requires the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes.

38. SCA 10 (Wolk D) Legislative procedure. *Support*

The California Constitution prohibits a bill other than the Budget Bill from being heard or acted on by a committee or either house of the Legislature until the 31st day after the bill is introduced, unless the house dispenses with this requirement by rollcall vote entered in the journal, 3/4 of the membership concurring. This measure would add an additional exception to this 31-day waiting period by authorizing a committee to hear or act on a bill if the bill, in the form to be considered by the committee, has been in print and published on the Internet for at least 15 days.

39. SCA 11 (Hancock D) Local government: special taxes: voter approval. *Support*

The California Constitution conditions the imposition of a special tax by a local government upon the approval of 2/3 of the voters of the local government voting on that tax, and prohibits a local government from imposing an ad valorem tax on real property or a transactions tax or sales tax on the sale of real property. This measure would instead condition the imposition, extension, or increase of a special tax by a local government upon the approval of 55% of the voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes.

CONCLUSION

After reviewing this report and the summary of the 1,732 pending legislative Bills, if there any legislative Bills of special interest to you, contact the City Attorney.



AGENDA NO: A-4

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 21, 2013

FROM: Rob Livick, PE/PLS –Director of Public Services/City Engineer
Damaris Hanson– Engineering Technician IV

SUBJECT: Approval of Tract Map 3031 (1885 Ironwood Ave.) and Accept the Dedication for a Public Utility Easement (Morro del Mar Properties LLC, Subdivider)

RECOMMENDATION

Staff recommends City Council approve Tract Map 3031 with the acceptance of the associated Public Utility Easement.

ALTERNATIVES

If City Council believes that the Subdivider has not met the conditions of approval, the City Council can deny the approval of the Tract Map.

FISCAL IMPACT

There is no fiscal impact as a result of this action.

BACKGROUND/ DISCUSSION

At its regular meeting on February 15, 2012 the Planning Commission approved the request for a Vesting Tentative Subdivision Map (S00-107), Use Permit (UPO-316) and Coastal Development Permit (CPO-349) for Tract Map 3031. This subdivision divides one 0.92 –acre parcel (1885 Ironwood, APN 068-231-018) into 15 lots for the development of 14 townhouse residences and one common lot.

Since then, the applicant has satisfied all Conditions of Approval and Subdivision Map Act requirements for the recordation of this map. The Final Map conforms to the approved tentative map and per 16-4.207 of the City’s Subdivision Ordinance, the City Council shall approve if these requirements are met.

Due to the offer of dedication of the Public Utility Easement (per 16-4.208) the City Council

Prepared By: DH

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

shall accept or reject without prejudice the offer of dedication. The Public Utility Easement offer of dedication is on behalf of several public utilities.

CONCLUSION

Approval of a Tract Map is a "ministerial act", pursuant to the California Subdivision Map Act (Government Code Section 66474 .1), once the map is found to be in substantial conformance with the approved tentative map. This parcel map has met all City regulations and no further discretionary approvals are required. Staff recommends the City Council approve Tract Map 3031 with the acceptance of associated Public Utility Easement shown in Attachment 1 by Resolution No. 32-13.

ATTACHMENT

1. Resolution No. 32-13
2. Tract Map 3031

RESOLUTION NO. 32-13

A RESOLUTION OF THE CITY COUNCIL OF MORRO BAY APPROVING THE TRACT MAP FOR AN A 15-LOT RESIDENTIAL SUBDIVISION KNOWN AS TRACT 3031 AND ACCEPTING THE ASSOCIATED PUBLIC UTILITY EASEMENT DEDICATION

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

WHEREAS, on February 15, 2012 the Planning Commission did hold a public hearing, received public testimony, and after closing the public hearing fully considered the various issues surrounding the case; and

WHEREAS, the Planning Commission did approve the Vesting Tentative Map for Tract 3031, and associated development applications, subject to certain Conditions of Approval; and

WHEREAS, the Planning Commission has previously made findings required by the California Environmental Quality Act (CEQA) and the City of Morro Bay procedures for implementation of CEQA; and

WHEREAS the applicant has since satisfied all Conditions of Approval and requests permission to record the Tract Map; and

WHEREAS the applicant has installed per the approved Public Improvement Plans the associated minor frontage improvements and the City Engineer has accepted these improvements as complete; and

WHEREAS the applicant has offered to dedicate a public utility easement for the City to accept on behalf of several public utilities; and

WHEREAS, the recordation of the final map is a ministerial act pursuant to the City of Morro Bay Subdivision Ordinance and California Subdivision Map Act.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the City hereby approves the final map for Tract 3031 and accepts the associated dedication of the public utility easement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting held on the 28th day of May 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

JAMIE L IRONS, Mayor

JAMIE BOUCHER, City Clerk

OWNER'S STATEMENT

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE ARE ALL THE OWNERS OF, AND ALL RECORD HOLDERS OF SECURITY INTEREST IN, AND ALL PARTIES HAVING ANY RECORD TITLE IN THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION AND PROJECT SHOWN ON THIS MAP, AND THAT EACH OF US DOES HEREBY CONSENT TO THE FILING AND/OR RECORDATION OF THIS MAP.

WE HEREBY RESERVE TO OURSELVES, OUR HEIRS, AND ASSIGNS CERTAIN PRIVATE EASEMENTS FOR SEWER, OPEN SPACE, ACCESS, AND DRAINAGE FOR THE USE AND BENEFIT OF THE PRESENT OR FUTURE OWNERS OF LOTS 1 THROUGH 15 AFFECTED BY SUCH EASEMENTS AS DELINEATED ON SAID MAP.

WE HEREBY DEDICATE TO THE PUBLIC FOR PUBLIC USE AND BENEFIT OF THE SEVERAL PUBLIC UTILITY COMPANIES WHICH ARE AUTHORIZED TO SERVE IN SAID SUBDIVISION, EASEMENTS FOR PUBLIC UTILITY PURPOSES, DELINEATED ON SAID MAP AS "PUBLIC UTILITY EASEMENT" OR "P.U.E."

WE HEREBY RESERVE TO OURSELVES, OUR HEIRS, AND ASSIGNS LOT 15 FOR INGRESS AND EGRESS AND PRIVATE UTILITIES.

MORRO DEL MAR PROPERTIES, LLC
A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____
THOMAS A. DeWITT, SOLE MEMBER

ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF _____

ON _____ BEFORE ME, _____,
PERSONALLY APPEARED _____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

SIGNATURE OF NOTARY PUBLIC
COMMISSION NO.: _____
COUNTY OF: _____
PRINTED NAME
COMMISSION EXPIRES: _____

CITY CLERK'S STATEMENT

I, DO HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF MORRO BAY, STATE OF CALIFORNIA, DID, ON

_____, 201____, APPROVE THIS MAP OF TRACT 3031 SHOWN HEREON IN ACCORDANCE WITH THE PROVISIONS OF THE SUBDIVISION MAP ACT AND THE OFFER OF DEDICATION SHOWN HEREON FOR "PUBLIC UTILITY EASEMENT" OR "P.U.E." IS HEREBY ACCEPTED ON BEHALF OF THE PUBLIC.

JAMIE BOUCHER, CITY CLERK OF THE CITY OF MORRO BAY
COUNTY OF SAN LUIS OBISPO
STATE OF CALIFORNIA
DATED _____

REPORTS

THE FOLLOWING REPORTS WERE PREPARED FOR THIS PROJECT:

SOILS ENGINEERING REPORT
GEOSOLUTIONS, INC.
220 HIGH STREET
SAN LUIS OBISPO, CA 93401
REPORT # SL07559-1, DATED OCT. 22, 2010

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE ANNEXED MAP, THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE APPROVED TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND THE APPLICABLE ORDINANCES OF THE CITY OF MORRO BAY HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

ROBERT ALAN LIVICK, LS 8126
CITY ENGINEER, CITY OF MORRO BAY, CALIFORNIA
DATED _____

COUNTY RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 201__ AT _____ M. IN BOOK _____ OF MAPS, AT PAGE _____, AT THE REQUEST OF RANDY ELLISON.

DOCUMENT NO: _____

FEE: _____

SIGNED: _____ BY: _____
COUNTY RECORDER DEPUTY

RECORDER'S DISCLAIMER

THE TABULATION, LISTING AND NUMBERING OF ANY SEPARATE DOCUMENTS AUTHORIZED TO BE RECORDED CONCURRENTLY WITH THIS MAP HAVE BEEN PROVIDED BY THE SUBDIVIDER OR BY THE LOCAL AGENCY APPROVING THE MAP. THE COUNTY RECORDER MAKES NO REPRESENTATIONS REGARDING THE ACCURACY OR THE TABULATION, LISTING AND NUMBERING OF ANY SEPARATE DOCUMENTS REFERRED TO ON THIS MAP.

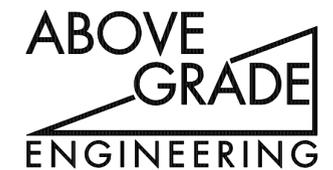
NOTE: THE FOLLOWING DOCUMENTS AFFECTING THE PROPERTY DENOTED HEREON ARE BEING RECORDED CONCURRENTLY HEREWITH:

- 1) CONDITIONS, COVENANTS AND RESTRICTIONS, PER DOC. NUMBER 201__ - _____
- 2) DEED RESTRICTION, PER DOC. NUMBER 201__ - _____

SURVEYOR'S STATEMENT

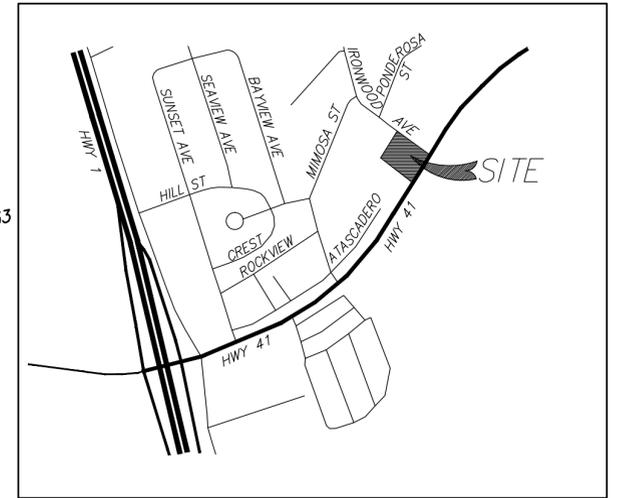
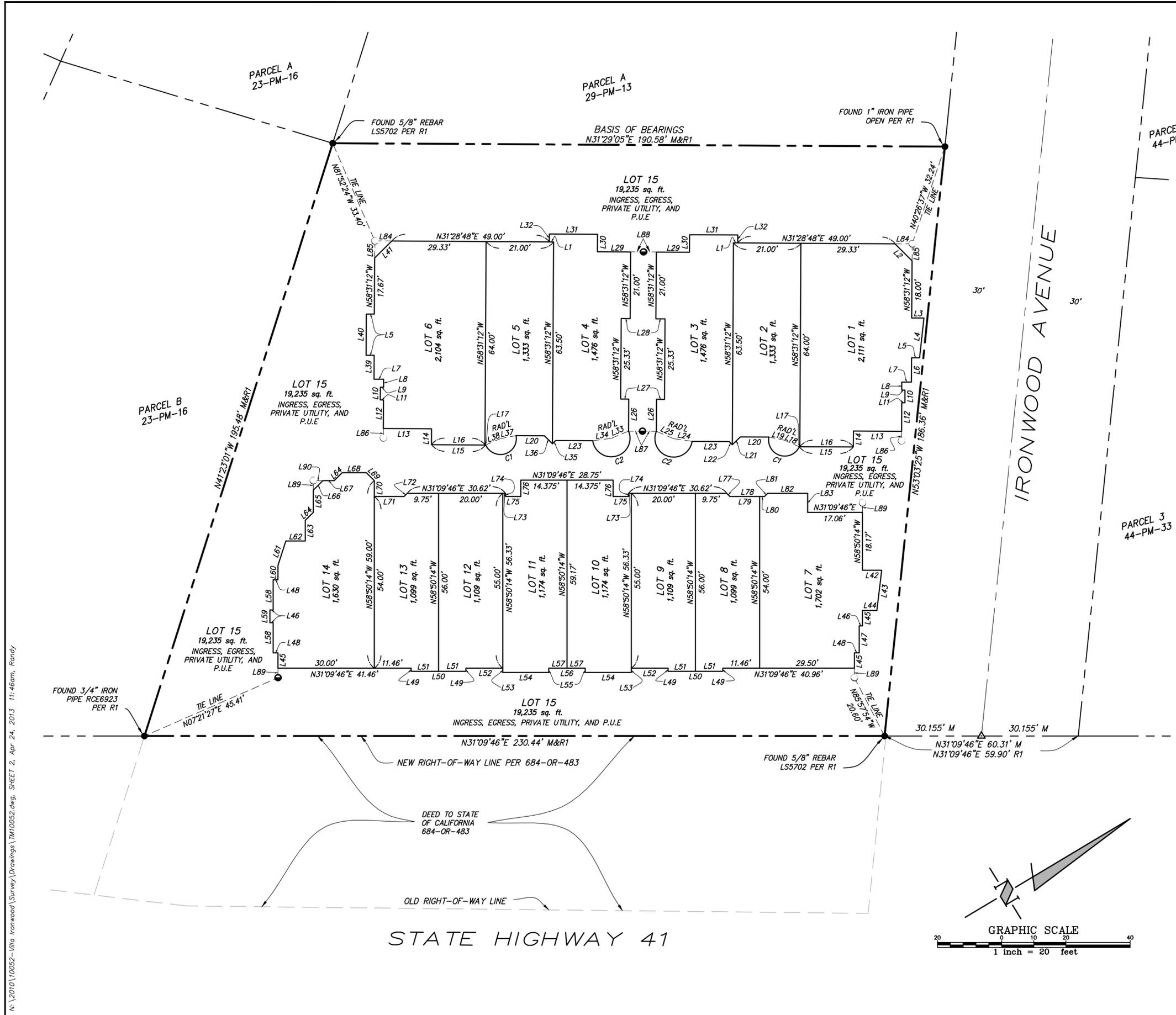
THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED ON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF BUD STURGILL IN APRIL, 2012. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I ALSO HEREBY STATE THAT THE MONUMENTS ARE OF THE CHARACTER AND AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THESE POSITIONS WITHIN ONE YEAR OF COMPLETION OF THE IMPROVEMENTS AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

JAMES RANDAL ELLISON L.S. 7065
DATED _____



1304 Broad Street, San Luis Obispo, CA 93401
phone:(805) 540-5115 • fax:(805) 540-5116
A California Corporation • Scott Stokes PE # 58256

CERTIFICATE SHEET
TRACT 3031
MORRO DEL MAR
BEING A SUBDIVISION OF A PORTION OF LOTS 6 AND 7 AS SHOWN ON MAP FILED IN BOOK 5 AT PAGE 34 OF RECORD OF SURVEYS IN THE CITY OF MORRO BAY
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA
APRIL, 2012 JOB NO.10052 SHEET 1 OF 3 SHEETS



VICINITY MAP
NO SCALE

LEGEND

- FOUND MONUMENT AS NOTED
- SET 5/8" REBAR WITH CAP LS7065
- SET BRASS TAG LS7065
- M MEASURED
- R RECORD
- ▲ SET STANDARD CITY OF MORRO BAY CENTERLINE MONUMENT

REFERENCES

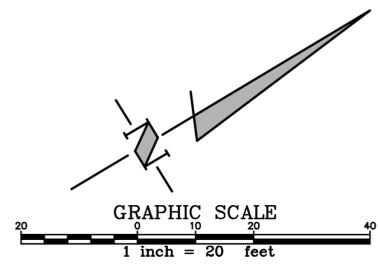
R1 - 103-RS-81

BASIS OF BEARINGS

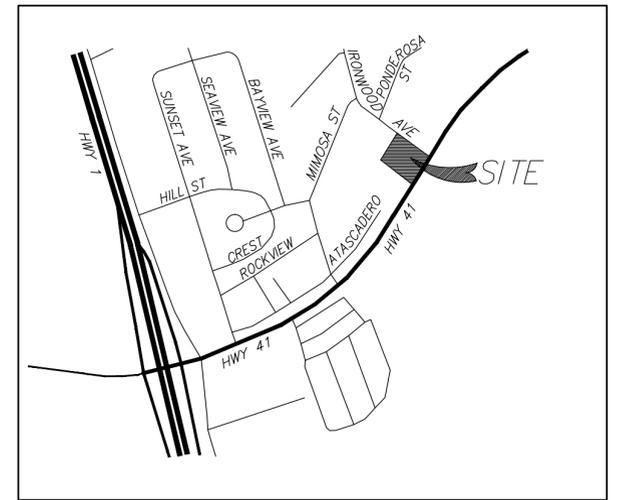
THE BASIS OF BEARINGS FOR THIS SURVEY WAS TAKEN BETWEEN FOUND MONUMENTS ON THE NORTHWESTERLY LINE OF THE SUBJECT PROPERTY HAVING A BEARING OF N31°29'05"E PER R1.

ABOVE GRADE ENGINEERING
1304 Broad Street, San Luis Obispo, CA 93401
phone: (805) 540-5115 • fax: (805) 540-5116
A California Corporation • Scott Stokes PE # 58256

BOUNDARY TRACT 3031 MORRO DEL MAR
BEING A SUBDIVISION OF A PORTION OF LOTS 6 AND 7 AS SHOWN ON MAP FILED IN BOOK 5 AT PAGE 34 OF RECORD OF SURVEYS IN THE CITY OF MORRO BAY COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA
APRIL, 2012 JOB NO.10052 SHEET 2 OF 3 SHEETS



X:\2010\10052-Villa Ironwood\Survey\Drawings\10052.dwg, SHEET 2, Apr 24, 2013 11:46am, Randy



VICINITY MAP
NO SCALE

LINE TABLE		
LINE	LENGTH	BEARING
L1	1.33	N31°28'48"E
L2	7.54	N76°28'48"E
L3	3.80	N31°28'48"E
L4	12.57	N52°34'57"W
L5	2.50	N31°28'48"E
L6	7.67	N58°31'12"W
L7	3.00	N31°28'48"E
L8	2.50	N58°31'12"W
L9	1.00	N31°28'48"E
L10	4.00	N58°31'12"W
L11	1.00	S31°28'48"W
L12	9.00	N58°31'12"W
L13	15.00	N31°28'48"E
L14	5.00	N58°31'12"W
L15	16.83	N31°28'48"E
L16	16.67	N31°28'48"E
L17	0.17	N31°28'48"E
L18	5.00	N55°03'30"E
L19	5.00	S43°01'01"W
L20	8.85	N31°28'48"E
L21	3.54	N13°31'12"W
L22	1.41	N76°28'48"E
L23	11.52	N31°28'48"E
L24	5.83	N39°38'59"E
L25	5.83	S54°21'32"W
L26	10.07	N58°31'12"W
L27	2.50	N31°28'48"E
L28	2.83	N31°28'48"E
L29	10.33	N31°28'48"E
L30	5.50	N58°31'12"W
L31	15.00	N31°28'48"E
L32	2.50	N58°31'12"W
L33	5.83	N08°36'05"E
L34	5.83	S23°18'37"W
L35	1.41	N13°31'12"W
L36	3.54	N76°28'48"E
L37	5.00	N19°56'35"E
L38	5.00	S07°54'07"W
L39	7.53	N58°31'12"W
L40	12.97	N58°31'12"W
L41	7.54	N13°31'12"W
L42	6.00	N31°09'46"E
L43	12.76	N52°05'01"W
L44	4.50	N31°09'46"E
L45	4.83	N58°50'14"W
L46	1.00	N31°09'46"E
L47	8.50	N58°50'14"W

LINE TABLE		
LINE	LENGTH	BEARING
L48	1.50	N31°09'46"E
L49	1.00	N58°50'14"W
L50	17.08	N31°09'46"E
L51	8.54	N31°09'46"E
L52	11.46	N31°09'46"E
L53	1.33	N58°50'14"W
L54	14.33	N31°09'46"E
L55	1.33	N58°50'14"W
L56	11.33	N31°09'46"E
L57	5.67	N31°09'46"E
L58	9.50	N58°50'14"W
L59	4.00	N58°50'14"W
L60	4.50	N58°50'14"W
L61	8.05	N41°03'44"W
L62	6.04	N31°09'46"E
L63	6.50	N58°50'14"W
L64	3.54	N13°50'14"W
L65	7.00	N58°50'14"W
L66	4.24	N13°50'14"W
L67	3.50	N31°09'46"E
L68	7.50	N31°09'46"E
L69	3.54	N76°09'46"E
L70	5.00	N58°50'14"W
L71	9.25	N31°09'46"E
L72	1.41	N13°50'14"W
L73	0.87	N31°09'46"E
L74	1.00	N58°50'14"W
L75	4.75	N31°09'46"E
L76	5.17	N58°50'14"W
L77	1.41	N76°09'46"E
L78	10.75	N31°09'46"E
L79	9.25	N31°09'46"E
L80	1.50	N31°09'46"E
L81	1.41	N13°50'14"W
L82	12.44	N31°09'46"E
L83	6.00	N58°50'14"W
L84	5.33	N31°28'48"E
L85	5.33	N58°31'12"W
L86	3.00	N58°31'12"W
L87	4.33	N31°28'48"E
L88	4.00	N31°28'48"E
L89	3.00	N58°50'14"W
L90	2.87	N33°29'36"E

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	167°57'32"	5.00	14.66
C2	194°42'32"	5.83	19.82

LEGEND

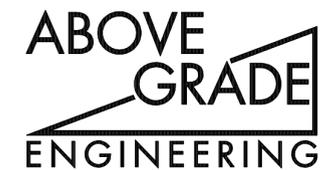
- FOUND MONUMENT AS NOTED
- SET 5/8" REBAR WITH CAP LS7065
- SET BRASS TAG LS7065
- M MEASURED
- R RECORD

REFERENCES

R1 - 103-RS-81

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY WAS TAKEN BETWEEN FOUND MONUMENTS ON THE NORTHWESTERLY LINE OF THE SUBJECT PROPERTY HAVING A BEARING OF N31°29'05"E PER R1.



1304 Broad Street, San Luis Obispo, CA 93401
phone:(805) 540-5115 • fax:(805) 540-5116
A California Corporation • Scott Stokes PE # 582256

LINE AND CURVE TABLES
TRACT 3031
MORRO DEL MAR

BEING A SUBDIVISION OF A PORTION OF LOTS 6 AND 7 AS SHOWN ON MAP FILED IN BOOK 5 AT PAGE 34 OF RECORD OF SURVEYS IN THE CITY OF MORRO BAY COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

APRIL, 2012 JOB NO.10052 SHEET 3 OF 3 SHEETS



AGENDA NO: A-5

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council DATE: May 22, 2013

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

SUBJECT: Status Report of a Major Maintenance & Repair Plan (MMRP) for the Existing Wastewater Treatment Plan

RECOMMENDATION

Staff recommends that this report be received and filed.

ALTERNATIVES

As no action is requested, there are no recommended alternatives.

FISCAL IMPACT

No fiscal impact at this time as a result of this report. Fiscal impact is addressed through the budget process.

DISCUSSION

Staff presented an update of the MMRP status at the May 9, 2013 JPA meeting with little transpiring in the subsequent week.

The primary focus of the past month has been the completion of the FY 13/14 budget for the WWTP and continued investigation of the condition of plant processes and equipment. Plant staff drained, inspected, and performed minor maintenance on the secondary clarifier. Due to the lack of redundancy for the secondary clarifier, specialized procedures were developed to drain and inspect the clarifier while maintaining compliance with the NPDES permit. In addition, plant staff made arrangements for an evaluation of electrical components utilizing thermal imaging that is provided free of charge by the California Joint Powers Insurance Authority (CJPIA). MBCSD staff has continued to meet to discuss the status of the MMRP. MBCSD staff will continue to focus on reviewing Chapter 6 of the Facility Master Plan (FMP), the Electrical Facilities Overview (Appendix H) of the FMP, and the previous CIP developed by Cannon Engineering to continue the process of identifying projects and prioritizing them. In addition, City staff toured the plant with a structural and electrical engineer from Cannon Engineering to solicit input on refining the strategy for the MMRP. MBCSD staff opines that it is premature to solicit proposals from a qualified firm, or firms, to

Prepared by: RL Dept. Review: RL

City Manager Review: _____

City Attorney's Review: _____

provide technical advice and analysis, until further work is performed on the preliminary steps of the MMRP.

Staff has been working on the preparation of the MMRP items that will be proposed for the 2013/2014 fiscal year budget.

\$1.2 M is proposed for the 2013/2014 fiscal year budget for a variety of Major Maintenance and Repair items as listed below:

- Replacement Headworks screens \$500K
- Cleaning, Coating, and Repairs to Digester #2 \$250K
- Chlorine Contact Tank Replacement Project \$200K
 - Repairs to the Chlorine Building \$40K
- Interstage Pump and Valve Project \$50K
- Miscellaneous maintenance and repair projects \$170K
 - 3W Water System Repairs
 - Miscellaneous Valve Replacement
 - Miscellaneous Minor Pump Repairs or Replacements

The last item in the list, miscellaneous maintenance and repair projects, will be either performed by existing staff or outside contract depending on workload. It is intended that the other items will be performed under contract.

CONCLUSION

Staff will continue to bring a status report on the development of the MMRP at City Council meetings on a monthly basis.

ATTACHMENT

1. Staff Report from the May 9, 2013 JPA meeting – Item A-2

Agenda No. Item A-2

Date: May 9, 2013

STAFF REPORT

**MORRO BAY-CAYUCOS J.P.A.
WASTEWATER TREATMENT PLANT**

To: Honorable Mayor and City Council, City of Morro Bay
Honorable President and Board of Directors, Cayucos Sanitary District

From: Bruce Keogh, Wastewater Division Manager

Date: May 2, 2013

Subject:

Status Report of a Major Maintenance & Repair Plan (MMRP) for the WWTP

Recommendation:

This Department recommends that this report be received and filed.

Fiscal Impact:

There is no fiscal impact at this time.

Summary:

This staff report is intended to provide an update on the development of the MMRP for the WWTP. At the February 14, JPA meeting the Council and District Board approved of the development of an MMRP and made the following motion:

- Direct staff to prepare a time sensitive and prioritized MMRP for the WWTP with an anticipated rolling 2 year budget;
- That the JPA solicit proposals from a qualified firm, or firms, to provide technical advice and analysis on an as needed basis as determined by Morro Bay's Public Services Director and Cayucos Sanitary District Manager;
- And that the Morro Bay Public Services Director and Cayucos Sanitary District Manager report back to the JPA on a semi-annual basis on the progress and costs associated with the MMRP.

Discussion:

Development of a MMRP will assist the City and District in projecting the budgeting of expenditures required to keep the current plant operating in compliance with regulatory requirements.

The primary focus of the past month has been the completion of the FY 13/14 budget for the WWTP and continued investigation of the condition of plant processes and equipment. Plant staff drained, inspected, and performed minor maintenance on the secondary clarifier. Due to the lack of redundancy for the secondary clarifier, specialized procedures were developed to drain

and inspect the clarifier while maintaining compliance with the NPDES permit. In addition, plant staff made arrangements for an evaluation of electrical components utilizing thermal imaging that is provided free of charge by the California Joint Powers Insurance Authority (CJPIA). MBCSD staff has continued to meet to discuss the status of the MMRP. MBCSD staff will continue to focus on reviewing Chapter 6 of the Facility Master Plan (FMP), the Electrical Facilities Overview (Appendix H) of the FMP, and the previous CIP developed by Cannon Engineering to continue the process of identifying projects and prioritizing them. In addition, City staff toured the plant with a structural and electrical engineer from Cannon Engineering to solicit input on refining the strategy for the MMRP.

MBCSD staff recommends that it is premature to solicit proposals from a qualified firm, or firms, to provide technical advice and analysis, until further work is performed on the preliminary steps of the MMRP. In the interim period staff can begin work developing the RFP to solicit proposals from qualified firms.

Conclusion:

MBCSD staff will continue to bring a status report on the development of the MMRP at future JPA meetings.

RESOLUTION NO. 31-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
SUPPORTING THE EFFORTS IN CELEBRATING
THE CITY OF MORRO BAY'S 50TH ANNIVERSARY OF INCORPORATION**

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

WHEREAS, the City of Morro Bay went from an unincorporated area to an incorporated municipality on July 17, 1964; and

WHEREAS, the City of Morro Bay celebrated their 25th Anniversary with several special events and activities; and

WHEREAS, there is extensive community support for a larger celebration for the City's 50th Anniversary in 2014; and

WHEREAS, at the March 26, 2013 City Council meeting there was a presentation from a local citizen's group providing a concept plan for a potential of an 18 month-long celebration; and

WHEREAS, the City Council discussed the concept that was presented and was supportive of partnering with this citizen's group effort to provide events in celebration of the Anniversary to include incorporating a theme into the events; and

WHEREAS, the City Council by consensus, designated Councilmembers Nancy Johnson and George Leage as the City's liaisons to the City of Morro Bay's 50th Anniversary Celebration Committee; and

WHEREAS, the City in support of these efforts, agrees to offer meeting space for the 50th Committee in City facilities, and directs the 50th Committee to work with the Recreation and Parks Department on securing this meeting space; and

WHEREAS, the City Council will also be considering additional support to these efforts, including the potential of fee waivers, funding of events, and/or the use of other City resources to help the City's 50th Anniversary Celebration Committee as it plans and schedules these Community Enhancement and Enrichment Programs and Events.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay, California, strongly supports the 50th Anniversary Celebration Committee's efforts and gladly provides meeting space for the committee as well as additional support as their planning efforts continue.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of May, 2013, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk

RESOLUTION NO. 30-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
SUPPORTING INCREASED FUNDING TO THE
CALIFORNIA COASTAL COMMISSION (CCC) TO SUPPORT
ENHANCED LOCAL COASTAL PLAN PLANNING AND UPDATES**

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

WHEREAS, the City of Morro Bay as well as many other coastal cities have been challenged to update their General Plan/Local Coastal Plan (GP/LCP) on a regular basis; and

WHEREAS, the City of Morro Bay is currently using a Local Coastal Plan adopted in 1982 for its coastal planning guide; and

WHEREAS, the City of Morro Bay is currently using a General Plan adopted in 1988 for its Community Development guide; and

WHEREAS, State standards, legal requirements, and professional practices for preparing Local Coastal Plans and General Plans have evolved over the past decades and conditions have changed significantly, both locally and within the region; and

WHEREAS, the City of Morro Bay recognizes that after over three decades of use, it is appropriate to re-evaluate the scope and content of the City's Local Coastal and General Plan to make certain that these important documents provide for the community values and vision for future development and to ensure consistence with the Coastal Act; and

WHEREAS, the City Council of the City of Morro Bay approved updated GP/LCP's on February 23, 2004, and July 20, 2005 and submitted them to the California Coastal Commission (CCC) for certification; and

WHEREAS, on February 28, 2011 the CCC submitted a letter to the City of Morro Bay informing the City that LCP amendment MRB-1-05 is deemed withdrawn for lack of activity and because it did not meet the Coastal Act's minimum public participation requirement for LCP amendments (which provide that an LCP amendment must have been subject to local public hearings on the amendment within four years to allow the amendment to be filed for Commission review and action); and

WHEREAS, the challenges of updating a General Plan and Local Coastal Plan have included time constraints, financial constraints and staffing constraints; and

WHEREAS, the CCC, at their December 12, 2012 workshop with local governments discussed the importance of working cooperatively with local governments in these update efforts; and

WHEREAS, on April 25, 2012 the Senate Budget Subcommittee #2 voted to increase the CCC's budget to allocate \$4 million dollars/year, of which \$1 million would be provided to local governments for Local Coastal Plan planning grants; and

WHEREAS, the CCC is hopeful the Assembly Budget Subcommittee #3 will consider a similar action and this funding will become part of the final 2013/2014 budget.

NOW, THEREFORE, BE IT RESOLVED that the City of Morro Bay, California, is committed to updating their GP/LCP and, strongly supports additional funding for the Local Coastal Program (LCP) planning process established by the California Coastal Act. This funding should be used to support efforts to increase collaborative state-local planning and streamline the process for approving and amending or updating Local Coastal Programs, including providing additional planning staff for the CCC and funding for new State LCP planning grants for local governments. Additional funding should prioritize Commission staffing and resources to support early scoping, local coordination and communication on any proposed amendment, to help identify key issues and address potential conflicts, as early as possible. Early coordination provides for more predictable and mutually agreeable processing timelines for each stage of the amendment process, and for mechanisms to provide maximum opportunity for the Commission and local governments to collaboratively address important and pressing coastal management issues, including responding to climate change, extreme events, and global sea level rise, and addressing the need for updated LCPs to support new economic development consistent with local needs and the California Coastal Act. Early coordination also provides for maximizing local participation and discussion of LCP issues, and enhancing efficiency and accountability in the local coastal planning process.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of May, 2013, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk



AGENDA NO: D-1

MEETING DATE: 5/28/13

Staff Report

TO: Honorable Mayor and City Council **DATE:** 05/22/13

FROM: Andrea K. Lueker, City Manager

SUBJECT: Water Reclamation Facility (WRF) Project Status and Discussion

RECOMMENDATION

Discuss in open session, the progress to date on the Water Reclamation Facility (WRF) and provide direction to staff as necessary.

ALTERNATIVES

Not applicable at this time.

FISCAL IMPACT

Not applicable at this time.

SUMMARY

Staff provides this report as a bi-weekly update to the progress made to date on the new WRF project.

BACKGROUND

With the denial of the permit for the WWTP project in its current location, the City has embarked on a process for a WRF. This staff report provides a review of what has occurred to date as well as provides the City Council an opportunity for open discussion on the WRF project.

DISCUSSION

Below is a brief review of dates, status and accomplishments on the WRF facility project. Note the bolded information has been added since your last review on 5/14/13.

<u>Date</u>	<u>Action</u>
01/03/13	Special City Council meeting – City Adopted Resolution No. 07-13 recommending denial of the WWTP project.
01/08/13	WWTP Project denied by the California Coastal Commission (CCC).
01/08/13	January JPA not held due to CCC meeting.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

01/24/13 City Staff, Morro Bay JPA Sub-Committee, Cayucos SD representatives, staff and attorney meet and discuss strategy and moving forward.

02/14/13 February JPA meeting held, “Discussion and Consideration of Next Steps for the WWTP Upgrade Project” was on the agenda and discussed.

02/26/13 City Council meeting - draft schedule/project timeline presented to City Council.
City Council directed staff to prepare an RFP for a project manager.

03/11/13 City Council goal session, WRF established as Essential City Goal.

03/14/13 City Council goal session, WRF established as Essential City Goal.

03/14/13 March JPA meeting held, “Status Report on the Discussion with RWQCB Staff Renewal Process for the WWTP NPDES Permit No. CA0047881” and “Verbal Report by the City and District on the Progress of the future WWTP” were on the agenda and discussed.

03/18/13 RFP issued.

03/26/13 City Council meeting - City Council approves citizens to serve on the RFP selection committee.

03/27/13 Announcement placed on City website, etc. regarding citizen selection committee application period.

04/05/13 Citizen selection committee deadline.

04/09/13 City Council meeting - appointment of 5 citizens for the RFP selection committee at City Council meeting.

04/10/13 Addendum to RFP issued, re: selection committee

04/11/13 April JPA meeting held, “Verbal Report by the City and District on the Progress of the future WWTP” and Discussion and Approval to Terminate the Consultant Services Agreements with Delzeit; Dudek, McCabe and Company; and Montgomery Watson Harza (MWH)” were on the agenda and discussed.

04/15/13 RFP due.

04/16/13 Study Session on WRF facility announced for April 29, 2013

04/23/13 City Council meeting –reaffirmation of 5 members of citizen selection committee.

04/25/13 Quarterly Meeting with California Coastal Commission staff, WRF discussion and status report on the meeting agenda.

04/25/13 Initial meeting with Selection Committee for the RFP for Planning Services for the WRF.

04/29/13 WRF Study Session at Veteran’s Hall.

05/02/13 Interviews to recommend the individual/team for the WRF project manage

05/09/13 May JPA meeting held, “Verbal Report by the City and District on the Progress of the future WWTP” was on the agenda and discussed.

05/14/13 City Council meeting – Approval of John F. Rickenbach, Consulting as the Preliminary Planning Consultant for the WRF project

5/15/13 Public Services staff continues to work with John F. Rickenbach,

5/28/13

Consulting to finalize the consultant contract.

Closed Session Item scheduled to discuss Righetti appraisal.

CONCLUSION

City Council, since the denial of the WWTP permit in January continues to make measured and deliberate progress in the WRF project, as outlined above.



AGENDA NO: D-2
MEETING DATE: 5/28/13

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 22, 2013
FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Rick Sauerwein, PE – Engineering Division Manager
Robert Schultz – City Attorney
SUBJECT: History and Status of Water Rights Issues in the Chorro Valley

SUMMARY

This item was agenized for the May 14, 2013 City Council meeting as Item D-5. It became apparent that there was not enough time to hear all the New Business items that evening; as such, it was decided to open up this agenda item for public comment for those in attendance and then continue this item to a future meeting.

Attached is the staff report from the May 14, 2013 meeting in its entirety.

Also attached is a memorandum to Council responding to an email the City received from Linda Stedjee on this agenda item.

CONCLUSION

Staff recommends that City Council review the staff report on the City’s water history and our current ongoing practices related to the City’s water rights and issues surrounding the Chorro Valley. After review, public comment and discussion, provide any further direction to Staff.

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



CITY OF MORRO BAY
CITY ATTORNEY DEPARTMENT
955 SHASTA AVE. ♦ MORRO BAY, CA 93442
805-772-6568

MEMORANDUM

TO: CITY COUNCIL

FROM: ROB LIVICK, PE/PLS – PUBLIC SERVICES DIRECTOR/CITY ENGINEER
RICK SAUERWEIN, PE – ENGINEERING DIVISION MANAGER
ROBERT SCHULTZ – CITY ATTORNEY

SUBJECT: RESPONSE TO EMAIL FROM LINDA STEDJEE REGARDING THE HISTORY AND STATUS OF WATER RIGHTS ISSUES IN THE CHORRO VALLEY STAFF REPORT

DATE: MAY 23, 2013

In response to the City' Staff Report for the above reference subject, a citizen, Linda Stedjee sent three members of the Council an email. Attached is her email. Staff's response to the email is below in Bold type.

Ms. Stedjee states in her email:

“The staff report on the Chorro Valley water issues was certainly a heavily-sanitized version of the real story. Important details have been left out and/or glossed over to avoid revealing the truth.”

The intent of the City's Water Report was to provide a high level overview of the activities and issues in the Water Division related to the Chorro Valley. It was not an exhaustive discussion of each step in the process that has occurred. It would probably be impossible to create a complete and exhaustive record of everything that has happened concerning the City's water rights. Staff tried to balance providing adequate information to the Council and the Public without spending an inordinate amount of the time and effort. In addition, much of the information and issues are very technical.

Ms. Stedjee states in her email:

"During the State Water shut down in 2006, nitrate levels spiked in the Morro well field and led to health standard compliance issues, forcing the City to substantially reduce water use from the Morro wells. Nitrate issues have continued to plague Morro Valley and, together with diminished State Water Project deliveries during this period, the City has been forced to rely more heavily on the Chorro wells and the treatment of the contaminated Morro wells at its desalination facility to meet the City's water needs."

Nitrate levels in the Morro Basin are variable and have risen and fallen over time. The Morro Nitrate study indicates that nitrate levels spiked in 1962, 1966, 1977 and 1986, and 1997. The first exceedence of the mcl was in 2002 as indicated in Figure 4. Because the nitrate levels have historically fluctuated in the basin, as of 2002 there was no reason to doubt that they would not come back down again. The use of the Morro Basin had been greatly reduced from 1997 to 2002 (see figures in staff report that shows significant reductions from historical pumping) and Staff at that time believed that active pumping the Morro Basin would reduce the nitrate levels. In 2006, during the State Water shutdown, the levels spiked dramatically during operation of the Morro wells which led to the violation of the mcl. The Morro Basin Nitrate Study was reviewed and found to be compelling and accurate by the RWQCB. Staff is unaware of any Engineer, Hydrologist, regulatory agency or qualified expert that supports Ms. Stedjee's assertions that the Main Street trunk line is the source of nitrate contamination. Furthermore, Ms. Stedjee's theory does not provide any explanation for extremely high nitrate concentrations observed in private wells up stream. The possibility for exfiltration of sewage from the Main Street trunk line is minimal because the elevation of the sewer line is below the water table. This creates a pressure that causes groundwater to flow into the pipe, but prevents sewage in the pipe from flowing out under normal conditions.

Ms. Stedjee states in her email:

“What is not mentioned here is that the City NEVER installed the flow meters that were ordered to be in place in 1997 - and only began to work on this project when the SWRCB was alerted to the problem just a few years ago. The City just kept using the wells whenever it wanted without doing any monitoring to see if it was complying with decision 1633. This is a well-documented fact. Among the supporting documents are emails exchanged between SWRCB personnel and residents, and between SWRCB personnel and the City's lawyers - emails which I have.

What is also not mentioned is the fact that the whole problem came to light when the City, aided by a favored consultant, was conducting a so-called stream flow interference study on Chorro Creek when it was completely dry.

The documented objective was to get a waiver from the requirements of decision 1633. Clearly, well usage will not impact surface stream flow when there is no flow to be interfered with - which appears to many residents to be a trick by which the staff intended to get the waiver illegally.

When this bogus "test" was brought to the attention of the Council, it was stopped immediately. Despite the fact that the staff has paid the consultant tens of thousands of dollars for this, and a subsequent illegal attempt to perform this "study" (the second time, the proper permits were not obtained) no report has ever been produced. Taxpayers are out a great deal of money and got nothing for it but trouble - caused by the staff's unwillingness to abide by the law.”

One condition of the City's Water Permit required the installation of devices capable of continuous measurements of surface flow in Chorro Creek by January 1, 1997, one in the vicinity of Romero well field and the other in the vicinity of Ashurst well field. The Permit Term specified

that the devices shall be installed at a location sufficient to detect the full depletion effects of the City's diversions at each respective well field, but upstream of the depletion effects caused by nearby pumpers on surface flows in Chorro Creek, and that in the case of overlapping pumping effects, a compromise location shall be selected. The measuring devices and their locations were required to be approved by the Chief of the Division of Water Rights.

Finding appropriate locations for these devices proved difficult due to weather conditions, stream channel realignments, private property ownership along the Creek, and the sheer complexity of finding a location that meets the specifications of the Permit Term. The City documented this situation and its continued efforts in its annual Progress Reports submitted to the State. As reported in the City's 1996 Progress Report, high flows and flooding during the latter part of 1996 precluded the installation of the measuring devices, and the City continued to work to locate appropriate sites for the devices. Storm flows in Chorro Creek in the winter of 1997-1998 necessitated removal of any stream gauges and caused a halt to any further studies. Also in the winter of 1997-1998, as part of the Natural Resources Conservation Services Chorro Flats Passive Sediment Control Project, a bypass channel was constructed adjacent to Chorro Creek downstream from the Ashurst well field that resulted in a change of the primary stream channel. In 1998, the City again informed the Board that the devices could not be installed due to high flows and flooding. The City requested permission from the San Luis Coastal Resource Conservation District (RCD) to install stream gauges in 2001, but the City was unable to do so because of the instability of the stream channel. The City's hydrogeologic consultant determined in 2007 that the stream had finally stabilized to the point where a permanent stream gauge was feasible. In 2009, the City studied various locations for potential gauge installation and sought out landowners of property along Chorro Creek to obtain permission to install the gauges. Preliminary work began on the installation of a gauge in the vicinity of the Ashurst well field in 2009. For the Romero well field, determining an appropriate location for the installation of the stream gauge proved more difficult. As the City reported to the Division in 2009, the property owner of the parcel where the City had been performing monitoring activities downstream of the Romero well field denied access to the City. On April 27, 2010, the City requested the approval of the Chief of the Division of Water Rights of the proposed location for the Ashurst well field gauge and one of several proposed locations for the Romero well field gauge. The City met with and discussed these locations with Division staff on several occasions. On April 2, 2012, the City received final approval of the gauge locations from the Deputy Director as required by Term 17. In addition, on April 3, 2012, the Division provided draft amended permits to reflect certain new conditions related to the approved gauge locations. These amended permits were finalized and issued to the City on September 14, 2012.

The City has conducted several studies to determine the relationship between pumping of the Ashurst well field and flows in Chorro Creek. The SWRCB decision 1633 left the City with the opportunity to demonstrate through these studies that a flow constraint on the Ashurst well field was inappropriate (Decision 1633 term 6). The 1.4 cfs target flow is extremely low and occurs intermittently generally speaking in the spring when flows are falling and again in the winter when the flows come back after the rainy season begins. Furthermore, flows in Chorro Creek are also highly variable diurnally. During the two most recent interference tests the City stopped one due to interference between the discharge from the well discharge point downstream and the upstream measuring point, in another the flows in the Creek were falling and the test was stopped

once flows at the measuring locations were consistently below 1.4cfs. Each of these tests provided the City valuable information that was used in negotiations with the SWRCB on the locations and future operations of the stream gauges.

Ms. Stedjee states in her email:

“What is glossed over here is that the failed septic systems at Roandoak, adjacent to the Ashurst well field, have been polluting the Chorro Basin aquifer for some time. This is not, and never has been a secret. A former City employee has state, in writing (yes, we have his letter) that the City staff knew full well for years that Ashurst wells were polluted with sewage, but said nothing - AND knowing that, they still continued delivering insufficiently-treated well water to Chorro Valley customers. This person has not worked for the City for many years, so it is clear that staff have known about the septic system contamination of Ashurst wells for a very long time. The City is extremely lucky not to have been sued over its blatant failure to safeguard the health of its water customers.

When this irresponsible and illegal drinking water quality law violation was discovered, the CDPH ordered the wells shut down. The City never apologized to the victims, even though there had been cases of giardia, and instead threatened to cut off their City water. This is certainly a very ugly chapter in the story of the Chorro Valley, but not untypical of the kind of behavior we have come to expect from City staff.”

In regard to the Chorro Nitrates, the CDPH issued its letter to the City after the City notified its Chorro customers, in advance of the State Water shutdown, that it would be operating its wells and that there was a risk in this circumstance of nitrate contamination. Calculated levels of nitrates never exceeded the limit based on frequent monitoring during that period, so there was no violation in 2007 or 2008. The Ashurst nitrate study has determined that the agricultural activity upstream of the well field is the source of contamination. While the septic systems on Chorro Creek road contribute to the nitrate loading of the basin, based on mass loading calculations in the report they were ruled out as the source of the overall nitrate contamination of the well field by the County Environmental Health Department, the lead agency responsible.

The water from the Chorro Wells receives chemical treatment prior to use which provides some protection against periodical bacteriological contamination that is known to occur. The fact that there is a risk to having customers connected to the Chorro well pumping line is not disputed and is the reason for the City working with those customers to disconnect them from the system.

Ms. Stedjee states in her email:

I find it fascinating - and very disturbing - that a resident had to alert the City to the existence of documents that could be of very great value, and that could mean that the City has wasted a huge amount of taxpayer money on unnecessary legal fees - all because the staff once again failed to perform due diligence. Surely, if a private citizen could find those documents, so could the City staff. That is their job.

If Ms. Stedjee is referring to the public comment made by Carrie Burton at the Council meeting and Staff's request for copies, Staff did not state it does not have copies of the documents. Staff requested the documents so it could review them and provide a response. Staff has requested the documents but has not received them from Ms. Burton. Staff can unequivocally state that Ms. Burton's claim at the Council Meeting that County Resolutions that transferred the County Water Districts property and water rights to the City upon incorporation supersede or circumvent the State Water Board, the Coastal Commission and Fish & Game and other agencies authority is without merit. As stated in the Staff report, the State Water Board issued a decision in 1982 and determined the waters of the Chorro basins to be subject to the Water Board's jurisdiction. It then ordered the City to prepare an Environmental Impact Report (EIR) to support its permit applications. If there was an argument of lack of jurisdiction to made and litigated by the City against the State Water Board, it would have had to be done at that time.

Rob Schultz - Re: Fwd: Serious problems with staff report on Chorro Valley water

From: Rob Schultz
To: Irons, Jamie; Livick, Rob; Sauerwein, Rick
Subject: Re: Fwd: Serious problems with staff report on Chorro Valley water
CC: Lueker, Andrea

From: "Linda Stedjee <lstedjee@charter.net>" <lstedjee@charter.net>
Date: May 16, 2013, 7:30:47 AM PDT
To: "Christine Johnson" <CJohnson@morro-bay.ca.us>, "Jamie Irons" <JIronse@morro-bay.ca.us>, "Noah Smukler" <NSmukler@morro-bay.ca.us>
Subject: Serious problems with staff report on Chorro Valley water

Hi,

The staff report on the Chorro Valley water issues was certainly a heavily-sanitized version of the real story. Important details have been left out and/or glossed over to avoid revealing the truth. Please consider the following:

1. The staff report says,

"During the State Water shut down in 2006, nitrate levels spiked in the Morro well field and led to health standard compliance issues, forcing the City to substantially reduce water use from the Morro wells. Nitrate issues have continued to plague Morro Valley and, together with diminished State Water Project deliveries during this period, the City has been forced to rely more heavily on the Chorro wells and the treatment of the contaminated Morro wells at its desalination facility to meet the City's water needs."

This glosses over the fact that nitrates actually began spiking in 2002 – NOT in 2006. City well tests clearly document this fact. The staff never said a word to Council or to the public, and illegally failed to list the actual highest nitrate level detected in the wells in City Consumer Confidence Reports until residents called them on it. They only reason the staff said anything in 2006 was that 2006 was the year when they delivered water with nitrate levels over the 45mcl maximum. The following table from a City-funded study shows that the nitrate spikes began in 2002.

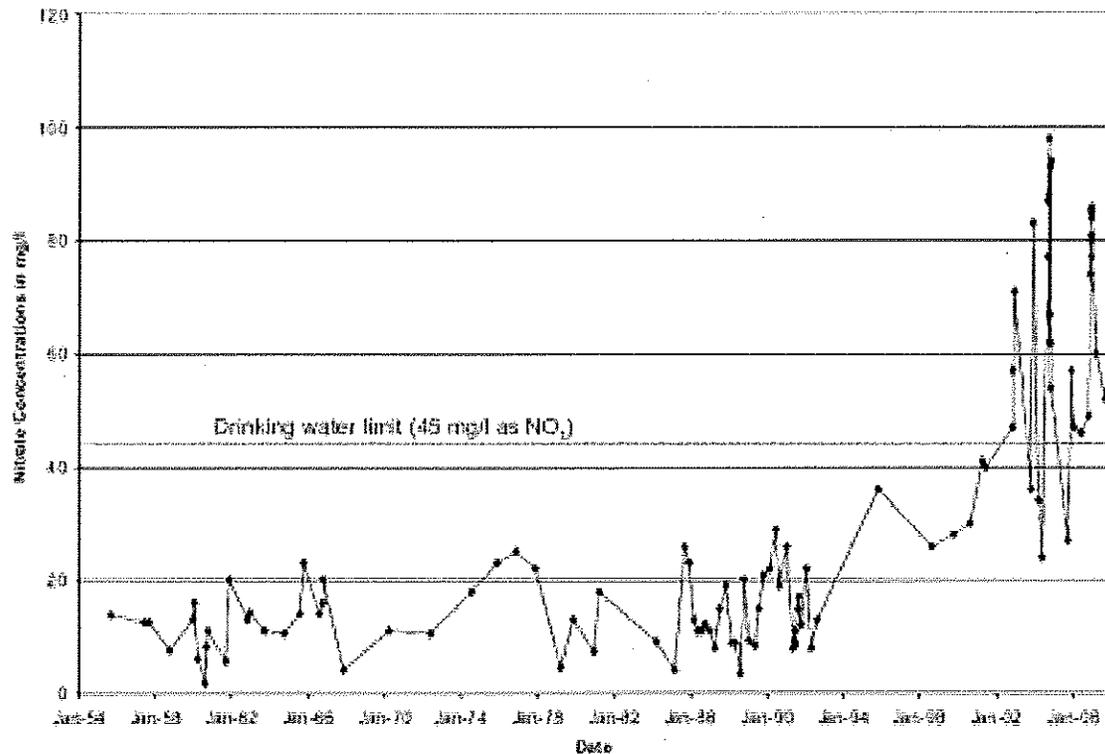


Figure 4
Well MB-3
Nitrate Concentrations
Morro Basin Nitrate Study
City of Morro Bay

Cleath & Associates

As I have mentioned before, the sudden spikes in nitrates began upon completion of an extensive MTBE remediation at the corner of Main and Hwy 41 – right over the aquifer boundary. There is substantial evidence that the City's Morro Basin Nitrate Study is bunk, and that the real source of the nitrates is our own sewage, leaking from the dilapidated Main Street trunk line and traveling by gravity, just like the sewage that manages to stay in the line, to the area where the MTBE remediation was done. It is then sucked into the aquifer by the pumping action of the wells. Because the wells have primarily been used in November, the spikes occur in November. This is not rocket science, and many residents consider the City-funded study to be a blatant coverup. I have extensive documentation on this, which can be provided on request. Also, it is all going to be online, on one of my Web sites, within the next month. I will let you know when the site is up and ready for "prime time"

2. The staff report says,

"The City and Division of Water Rights staff have met on numerous occasions to discuss Mr. Jones' complaint and other matters related to the City's Chorro Creek water rights. The parties have discussed the City's compliance with various conditions of the Chorro water rights permits. The City and Division staff have agreed that the City would prepare and submit a report documenting the City's compliance with its Chorro and Morro water rights permits and a plan for actions to ensure continued compliance or corrective measures to bring the City into compliance with all permit conditions."

What is not mentioned here is that the City NEVER installed the flow meters that were ordered to be in place in 1997 - and only began to work on this project when the SWRCB was alerted to the problem just a few years ago. The City just kept using the wells whenever it wanted without doing any monitoring to see if it was complying with decision 1633. This is a well-documented fact. Among the supporting documents are emails exchanged between SWRCB personnel and residents, and between SWRCB personnel and the City's lawyers – emails which I have.

What is also not mentioned is the fact that the whole problem came to light when the City, aided by a favored consultant, was conducting a so-called stream flow interference study on Chorro Creek when it was completely dry.

The documented objective was to get a waiver from the requirements of decision 1633. Clearly, well usage will not impact surface stream flow when there is no flow to be interfered with - which appears to many residents to be a trick by which the staff intended to get the waiver illegally.

When this bogus "test" was brought to the attention of the Council, it was stopped immediately. Despite the fact that the staff has paid the consultant tens of thousands of dollars for this, and a subsequent illegal attempt to perform this "study" (the second time, the proper permits were not obtained) no report has ever been produced. Taxpayers are out a great deal of money and got nothing for it but trouble - caused by the staff's unwillingness to abide by the law.

3. The staff report says,

"At the time that these connections were made, the water quality in the Chorro Groundwater Basin was considered safe for drinking and met the State and Federal regulations governing water quality. In the last few decades water quality has deteriorated in the basin while a number of new Federal regulations have come into effect governing water supplies.

Because of the degradation to the water quality and the changes in regulations, in December of 2008 the California Department of Public Health inactivated all of the wells in the Ashurst well field until a reliable method of providing treatment for nitrate removal or blending is in place. Therefore, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal standards to the nine customers in the Chorro basin."

What is glossed over here is that the failed septic systems at Roandoak, adjacent to the Ashurst well field, have been polluting the Chorro Basin aquifer for some time. This is not, and never has been a secret. A former City employee has stated, in writing (yes, we have his letter) that the City staff knew full well for years that Ashurst wells were polluted with sewage, but said nothing – AND knowing that, they still continued delivering insufficiently-treated well water to Chorro Valley customers. This person has not worked for the City for many years, so it is clear that staff have known about the septic system contamination of Ashurst wells for a very long time. The City is extremely lucky not to have been sued over its blatant failure to safeguard the health of its water customers.

When this irresponsible and illegal drinking water quality law violation was discovered, the CDPH ordered the wells shut down. The City never apologized to the victims, even though there had been cases of giardia, and instead threatened to cut off their City water. This is certainly a very ugly chapter in the story of the Chorro Valley, but not untypical of the kind of behavior we have come to expect from City staff.

4. I find it fascinating - and very disturbing - that a resident had to alert the City to the existence of documents that could be of very great value, and that could mean that the City has wasted a huge amount of taxpayer money on unnecessary legal fees - all because the staff once again failed to perform due diligence. Surely, if a private citizen could find those documents, so could the City staff. That is their job.

Linda Stedjee



AGENDA NO: D-5

Meeting Date: May 14, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 8, 2013

FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Rick Sauerwein, PE – Engineering Division Manager
Robert Schultz - City Attorney

SUBJECT: History and Status of Water Rights Issues in the Chorro Valley

RECOMMENDATION

Staff recommends that City Council review the comprehensive staff report on the City's water history and our current ongoing practices related to the City's water rights and issues surrounding the Chorro Valley. After review, public comment and discussion provide any further direction to Staff.

ALTERNATIVES

- 1) Continue on the present course to preserve City water rights in the Chorro Valley by constructing a stream flow gauge in Chorro Creek, and replacing all existing City water service connections with private wells & single point of use reverse osmosis treatment to reduce nitrates;
- 2) Abandon City water rights to Chorro Valley well fields;
- 3) Evaluate other alternative strategies to provide a replacement water source for Chorro Valley residents.

FISCAL IMPACT

None at this time.

SUMMARY

The water supply for the City of Morro Bay has four main sources. In order of the quantity supplied, these sources are: the State Water Project, Chorro groundwater, Morro groundwater, and the Desalination Plant. Nitrate contamination of both the Chorro and Morro groundwater resources by

Prepared By: RL /RS / RSchultz

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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agricultural activities has greatly impacted our water supplies. During periods of reduced State Water Project deliveries, it is necessary to blend our other sources of water together in order to reduce nitrate levels in the distribution system. The Desalination Plant, which has recently been used to remove nitrates from the Morro groundwater, is undergoing a series of upgrades to improve the efficiency in treating brackish water and restore the ability to treat salt water.

The City has produced water from the Chorro groundwater basin to meet water demands. Our groundwater permits require that stream flows be above 1.4cfs when extractions occur. Currently, the City is measuring creek flows biweekly. Our permit conditions require continuous flow monitoring, which has not yet been installed.

In 2009, the City was informed of a complaint filed by Jones to the Division of Water Rights staff at the SWRCB. The complaint alleged that the City had not complied with the requirements imposed in the City's water rights permit for Chorro Creek. Since then the City has contracted with outside legal counsel to help Staff as it continually works on the water rights issues and the complaint in the Chorro Valley.

Pursuant to past Council direction, Staff has met with several property owners in the Chorro Valley and is discussing what facilities property owners will need in order to be disconnected from the City's water system.

BACKGROUND

Morro Bay incorporated as a general law city in 1964. Prior to incorporation, two waterworks districts under the auspices of San Luis Obispo County served the community. The sole historic source of potable water for the community was groundwater derived from three well fields in two small coastal valleys: the Morro well field in the Morro valley and the Romero and Ashurst well fields in the Chorro valley.

In 1972, the City of Morro Bay filed two applications for permits to appropriate water from two well fields (Romero and Ashurst) in the Chorro Creek underflow. The applications sought to formalize the City's rights to appropriate water from the Chorro underflows based upon the City's historic use of that water.

State Water Board hearings on the City of Morro Bay's 1972 applications took place five years later in 1977. The State Water Board took no further action until it issued a decision in 1982 and determined the waters of the Chorro basins to be "underflow" subject to the board's jurisdiction. It then ordered the City to prepare an Environmental Impact Report (EIR) to support its permit applications.

Pursuant to the State Water Board's 1982 decision, the City prepared an EIR pursuant to the requirements of the California Environmental Quality Act. The EIR included significant analysis of surface-groundwater interaction in the Chorro and Morro well fields, and concluded that groundwater extraction from the Chorro and Morro wells would have no environmental impact. The State Water Board conducted additional hearings in 1987 and again in 1995.

On July 20, 1995, the Board issued a final decision on the applications (Decision No. 1633).

Therein, the Board approved the City’s applications and issued permits for 1,142.5 acre feet per year (afy) from the Chorro Basin wells (Well Nos. 8, 9, 9A, 10, 10A, 11A, 12 and 16). The Board’s Order contained numerous conditions, including certain conditions that the Board recognized would have significant impacts on the City’s ability to rely on the Chorro wells. These conditions have been problematic for the City. Those conditions and the City’s current operations are the subject of the Jones complaint and are detailed further in this report.

In September 1997, as contemplated in the City’s water right permits, the City began receiving deliveries of 1,313 afy of water from the State Water Project (SWP). Since 1997, the City has utilized State Water as its primary source of water, except during periods of State Water Project maintenance operations. As the chart below indicates, the City’s highest annual use during this period was 49 afy, until significant reduction in State Water availability in 2005.

In 2005, the annual water production in the Chorro Valley increased significantly due to diminished State Water Project deliveries and limited production from the Morro Valley.

During the State Water shut down in 2006, nitrate levels spiked in the Morro well field and led to health standard compliance issues, forcing the City to substantially reduce water use from the Morro wells. Nitrate issues have continued to plague Morro Valley and, together with diminished State Water Project deliveries during this period, the City has been forced to rely more heavily on the Chorro wells and the treatment of the contaminated Morro wells at its desalination facility to meet the City’s water needs.

Year	Chorro Basin (ac-ft)	Morro Basin (ac-ft)	R/O Plant (ac-ft)	State Water (ac-ft)	Total (ac-ft) ¹
1997	986	249	0	301	1536
1998	38	0	0	1287	1326
1999	34	0	0	1359	1393
2000	4	0	0	1396	1400
2001	12	0	0	1398	1410
2002	1	32	47	1373	1454
2003	3	29	13	1384	1429
2004	49	213	20	1206	1487
2005	204	151	0	1008	1362
2006	257	79	25	1010	1371
2007	276	35	19	1116	1446
2008	184	52	28	1175	1439
2009	235	80	66	1069	1450
2010	86	391	258	873	1609
2011	18	101	84	1144	1347
2012	1	109	70	1130	1310

In summary, from 1997 to 2006, during the period after the City began receiving deliveries from the

¹ The total water is overstated in the years that included R/O plant operation since the feed water for the R/O comes from the Morro Wells. In 2012 the conversion from Million gallons to ac-ft was corrected.

SWP and before the Morro wells were significantly impacted by nitrate contamination, the City substantially reduced diversions from the Chorro wells. Since 2006, reduced deliveries from the SWP and the nitrate contamination of the Morro wells have forced the City back to more significant use of the Chorro wells. More recently, treatment of the brackish Morro wells and conservation have been used to reduce the demand on Chorro wells, while still meeting demands. The City's varied usage history over the past ten years aptly demonstrates precisely the reason why each of the City's water sources is so important in providing a redundant and reliable water supply for the citizens of the City of Morro Bay.

Jones Complaint

On October 1, 2009 the City was informed of Mr. Jones' complaint by letter from the Division of Water Rights staff at the SWRCB. The complaint alleged that the City has not complied with SWRCB Decision 1633 and requirements imposed in the City's water right permits for Chorro Creek (Permit Nos. 20866, 20867, and 20868).

The complaint alleges injury to fish and wildlife and public trust resources, as follows, "For the protection of fish and wildlife habitat and other public trust resources in Chorro Creek and Morro Bay, surface flow needs to be 1.4 cfs per DFG biologist Charles Marshall to protect endangered steelhead trout as stated in Decision 1633." Mr. Jones proposed that the complaint could be resolved as follows: "Comply with Decision 1633. Install continuous flow meters below Ashurst and Romero well fields. Cease all pumping until flow meters are in place to comply with minimum flow requirements."

The City and Division of Water Rights staff have met on numerous occasions to discuss Mr. Jones' complaint and other matters related to the City's Chorro Creek water rights. The parties have discussed the City's compliance with various conditions of the Chorro water rights permits. The City and Division staff have agreed that the City would prepare and submit a report documenting the City's compliance with its Chorro and Morro water rights permits and a plan for actions to ensure continued compliance or corrective measures to bring the City into compliance with all permit conditions.

On October 25, 2012 the City received approval of its Flow Bypass Compliance Plan from the Division of Water Rights. This plan outlines the conditions and constraints under which the City agrees to operate the Chorro Wells until completion of its stream gauge projects and full compliance with all of the terms and conditions of the revised permits have been met.

For the first half of 2013, City staff has worked with Division of Water Rights staff to prepare, review, and revise a Petition for Extension of Time for the Chorro Well Permits. This time extension will give the City the ability to complete all of the compliance activities and take full beneficial use of the Chorro well water.

Chorro Valley Customers

From time to time since the incorporation of the City, water meters and water services have been provided to customers outside of the City limits. Currently, the City has water service at nine locations outside of the City limits. Some of these connections were made following the procedure outlined in the municipal code with a designation by Council, while others were made in order to

secure access or water for the City. There are others that have no available records pertaining to their connection.

All of the water service connections that are located within the Chorro Valley receive water from a single pumping line. When the City's wells in the Ashurst and Romero well fields are operating, water from these wells blend in the pumping line and is distributed to Chorro Valley customers prior to being transported to the King's tank to blend with water from other sources. When only one well from the Ashurst well field blends with the water from the Romero well it can still meet the nitrate standards, but when more than one Ashurst well is running, the blended water will likely exceed the nitrate limits. When the Chorro Valley wells are not operating, the customers outside of the city limits receive the same blend of water as all other customers within the City limits, which consistently meets drinking water standards.

At the time that these connections were made, the water quality in the Chorro Groundwater Basin was considered safe for drinking and met the State and Federal regulations governing water quality. In the last few decades water quality has deteriorated in the basin while a number of new Federal regulations have come into effect governing water supplies.

Because of the degradation to the water quality and the changes in regulations, in December of 2008 the California Department of Public Health inactivated all of the wells in the Ashurst well field until a reliable method of providing treatment for nitrate removal or blending is in place. Therefore, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal standards to the nine customers in the Chorro basin.

In order to both provide water to the customers outside the City limits and maintain the Chorro Groundwater resource for the benefit of the customers within the City limits, major modifications to the City's infrastructure would be required. These modifications would be needed to effectively deal with the nitrate contamination while also providing disinfection of the occasional bacteriological contamination events that impact the Chorro Groundwater Basin.

DISCUSSION

On September 28, 2009, January 11, 2010 and March 22, 2010, the City Council reviewed and analyzed the following alternatives to maintain sufficient water resources for the residents of the City from the Romero and Ashurst wells:

1. Water Treatment Plant Alternative: Providing point source treatment of the well water produced. This would require treatment at the Ashurst well field for nitrates through either ion exchange or reverse osmosis and disinfection facilities at both the Ashurst and Romero well sites. While the City currently has disinfection facilities in place, additional chlorine contact time will need to be provided through the addition of storage volume. The positive aspect of this project is that the water leaving the well sites would meet all applicable health and safety standards and would be safe to deliver to the customers in the Chorro Valley. The negative aspects of this project would be: difficult permitting through the County because of flood plain issues, the capital and ongoing maintenance costs of the project, and the need to add additional

staff to cover the operation of these facilities. Installation of sewer disposal facilities to the Ashurst well field or some other method to dispose of reject/brine effluent would be required. Capital costs are roughly estimated at \$200,000 at Romero, and \$800,000 at Ashurst excluding design/permitting/legal fees and estimating contingencies. The Water Departments annual operating expenses and staffing levels would also have to increase.

2. **New Pipeline Alternative:** Installation of potable distribution pipe main along Quintana Road, through existing easements, all the way out to the Romero well field. While not an ideal solution from a water quality standpoint (long dead end lines are difficult to flush), this is probably more technically feasible than option 1. The approximate length of this pipeline would be 2.7 miles. Costs to install potable water lines are approximately \$100 to \$150 per linear foot depending on the specific location and the restoration requirements. This leads to a total project cost excluding design/permitting/legal fees and estimating contingencies of \$1,400,000 to \$2,100,000. This option would have no projected impact to the Water Department's operating expenses and staffing levels.
3. **Nonpotable Water Agreements:** Continuing to provide water to customers outside of the City limits via non-potable water agreements. This alternative will not solve the potential problems of the Chorro Valley customers, as their water will still not meet the standards for potable water at times when the Chorro wells are running. This alternative effectively creates a dual water system of the City's distribution system, and complicates its operation. Dual water systems require higher levels of certification of all of our Water Department staff. These certifications are difficult to obtain and would likely increase City staffing costs. The City would also have to take measures to ensure that this non potable water is not used for drinking purposes in each and every customer's home in the Chorro Valley. The City, as a public water system, could not, at the time of these actions by the City Council, install home treatment devices. While these Point of Entry (POE) or Point of Use (POU) systems are capable of treating the water from the Chorro Valley to meet safe drinking water standards, they were not a legal solution for the City to implement. Subsequently, the California Department of Public Health adopted emergency regulations allowing the use of POE/POU treatment systems, although the City of Morro Bay cannot meet the necessary findings to take advantage of this potential approach.
4. **Disconnect Customers Outside of the City Limits Alternative:** Disconnect customers outside of the City limits from the pumping line. The benefit of removing water services from the pumping line is that blending and disinfection can occur within the pumping line prior to being introduced at the Kings tanks. This will enable a blended and disinfected product to be introduced at the Kings tanks and will protect the City from the liability of providing minimally treated well water to customers who currently are connected to a pumping line. This alternative can be pursued in conjunction with the second alternative (new potable water line) or individually by installing individual wells for each owner. Costs for this alternative are estimated to be \$350,000 excluding negotiation costs/staff time. This alternative is consistent with

section 13.14.040 of the municipal code which limits the City's liability to provide water outside of the City limits.

On September 28, 2009, Councilmember Smukler moved for the City Council to include the stakeholders of the National Estuary Program, San Luis Obispo County Regional Water Quality Control Board and State Water Quality Control Board with a notice of the City's conversations and existing situation, and that we elude to our intent for future discussions about Decision 1633 and collaborative actions to address the water quality issue in the Chorro Basin. The motion was seconded by Councilmember Winholtz and carried unanimously.

On January 11, 2010, Councilmember Winholtz moved the City Council direct staff to terminate the Agreement between Roandoak and the City of Morro Bay pursuant to Paragraph 9 of the Agreement which states it will terminate in 120 days; in addition, there will be no discontinuation of water service until a new agreement is reached. The motion was seconded by Councilmember Borchard and carried unanimously.

On March 22, 2010, Mayor Peters moved the City Council appoint Councilmember Borchard and Councilmember Winholtz to serve on the Chorro and Morro Valley Water Rights Ad-Hoc Committee. The motion was seconded by Councilmember Grantham and carried unanimously.

From January 2010 until October 2012, the City worked with Roandoak and the County of San Luis Obispo in the Chorro Basin to develop a permitting strategy and template for the removal of systems from the City's system. In general, the agreement requires that the City provide a well and POU treatment system in exchange for termination of City water service. This leaves the property with a well and a treatment system capable of meeting the needs of that property. The County also required that the City conduct annual water quality monitoring of those new wells. This robust process and the agreements developed on this first project will facilitate future well construction and system disconnections.

CONCLUSION

In conclusion, the City will continue to actively pursue compliance with all of the terms and conditions of SWRCB Decision 1633. It is important to note that when the Water Board made Decision 1633, it recognized that it was effectively eliminating or severely restricting the historic municipal water source from the City's water supply portfolio for the benefit of fish and wildlife resources in a seasonal creek.

In the time period between the advent of State Water in 1997 and the nitrate contamination episode in 2006, the City had largely reduced its reliance on the Chorro groundwater basin as was intended by SWRCB Decision 1633. The recent contamination from nitrates in the Morro watershed coupled with the interruptible nature of the State Water Project have necessitated the City's turning back to the Chorro Basin as a vital part of its water portfolio in order to protect the health and welfare of the residents of Morro Bay. Because the pollution in the Morro basin will not likely be abated any time soon, and State Water Project deliveries are an interruptible resource, the City is committed to taking the steps necessary to preserve the full beneficial use of the Chorro basin groundwater.



AGENDA NO: D-3

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 21, 2013

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

SUBJECT: Recommendation from the Public Works Advisory Board Regarding the Request from the Morro Bay Citizen's Tree Committee for listing of Landmark Trees

RECOMMENDATION

Staff recommends that the City Council approve the listing of the 20 Landmark Trees at ten locations as recommended by the Public Works Advisory Board (PWAB) on May 23, 2012.

ALTERNATIVES

1. Adopt Staff Recommendation.
2. Approve a subset of the recommended trees.
3. Reject the listing and provide further direction to staff.

FISCAL IMPACT

Listing a tree within the public right of way as a landmark tree requires proactive maintenance. The cost of proactively maintaining a landmark tree would require additional expenditures for a consulting arborist, tree maintenance services and engineering contractor services for concrete removal and replacement. These costs could add up to \$4,000 per landmark tree over a ten year period (\$400 per year per landmark tree). As such, the cost for the 20 requested trees could add \$8000/year to the costs of maintaining the City's trees which is approximately eight percent of the annual street tree budget.

BACKGROUND

On October 11, 2010 City Council adopted Ordinance No. 563 adding the recognition of Landmark Trees to Chapter 12.08. This action was based upon a duly noticed public hearing and recommendations from both Planning Commission and the Council. The pertinent sections from the Morro Bay Municipal Code relating to "Landmark Trees" are listed below:

12.08.010 - Purpose.

Prepared By: RL

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

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

12.08.020 - Definitions.

G. *"Landmark tree" is any tree existing within city limits, which has been so designated by resolution of the city council, after review and recommendation by the city's public works advisory board.*

12.08.060 - Tree care, planting, removing and replacement. (excerpt)

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

12.08.150 - Landmark trees.

*Any Morro Bay resident may nominate a tree **within the right-of-way** to be considered for landmark tree designation. The nominated tree shall meet at least three of the seven criteria listed below. All nominated landmark trees shall be reviewed by the public works advisory board. The recommendation of the public works advisory board shall be forwarded to the city council for official landmark tree designation.*

Landmark tree criteria:

- A. *Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value;*
- B. *Specimen tree or grove of significant habitat value for migratory birds and butterflies;*
- C. *Native trees or groves of historical significance to local indigenous cultures;*
- D. *Specimen tree or grove of agricultural significance and history;*
- E. *Specimen tree or grove older than eighty to one hundred years;*
- F. *Any trees playing very important functional role in city parks or for city planning and maintenance;*
- G. *Specimen trees or groves of significance planted by early settlers of Morro Bay.*

Following the changes to MBMC 12.08 regarding Landmark Trees, the volunteer Citizens Tree Committee gathered information and met to discuss potential Landmark Trees within the community. On May 23, 2012, the candidate list from the Tree Committee was presented to PWAB for their consideration and recommendations. The staff recommendation of the trees at ten locations for potential Landmark Tree Status was unanimously approved by PWAB. While the PWAB staff report listed the total number of trees at the ten locations as 15, this was a typographical error. The actual number of trees at the ten recommended locations is 20. The intent of the PWAB recommendation was to forward to Council all recommended eligible trees for consideration.

DISCUSSION

The first screening on whether or not a tree is a Landmark Tree as specified in 12.08; is it within the

City’s Right of Way? Tree locations designated as 1,3, 12 and 13 on Attachment 2 from the Morro Bay Citizens Tree Committee are outside the City Right of Way and therefore ineligible as Landmark Trees under 12.08. Additionally, tree number 15 is recommended for removal by the Citizen Tree Committee’s arborist and therefore does not make sense to designate this diseased tree as a Landmark Tree. The remaining ten tree locations appear to meet the minimum criteria as Landmark Trees and can be designated as such. The recommended trees locations are:

No	Location	Type (Number of trees)	Criteria – As suggested by the Citizens Tree Committee
2	Pacific & Morro Streets	Canary Island Palms – (4)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; E. Specimen tree or grove older than eighty to one hundred years; G. Specimen trees or groves of significance planted by early settlers of Morro Bay.
4	End of Dunes on the bluff	Monterey Cypress (1)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies; E. Specimen tree or grove older than eighty to one hundred years; G. Specimen trees or groves of significance planted by early settlers of Morro Bay.
5	Marina & Napa	Monterey Cypress (3)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies; E. Specimen tree or grove older than eighty to one hundred years; G. Specimen trees or groves of significance planted by early settlers of Morro Bay.
6	708 Morro Bay Blvd.	Red Bud Eucalyptus Silver Dollar Eucalyptus (2)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies F. Any trees playing very important functional role in city parks or for city planning and maintenance
7	Morro & Anchor	Monterey Cypress (3)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies; E. Specimen tree or grove older than eighty to one hundred years; G. Specimen trees or groves of significance planted by early settlers of Morro Bay.
8	In front of Estero Bay Graphics on Morro Bay Blvd.	Blue Gum Eucalyptus (1)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies F. Any trees playing very important functional role in city parks or for city planning and maintenance G. Specimen trees or groves of significance planted by early settlers of Morro Bay.

No	Location	Type (Number of trees)	Criteria – As suggested by the Citizens Tree Committee
9	Morro & South Street	Blue Gum Eucalyptus (1)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies; E. Specimen tree or grove older than eighty to one hundred years; F. Any trees playing very important functional role in city parks or for city planning and maintenance G. Specimen trees or groves of significance planted by early settlers of Morro Bay.
10	Shasta & Dunes	Avocado (1)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; D. Specimen tree or grove of agricultural significance and history F. Any trees playing very important functional role in city parks or for city planning and maintenance
11	Monterey & Morro Bay Blvd	Canary Island Palms (3)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; E. Specimen tree or grove older than eighty to one hundred years; F. Any trees playing very important functional role in city parks or for city planning and maintenance G. Specimen trees or groves of significance planted by early settlers of Morro Bay.
14	Market & Dunes	Red Bud Eucalyptus (1)	A. Any specimen tree or grove of significant size, beauty, cultural heritage or habitat value; B. Specimen tree or grove of significant habitat value for migratory birds and butterflies F. Any trees playing very important functional role in city parks or for city planning and maintenance
		Total Trees = 20	

CONCLUSION

The Morro Bay Citizens Tree Committee identified trees that they feel meet the requirements for Landmark Tree status. The City's Municipal Code does not recognize trees outside the right of way as meeting the requirements of a City Designated Landmark Tree. Staff does not support the listing of diseased trees for landmark status, especially the Monterey Pine due to the high mortality rate for those with pitch pine canker. Therefore, based on the criteria established in Ordinance 12.08.150, the evaluation of that criteria by the Citizens Tree Committee, concurred to by PWAB at their May 23, 2012 meeting; there are 20 trees eligible for Landmark Tree Status.

ATTACHMENT

1. Excerpt from PWAB Minutes 05-23-2013, Item C-1
2. Morro Bay Citizens Tree Committee Submittal

NEW BUSINESS

C-1 Request from the Morro Bay Citizens Tree Committee for Potential Listing of Landmark Trees - Recommendation: Review and Forward Recommendations to the City Council.

Livick presented the staff report, reviewing the procedure for listing of a landmark tree and noted that staff is seeking review and potential approval by PWAB to forward onto the City Council.

Livick explained both the average maintenance costs for tree trimming are on average \$400 a year and also the Tree Committee's evaluation of the 10-15 tree locations. The current City ordinance does not require proactive maintenance and this would not require an increase in maintenance costs but rather a better prioritization. This only applies to trees in the street right of way. One of the goals is to declare landmark trees regardless of public or private property.

Chairperson Makowetski invited Taylor Newton, Tree Committee member, to speak.

Mr. Newton stated the process is designed so anyone could nominate a tree in the City's public right of way for a landmark tree designation.

Boardmember Shively asked Newton if the different maintenance needs of trees are considered. Newton stated the idea is to have trees that people can agree are valuable. A regular maintenance schedule will be maintained to avoid additional costs. These are all City trees which already currently require maintenance.

Boardmember Burkhart asked if future designation requests will go before PWAB. Livick clarified that the ordinance requires that it go to PWAB first for recommendation to City Council.

Newton added that we need to determine what trees we want for the long term and how do they represent our heritage. In order for a citizen to get a tree to be declared a landmark tree, the first step is to contact Rob Livick, Public Services Director via email. Tree committee meetings are open to the public and are held at the Community Center.

MOTION: Shively moved to approve the recommendation in the staff report by Rob Livick and forward it to the City Council. The motion was seconded by Burkhart and carried unanimously. (5-0).

A.3

AN EVALUATION OF TREES NOMINATED FOR “LANDMARK TREE” (HERITAGE TREE) STATUS IN MORRO BAY, CA

By Robert Schreiber – Arbor First, December 28, 2011

1. Location: Corner of Sandalwood & Terra Street Monterey Cypress

DSH = 69”, 34’ tall, 33’ wide / has good color with small amount of deadwood / approximately 15% of foliage is missing / a few too many inner branches have been removed / overall good health / tree trimmed to be too open

2. Location: Pacific & Morro Streets Canary Island Palms (4)

- A. Tree #1 is on corner of Morro & Pacific - DSH [Diameter at Standard Height which is 4.5’] = 32”, 60’ tall, 30’ wide / has good color and no visible physical problems
- B. Tree #2 is next in line toward Main Street - DSH = 30”, 63’ tall, 33’ wide / has no visible problems / color is light - needs magnesium [holes need to be drilled and filled with a magnesium sulfate solution; depending on accessibility, if 4 holes are drilled use 1 cup solution per hole / if 8 holes are drilled use ½ cup solution per hole]
- C. Tree #3 is next in line toward Main Street - DSH = 29”, 60’ tall, 30’ wide / has good color and no visible physical problems
- D. Tree #4 is next in line toward Main Street - DSH = 29”, 61’ tall, 30’ wide / has good color and no visible physical problems

3. Location: In front of library on Harbor Street Island Oak

DSH = 23”, 60’ tall, 60’ wide, good color, signs of caterpillar infestation, approximately 12% of foliage is missing / live caterpillars gone due to cold / in spring look for moths / spray tobacco juice –detergent solution for organic cure / tree seems healthy otherwise with normal shoot growth

4. Location: End of Dunes on the bluff Monterey Cypress

DSH = 68” minus indentions, 72’ tall, 96’ wide / good color / 6 or 7 larger branches have been removed / tree in good health

**5. Location: Marina & Napa
Monterey Cypress (3)**

- A. Tree #1 (one of three largest trees) farthest away from Napa & Marina on the corner - DSH = 39", 109' tall, 112' wide / some branches need to be reduced for end weight / color is good
- B. Tree #2 (one of three largest trees) - DSH = 41", 123' tall, unable to measure width due to close proximity to other trees and inter-twinning of branches / some branches need to be reduced for end weight / color is good
- C. Tree #3 (one of three largest trees) - DSH = 53.5", 124' tall, unable to measure width due to close proximity to other trees and inner-twinning of branches / 8% deadwood / some branches need to be reduced for end weight / color is good

**6. Location: 708 Morro Bay Blvd.
Red Bud Eucalyptus
Silver Dollar Eucalyptus (2)**

- A. Red Bud Eucalyptus - DSH = 25", 84' tall, 83' wide wide / good color / too much inner branch removal but with small stature of trees and being street trees there is no hazard
- B. Silver Dollar Eucalyptus #1 - DSH = 27", 69' tall, 34.5" wide wide / good color / too much inner branch removal but with small stature of trees and being street trees there is no hazard
- C. Silver Dollar Eucalyptus #2 - DSH = 28.5, 58.5' tall, 45' wide / good color / too much inner branch removal but with small stature of trees and being street trees there is no hazard

**7. Location: Morro & Anchor
Monterey Cypress (3)**

- A. Tree #1 - DSH = 45", 96' tall, 96' wide / has co-dominant leader at approximately 16' from ground / has old wounds from branches that have been removed and trying to heal / good color / some inner branches that have been removed could have been dead branches, broken from the wind or were too low for traffic
- B. Tree #2 - DSH = 24", 99' tall, 49.5' wide, missing 7 branches on windward side of the tree [6 still have pieces or stubs sticking out]
- C. Tree #3 - DSH = 26", 93' tall, 46.5' wide / all trees have approximately 8% deadwood / new shoot growth is good / has a 10° lean toward field / no target

**8. Location: In front of Estero Bay Graphics on Morro Bay Blvd.
Blue Gum Eucalyptus**

DSH = 39.5", 99' tall, 81' wide / has good color / approximately 8% deadwood / no signs of bugs

**9. Location: Morro & South Street
Blue Gum Eucalyptus**

DSH = 107", 186' tall, 171' wide there are 9 leaders between the ground and 18' / approximately 12% deadwood / good color / no bugs / no signs of reduction pruning but too much inner-branch removal

**10. Location: Shasta & Dunes
Avocado**

DSH {has three leaders measuring 15.5", 11" and 10"} = 36.5", 45' tall, 53' wide / has good color / is producing pollen / some tips at top of tree are burnt / no signs of bug infestation.

**11. Location: Monterey & Morro Bay Blvd
Canary Island Palms (3)**

- A. Tree #1 at corner - DSH = 23", 45' tall, 30' wide / good color / bottleneck on lower section probably from too much pruning or not enough water [purely cosmetic] / needs to have weeds removed, cut with hand pruners and roundup brushed on fresh cut to kill roots and not disturb tree
- B. Tree #2 next in line toward laundromat - DSH = 24", 33' tall, 26' wide / color is yellow, needs magnesium [holes need to be drilled and filled with a magnesium sulfate solution; depending on accessibility, if 4 holes are drilled use 1 cup solution per hole / if 8 holes are drilled use ½ cup solution per hole]
- C. Tree #3 nearest to laundromat - DSH = 25.5, 48' tall, 32' wide / needs to have weeds removed, cut with hand pruners and roundup brushed on fresh cut to kill roots and not disturb tree / needs magnesium sulfate [holes need to be drilled and filled with a magnesium sulfate solution; depending on accessibility, if 4 holes are drilled use 1 cup solution per hole / if 8 holes are drilled use ½ cup solution per hole] / need seed bundles removed for pedestrian traffic safety

**12. Location: Tidelands Park on the Embarcadero
Blue Gum Eucalyptus**

DSH (has three leaders 40 ½, 11 & 18) = 69.5 “, 99’ tall, 74’ wide / good color / no bugs / approximately 20% of foliage is missing / approximately 8% deadwood

**13. Location: On Piney between entrance to St. Timothy’s and fire station
Blue Gum Eucalyptus (2)**

- A. Tree #1 - DSH = 42”, 165’ tall, unable to measure width / 8 degree lean under larger tree / some small removals of branches by the roadway / splits tree into two co-dominant leaders at 12’ / good color / no signs of beetles
- B. Tree #2 - DSH – 109” with indentions, 174’ tall, 115’ wide / has 8 leaders at 12’ above ground / lots of included bark / good color / no signs of beetles

**14. Location: Market & Dunes
Red Bud Eucalyptus**

DSH = 53”, 68’ tall, 79’ wide, good color, no bugs, needs 5 branches reduced for end weight and wind exposure / has three major leaders with co-dominating crotch / one branch facing the house needs a strap [has two cracks – one is callusing over] / two branches pointing east need a strap / one branch pointing west over the wire has moved 5” and is on the wire at this time – needs reduction pruning for weight

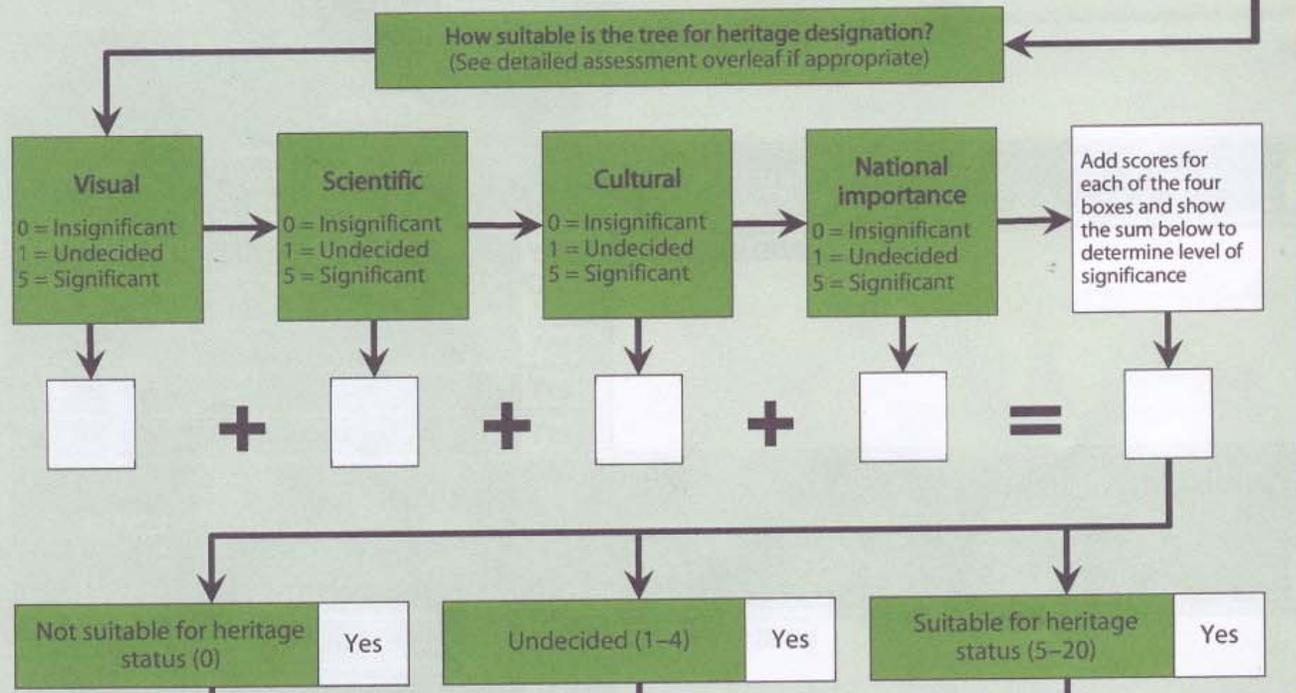
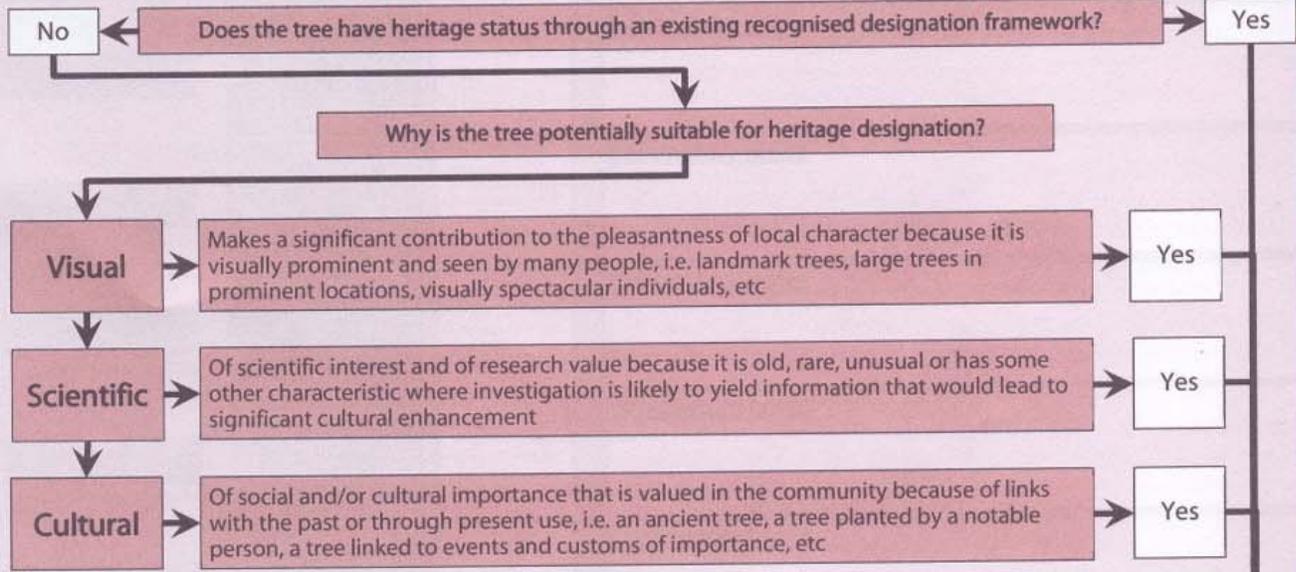
**15. Location: Marina & Estero
Monterey Pine**

DSH = 54.5”, 87’ tall, 79’ wide / good color except small amount pitch canker / no bleeding / no beetles / too many inner branches removed / approximately 25% of foliage is missing / three major branches removed from 10’ to the ground [1 – 13”, 2 – 8”] / good candidate for strapping or removal

Location Tree No Date Assessor

Notes

Admin



Management
(Must be done by specialists)

Unsuitable for heritage status
Any tree identified as Insignificant in all four of the decision-making boxes, i.e. it scored four zeros, is not suitable for heritage status. Such trees would not warrant any priority for resources for heritage reasons.

Further investigation needed
If a tree does not score Significant at least once, then there are obvious doubts about its suitability for heritage status. Such trees would warrant more detailed investigation to arrive at a definitive answer one way or the other. If these investigations confirmed one or more Significant score, then the tree's heritage status is confirmed.

Heritage tree
Any tree that gets one Significant score attains heritage status. The more Significant scores it gets, the more important it is and the higher priority it should be given where resources are limited. Similarly, where there is a conflict with other interests, the more Significant scores a tree gets, the more weight it should be given in the resolution process.

A.4

A list of fifteen nominated for “LANDMARK TREE” (Heritage Tree) Status in Morro Bay, CA

By City of Morro Bay Tree Committee members, October 1, 2011

1. **Location: Corner of Sandalwood & Terra Street
Monterey Cypress**



2. **Location: Pacific & Morro Streets
Canary Island Palms (4)**



3. **Location: In front of library on Harbor Street
Island Oak**



- 4. Location: End of Dunes on the bluff
Monterey Cypress



- 5. Location: Marina & Napa
Monterey Cypress (3)



- 6. Location: 708 Morro Bay Blvd.
Red Bud Eucalyptus
Silver Dollar Eucalyptus (2)



**7. Location: Morro & Anchor
Monterey Cypress (3)**



**8. Location: In front of Estero Bay Graphics on Morro Bay Blvd.
Blue Gum Eucalyptus**



**9. Location: Morro & South Street
Blue Gum Eucalyptus**



**10. Location: Shasta & Dunes
Avocado**



**11. Location: Monterey & Morro Bay Blvd
Canary Island Palms (3)**



**12. Location: Tidelands Park on the Embarcadero
Blue Gum Eucalyptus**



**13. Location: On Piney between entrance to St. Timothy's and fire station
Blue Gum Eucalyptus (2)**



**14. Location: Market & Dunes
Red Bud Eucalyptus**



**15. Location: Marina & Estero
Monterey Pine**



ATTACHMENT 2

Rob Livick - Landmark Tree Documents

From: taylor newton <taylor_newton@yahoo.com>
To: Mr Noah Smukler <nsmukler@yahoo.com>, Wally McCray <mccraywa@aol.com>, D...
Date: 4/10/2012 12:52 PM
Subject: Landmark Tree Documents
CC: Robert Schreiber <arborfirst@sbcglobal.net>, taylor newton <taylor_newto...
Attachments: Landmark_Nominees_Ordinance_Criteria.doc

Hello all,

Attached is the Landmark Tree Nominees with corresponding Ordinance Criteria that apply. It is the same list as the Arborist Report w/out analysis.

Also, #6 is not a Silver Dollar Eucalyptus, it is a Silver Leaved Ironbark (*Eucalyptus melanophloia*).

Also, is this our final draft? Shouldn't we have a photo & correct scientific name for each nominee?

Cheers,

-Taylor Newton, MB Tree Committee

From: Mr Noah Smukler <nsmukler@yahoo.com>
To: Wally McCray <mccraywa@aol.com>
Cc: Taylor NewtonCultivation <taylor_newton@yahoo.com>; Robert Schreiber <arborfirst@sbcglobal.net>; Noah Smukler <nsmukler@yahoo.com>
Sent: Wednesday, January 25, 2012 8:03 PM
Subject: Landmark Tree Documents

1st Attachment: Agenda w/ MB Municipal Code on pg 2

2nd Attachment: Robert's Arborist Report

Remaining Attachments are photos in best order of Arborist Report Listing

Note:

#5) Three Cypress @ Marina & Napa
 Are labeled as Marina & Piney on pictures

Please be sure to add photo in review:

+ Blue Euc @ St. Timothy's (w/ property owner letter)

+ Red Flowering Ficafoia near Surf Staircase

+ optional: any other Ficafoia's in the Street Tree setting that exhibit prime growing habits as noted by Dr. Ritter (good color, minimal bulbing @ ground level, health, etc)?

Also GPS coordinate for each would be nice.

A.3~ordinance criteria...

1. **Location: Corner of Sandalwood & Terra Street
Monterey Cypress**

A, B, D(farm land marker), E, G

2. **Location: Pacific & Morro Streets
Canary Island Palms (4)**

A, E, G

3. **Location: In front of library on Harbor Street
Island Oak**

A, B, F

4. **Location: End of Dunes on the bluff
Monterey Cypress**

A, B, E, G

5. **Location: Marina & Napa
Monterey Cypress (3)**

A, B, E, G

6. **Location: 708 Morro Bay Blvd.
Red Bud Eucalyptus
Silver Dollar Eucalyptus (2)**

A. Red Bud Eucalyptus – A, B, F

B. Eucalyptus melanophloia (Silver leaved Ironbark) – A, B, F

7. **Location: Morro & Anchor
Monterey Cypress (3)**

A, B, E, G

**8. Location: In front of Estero Bay Graphics on Morro Bay Blvd.
Blue Gum Eucalyptus**

A, B, F, G

**9. Location: Morro & South Street
Blue Gum Eucalyptus**

A, B, E, F, G

**10. Location: Shasta & Dunes
Avocado**

A, D, F

**11. Location: Monterey & Morro Bay Blvd
Canary Island Palms (3)**

A, E, F, G

**12. Location: Tidelands Park on the Embarcadero
Blue Gum Eucalyptus**

A, B, F, G

**13. Location: On Piney between entrance to St. Timothy's and fire station
Blue Gum Eucalyptus (2)**

A, B, E, F, G

**14. Location: Market & Dunes
Red Bud Eucalyptus**

A, B, F

**15. Location: Marina & Estero
Monterey Pine**

A, F, G



AGENDA NO: D-4

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: May 22, 2013

FROM: Eric Endersby, Harbor Director

SUBJECT: Discussion and Direction on Future Expiring Leases and Consideration of Proposals Received for Lease Sites 30W-33W (Coakley – Bay Front Marina), 34W (Crizer), 35W-36W (Vacant), and 37W (Meyer – Morro Bay Marina Inc.)

RECOMMENDATION

Consider alternatives and provide direction to staff.

ALTERNATIVES

- A. Direct staff to begin negotiations with any or all of the existing leaseholders on each lease site for new leases. Proposals have been submitted from each existing leaseholder, as well as one proposal from the adjacent landowner to vacant lease site 35W-36W.
- B. Consider combining lease sites in any combination under master lease holders or soliciting Request for Proposals for all or any of the sites.
- C. Consider whether City should take over one or all sites and operate under direct City management.

FISCAL IMPACT

Unknown positive fiscal impact expected as older leases are retired and brought up to modern terms and rents, in addition to potential new revenue from one currently vacant lease site.

SUMMARY

All of the currently leased water-only sites south of the public launch ramp are at or very nearly within their five-year windows of expiration. Proposals have been received for each lease site, and staff has included them with this report for consideration by Council and direction on how to proceed with the future of these pristine sites.

BACKGROUND

Lease Site 30W-33W is an old County lease originally entered into in 1964 that expires December, 2013. It currently has approximately 25 vessel slips and a small L-shaped pier that was formerly a fuel dock.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Lease Site 34W is a City lease originally entered into in 1997 that expires in December, 2018. It currently has approximately 4 vessel slips only.

Lease Site 35W-36W is currently vacant. Under the previous landowner's tenancy of the lease, this site was historically a fish buying station and tie-up location for commercial fishing vessels. However, under the current upland landowner's ownership those operations ceased and the wharf was removed from the lease site.

Lease Site 37W is a City lease originally entered into in 1994 that expires in June, 2016. It currently has approximately 15 vessel slips and the water area is used for hauling and launching vessels for the adjacent small-scale boatyard.

In February 2013, Council directed staff to first bring these sites to an overall waterfront lease Study Session, then to schedule them for an open Public session to consider the alternatives. The Study Session was held on March 25th, and while no Council action was taken at that meeting, public testimony was taken and information about the lease sites and administration of them discussed.

To date, staff has received proposals from the current tenants and adjacent landowner to the four sites, which are included with this staff report. The current Harbor Department Lease Management Policy (LMP) is also included for reference.

DISCUSSION

Alternative A: The LMP for this area states the following when considering lease renewals:

Tidelands Park south water area only leases. In this area the City leases only the water areas as the upland property and access to the water areas is owned and controlled by private parties. The City will encourage continuation/enhancement of marine dependent uses such as boat slips and boat repair facilities where feasible. However, this area is not suitable for large redevelopment projects and in most cases the City will negotiate a new 10 to 30 year lease extension with existing tenants when they meet the above criteria.

Those criteria are outlined on Page 4, numbered 1-9, of the LMP. For Council's consideration is to discuss and decide whether or not the tenants, and previous tenant in one case, meet the criteria and have desirable proposals that the City wishes to pursue on an individual basis. Should Council wish to pursue one or all proposals, staff will take general direction regarding the proposals from Council in open Public session, however, once negotiation of terms and conditions of said leases begins, those discussions with Council will occur in Closed session.

The proposals received to date are highlighted as follows:

30W-33W. One proposal received from Jay and Mereline Coakley, current upland property owners and leaseholders of 30W-33W, proposing continued operation of the site with its current uses,

replacement of at least five pilings on the pier, replacement of a portion of the pier decking, installation of floats under the slips where needed, installation of a stand-pipe and fire hose cabinet on the slips, and installation of a second small hoist on the pier. The upland property is reportedly for sale.

34W. Two proposals received: one proposal from Robert Crizer, current leaseholder (but not upland property owner) of 34W, proposing continued operation of the site with its current uses, replacement of at least three pilings to the docks, replacement of the existing wooden gangway with a new aluminum one, and replacement of the dock bumpers; one proposal from Bill Martony and Bernadette Pekarek, current adjacent upland property owners to the site, proposing taking over operation of the site with its current uses, replacement of an unspecified number of pilings, and extension of parking and access, utilities, and restroom services to the site from their adjacent upland property.

35W-36W. Two proposals received: one proposal from Bill Martony and Bernadette Pekarek, current upland property owners, proposing a small dock to be used primarily for Nori seaweed mariculture operations, and one proposal from Ty Meyers, current adjacent upland property owner to the north of the site, proposing development of slips.

37W. One proposal received from Ty Meyer, current upland property owner and current leaseholder, proposing continued operation of the site with its current uses including continuing to operate the adjacent boatyard and upgrading its crane, although the boatyard is not on the lease site but only uses it for access to the water.

Alternative B: This alternative is similar to Alternative A; however it differs in that the discussion and decision is whether or not to combine lease sites in any way under single leaseholder management or by solicitation through a Request for Proposal. Two proposals received (highlighted above) offer this alternative.

Alternative C: This alternative combines some or all sites under direct management of the City and would require an alternative access either from the north at the public launch ramp, from the south via Bayshore Bluffs Park, or by purchasing one of the upland properties from the lease sites, one of which is reportedly for sale.

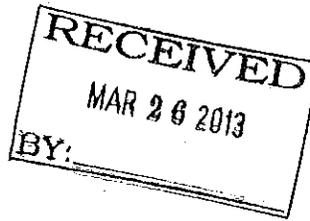
Since all of these leases are at or very nearly within their five-year windows of expiration, now will likely be one of the few historical opportunities for the City to consider combining two or more sites in any combination, including combining any or all of them under direct City management in order to eliminate some or all of the challenges and issues that have arisen because the City does not control the land adjacent to these leases. Conversely, Council could desire to negotiate with the current leaseholders and/or adjacent landowner for new leases as proposed. Naturally, any proposal project would require the full public Planning Commission and Coastal Commission permit processes.

CONCLUSION

If required, staff is prepared to discuss in more detail the alternatives, however, greater detail was not provided in this staff report simply because there are many issues and possible alternatives at play, and it is not feasible to include all of them in their possible combinations in this report.

BAY FRONT MARINA

P. O. Box 783
Pismo Beach, Ca. 93448
(805) 489-6334
Fax (805)489-6334
bayfrontmarina@hotmail.com



3/22/2013

*Morro Bay Harbor Department
1275 Embarcadero
Morro Bay, CA. 93442*

Attn: Eric Endersby

Re: Proposal for New City Lease 30W-33W

We are asking for a new lease starting January 1, 2014 between the City of Morro Bay a municipal corporation of the State of California (hereinafter called City) and Jay Coakley and Mereline Coakley DBA Bay Front Marina (hereinafter called Tenant) for a new ground lease site 30W-33W (hereinafter Lease) between City and Tenant.

Tenant has operated and maintained recreational and commercial boat slip system on lease site 30W-33W and upland fee property since May 2003. We feel we have been tenants of the submerged lands as well we are owners of the upland property.

Tenants' current lease will terminate on December 31, 2013

Whereas, the city lease management policy relating to water leases in the tidelands park area states, that "when tenant has maintained the improvements on site and has a good history of compliance with the terms of lease: the city will encourage continuation of marine dependent uses such as boat slips. However this area is not suitable for large redevelopment projects and in most cases the City will negotiate a new 10 to 30 year lease with existing tenants when they meet above criteria. Moreover it is the policy of California State Lands to lease submerged land to the upland land owner which also has Littoral rights to the upland, to and from the submerged land."

While in escrow in 2003 tenants paid \$110,000 for new pilings and other work that was done by Gene Doughty to bring the Marina up to standards that had been ordered by the City for continuation of Lease Site. Tenants have also spent over \$33,000 for materials on Lease Site (plus labor, another \$123,000 for the removal of underground fuel system and pollution cleanup. In 2009 Tenants had installed electric meters and pedestals, all new wiring to all slips for a cost of \$17,500. We have shown attentiveness in our effort to operate the business as the City of Morro Bay would want.

*Tenants' current plans are to replace at least five pilings. Cost of \$25,000
(Which will come under the heading of maintenance, proper permits will be acquired)
16 X 14 feet of the pier decking. Cost \$5,376
Installation of floats will also be installed where needed.
Installation of a stand pipe fire hose cabinet/dock hose, Cost \$4,600
Install 2 hoists on pier/ we have recently installed one. Cost \$2,600
All costs are estimates and will not actual until jobs are completed.*

Upon completion of signing a new lease we intend to start the process of permits for the repair work that needs to be done. The permits should not be a problem as the work to be done is repairing not an expansion. We want to immediately start the repairs that do not ask for permits.

In Section 2.01 and Section 2.03D it talks about paying the Harbor District semiannually, we pay monthly, we would ask that the new lease reflects our current payment status.

Section 4.04 states "City shall have the right to have any or all such improvements and other property removed at the expense of Tenant." We would like to replace that portion with #9 of our old lease "Lessee agrees that at the termination of this lease, or any renewal thereof, however occurring, lessee shall have sixty (60) days thereafter to remove all structures, facilities, improvements and other property belonging to Lessee from the leased premises. If lessee fails to remove said improvements and such other property as may remain on the leased premises within such time, then the same shall become the property of and belong to the (County) City.

We have read other leases south of the tidelands park (in close proximity) one example is 37W where there have been no amounts of monies put into the lease site property for the term of their lease and have been awarded a 12 year lease in 1994 then awarded another 10 year lease in 1996. Our total estimated repair cost is \$37,576. We would like to ask for a 30 year lease or as close to it as the City of Morro Bay may grant.

We would also like to request to be notified so we may speak to the City Council during the closed session when the discussion of lease site 30w-33w is to be presented.

Jay (805)459-2025
Mereline (805)459-5118
Cc: Robert Schultz
Jamie Irons
Christine Johnson
George Leage
Noah Smukler

From: Robert C Crizer
P.O. BOX 6952
LOS OSOS, CA. 93402

email- robertc57@sbcglobal.net
PH: (805) 471-4973
FAX: (805) 528-2325

TO: ERIC ENDERSBY
HARBOR DIRECTOR
1275 EMBARCADERO
MORRO BAY CA. 93442

DATE: MAY. 9TH, 2013

RE: LEASE SITE 34 W

DEAR ERIC,

THIS LETTER IS TO REQUEST THE CITY COUNCIL CONSIDER A CONDITIONAL AUTOMATIC LEASE EXTENSION OF AN ADDITIONAL 10 YEARS ON THE END OF MY EXISTING LEASE. EXISTING LEASE IS DUE TO EXPIRE DEC. 2018. THE LEASE EXTENSION IF GRANTED WOULD BE THROUGH DEC. 2028. THE REASON FOR THE REQUEST IS AS FOLLOWS.

I WOULD LIKE TO DO SOME SUBSTANTIAL IMPROVEMENTS TO SAID LEASE SITE. THE IMPROVEMENTS WILL INCLUDE BUT NOT BE LIMITED TO:

1. REPLACEMENT OF AT LEAST 3 PILINGS AT THE EAST EDGE OF EXISTING DOCKS.
2. REPLACEMENT OF OLD WOODEN GANGWAY WITH NEW ALUMINUM GANGWAY.
3. REPLACEMENT OF OLD TIRE BUMPERS WITH NEW DOCK BUMPERS.

I WOULD LIKE TO REMOVE OLD PLANKING SYSTEM AND REPLACE WITH NEW COMPOSITE PLANKS BUT DO NOT CONSIDER THAT A REQUIRED ITEM AND WOULD KEEP THAT AS MY OPTION. I WILL ALSO BE REPLACING DOCK FLOATS OVER THE NEXT YEARS AS OTHER IMPROVEMENTS ARE MADE AND AS NECESSARY.

ITEMS 1, 2, AND 3, ABOVE WILL BE DONE AT A COST EQUAL TO NET ANNUAL REVENUES EARNED OVER APPROXIMATELY 7 YEARS OF RENTS. I COULD NOT JUSTIFY THESE IMPROVEMENTS IN THEIR ENTIRETY WITHOUT A GUARANTEE OF A 10 YEAR EXTENSION. I EXPECT THAT THE EXTENSION WILL BE FINALIZED WHEN I COMPLETE 1-3 ABOVE. AND I WILL AGREE TO HAVE 1-3 COMPLETE PRIOR TO DEC. 2018.

IN CLOSING, I WOULD LIKE TO HAVE A STATE OF THE ART DOCK SITE USING MATERIALS THAT WILL SET AN EXAMPLE FOR ALL LEASE HOLDERS AND HAVE A EXTENDED LIFE BEYOND THE OLD STYLE MATERIALS.

FEEL FREE TO CONTACT ME WITH ANY QUESTIONS.
BOB CRIZER (805) 471-4973

Respectfully,



Robert C. Crizer

Eric Endersby - Proposal for WATER LEASE-SITES 34W, 35W/36W

From: Bernadette Pekarek <imira@charter.net>
To: Eric Endersby <EEndersby@morro-bay.ca.us>
Date: 5/13/2013 11:52 AM
Subject: Proposal for WATER LEASE-SITES 34W, 35W/36W
Attachments: img080.pdf; img016.pdf

13, 2013

May

Eric Endersby
Harbor Director
1275 Embarcadero
Morro Bay, CA 93442

WATER LEASE-SITES 34W 35W 36W

Dear Eric,

Attached is the information you requested for your Staff Report to the City Council on our proposal for the Lease Sites associated with our property at 235 and 245 Main Street (Lease Sites 35W 36W). We have also provided information and a proposal for Lease Site 34W in front of Lighthouse Property (Glads Castle) owned individually by Bill. In addition, we would also like the Council to consider the following information.

As has been purposed and as set forth in our settlement agreement with the City regarding the wharf removal, we have proposed leasing sites 35W/36W from the City. Despite our attempts to solidify an offer, the City has not been clear on the parameters of leasing and appears intent on considering any proposal, except ours. We have had plans drawn up for a side tie floating dock for over four years now, along with a proposal to lease the site. We have met with City/harbor staff on several occasions in the past with our concept and plans (see attached).

Our intent for this area has always been several types of Mariculture and possible oyster deprivation (flushing). Nori Seaweed culture is currently a 6 billion dollar a year food production business world wide and has great potential in Morro Bay. The bay is zoned for this use, and Nori Seaweed is native to the bay and this coastline. Nori is currently growing in the Bay right now. As you know, we are the upland property owners of these Water Lease- Sites. Unlike the Embarcadero, the City has no land access, utilities, parking, fire etc. available to lease site 35W and 36W. City Policy states in this area, because of lack of access, etc., the City's Policy is to lease to the upland property owners.

Our property at 245 Main Street next to the boatyard was the original site for Mariculture/Oyster Farming in the 1930's, and has always been the mariculture hub of Morro Bay. We believe that Mariculture is a good fit for this area and these water lease sites. In this world, producing food and fiber is very important and Mariculture/agriculture is a very high priority in the Coastal Zone, as stated in several Coastal Policies. In addition it has income producing potential.

As for Water Lease Site 34W (Crizer Marina), there are several issues on why this water lease should not be extended, and the lease needs to go back to the upland property owner. This site was originally associated with the upland property at 225 Main Street. The original owner of 225 Main Street, was Gladys Walton and she had the 4 slip marina built in association with 225 Main Street. Until the marina lease site was sold by Norm Arnold to Bob Crizer, there were no real issues as both land and water lease site were under the same ownership.

However, water lease site 34W should never have been separated as it has no associated improvements to support its

separate use and as a result has several defects and currently is out of compliance on several issues.

A primary and ongoing concern is required parking, in addition it does not meet fire requirements, (which is a liability to our property and the City) in terms of access and improvements, (fire flow requirements). The Crizer Marina does not have its own separate utilities, restrooms or access. We have been informed that the recorded easement agreement is legally defective. The walkway leading to the marina was never properly engineered and is failing for the third time. In fact, Mr. Coakley, the owner of Lease Sites 30W, 31W, 32W, and 33W, has had a lawsuit over the construction of the pathway improperly built on top of his retaining wall, in addition to being improperly engineered. After three attempts to correct the failing walkway, it is obvious it was not properly engineered and we have experienced serious issues due to the failing walkway. We also believe the failing walkway jeopardizes our lighthouse cottage property.

For all the above reasons, the lease for Water Lease Site 34W (Crizer Marina) should not be extended and is more properly awarded to the only user that can access it, which is the upland property owner of 225 Main Street (Glads Castle). These four boat slips were originally separated from ownership of the upland property to enhance non contiguous spec homes being built by Bob Crizer and Norm Arnold. Since these properties were either foreclosed by the bank or sold, owning the slips for spec purposes to increase noncontiguous property values with no legal access is not proper or viable. The property at 225 Main Street meets all the conditions for effective use of the lease site, including parking, access, fire, utilities, toilet, etc. We are willing to work with the City to extend these services for lease site 34W. In addition, we are willing to do necessary improvements to the marina including pile replacement. It is my recommendation that Lease-Site 34W be reattached to 225 Main Street to eliminate the problems that were created by selling off this marina. This could avoid future legal issues and resolve problems that were created by the speculative bifurcation and sale of the marina. The bifurcated lease transfer should have never taken place, because of all the problems and issues that were created by separating it from the land.

In closing, with regard to our lease request for 35W/36W, our side lie floating dock could be structured to be multi purpose and also income producing and not solely dedicated to mariculture proposal. If you have any questions or need clarification please feel free to contact us, so we can move forward on our lease proposal for these water lease sites.

Regards,

Bill Martony

17.24.190

HARBOR AND NAVIGABLE WAYS (H) DISTRICT

*** ALLOWABLE USES IN THE BAY**

1.

Contents

- A. Purpose
- B. Uses Allowed Without a Conditional Use Permit
- C. Uses Allowed Only With a Conditional Use Permit
- D. Special H Zone Standards

A. PURPOSE

The purpose of the Harbor and Navigable Ways or (H) District, is to designate the area within City limits covered by water excluding sensitive habitat areas, for those uses which must be located on the water in order to function, or as an accessory use to a land based/shore facility or structure as provided in this Chapter. (Ord. 263 § 1 (part), 1984)

B. USES ALLOWED WITHOUT A CONDITIONAL USE PERMIT

The following uses are permitted in the Harbor and Navigable Ways (H) District: commercial and recreational boating and fishing; swimming, scuba diving and wind surfing in areas designated by the City Council pursuant to Title 15 of the Morro Bay Municipal Code; bird and animal observation; viewshed; moorage in inclement weather.

C. USES ALLOWED ONLY WITH A CONDITIONAL USE PERMIT

The following uses may be permitted in the harbor and navigable ways (H) district subject to a Conditional Use Permit and if the Planning Commission determines they will not impede navigation, nor adversely affect the current tidal flushing of the harbor, or increase shoaling, or otherwise substantially alter the natural shoreline processes and/or existing land forms, unless there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

1. Mariculture;

2. Houseboat or vessel habitation

Houseboat or vessel habitation as regulated by Title 15 of the Morro Bay Municipal Code and subject to the provision of adequate parking as determined by the Planning Commission;

3. Promotion and accommodation of commerce and navigation

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CONSULTANTS

PROJECT

PROPOSED DOCK FACILITY FOR BILL MARTONY

224 S. 14th Street
 Mountain View, CA 94035

PRELIMINARY DESIGN

NOT FOR CONSTRUCTION

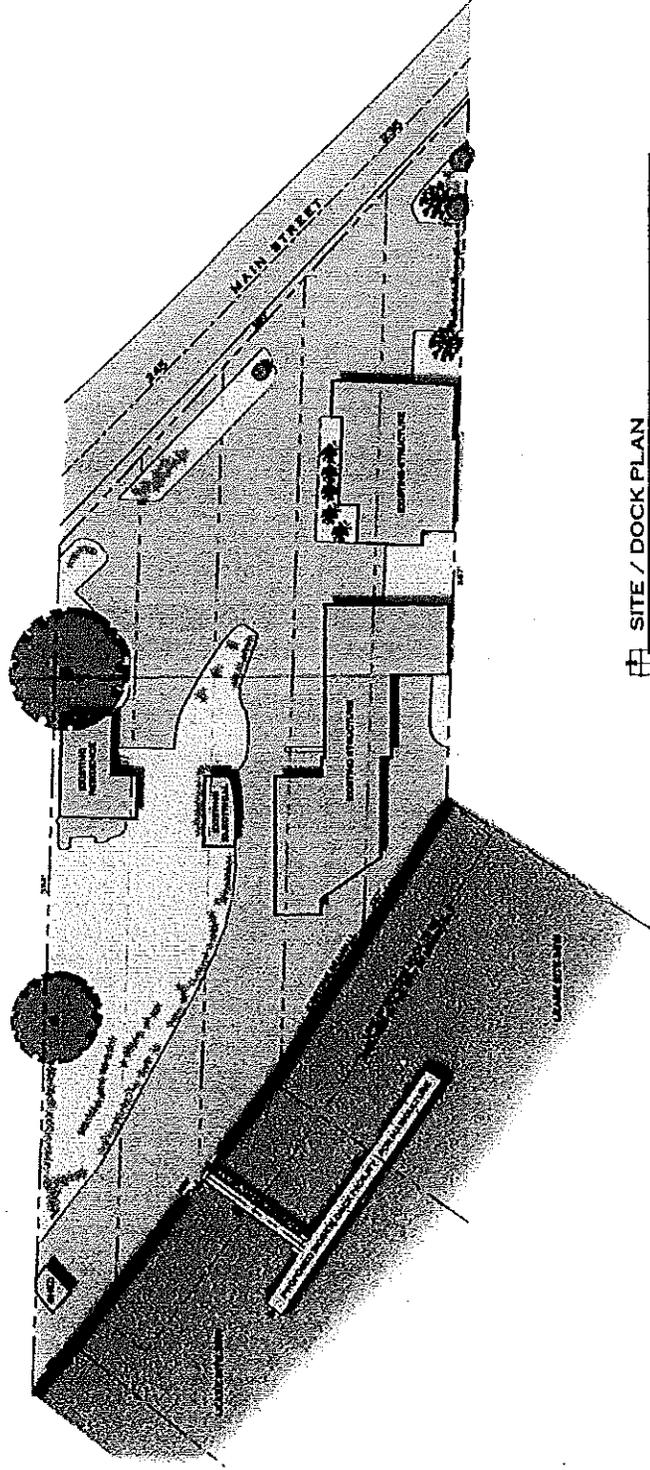
Project No.	000000
Sheet No.	01
Scale	1" = 80'-0"
Date	01/10/09
Author	JAN MASTERS
Checker	JAN MASTERS
Reviewer	JAN MASTERS

SHEET TITLE

SITE / DOCK PLAN

SHEET NO.

A 1.1



 **SITE / DOCK PLAN** SCALE: 1" = 80'-0"

TyMeyer
257 Main Street
Morro Bay, CA. 93442
September 19, 2012

Robert Schultz
City Attorney
955 Shasta Ave
Morro Bay, CA 93442

Dear Mr. Schultz:

Our family has enjoyed doing business with the city of Morro Bay for over 60 years. Jack Meyer established the Boat Yard on Main Street at the end of World War 2 in the late 1940's. A lot has changed since then. But through it all we have been a reliable client.

We are aware the water leases on both sides of us are available to lease. We have been contemplating leasing both areas and installing additional boat slips. We believe there is a need for additional slips in Morro Bay because we continue to receive calls requesting slips and we have a current waiting list approaching twenty. We believe it would be in our best interest and the best interest of the City of Morro Bay if we work together with the city and our neighbors to develop a state of the art Marina, with services, and a parking area to support it. One suggestion would be to use existing parking at the boat ramp and access the slips using a dock that extends from the parking area along the front of the Kolb's property with additional access from our property. The slips could extend to the next group of existing slips in front of the old fish and oyster processing building. We are gathering information and believe we could increase the number of slips from 12 to 30.

The project would require concurrence with the City and our immediate neighbors. We have been contemplating this and not pursuing it because we have reservations going forward due to wear and tear on the crane as well as limited access around the crane. We don't want to get things started only to run into delays because the City and/or interested parties are not on board with increasing the number of slips and increasing access around our crane so we can service more than one boat at a time. Going forward with this project would require cooperation and assurances the project could be completed in less than 6 months.

Regardless of the aforementioned project, we do want to extend our current water lease and ask the City to consider maintaining or reducing the current rate. If our rate is increased it will inevitably be passed on to those renting slips. In any event, at some point, we will have to decide if the expense and returns justify the investment needed to keep the Boatyard working.

If you have any questions please do not hesitate to call me. I look forward to your recommendations.

Respectfully,

TyMeyer

Cell: (661)978-8349

CITY OF MORRO BAY HARBOR DEPARTMENT LEASE MANAGEMENT POLICY

BACKGROUND

Tracing back to English Common law the Public Trust Doctrine establishes that navigable water or lands subject to tidal influence are "sovereign", held open to the public for commerce, fisheries or navigation. In 1942-44, the federal government constructed a revetment along the Morro Bay waterfront and filled most of the area now known as the commercial strip along the Embarcadero. The State of California claimed ownership of the newly created land as at least a portion of it had previously been below the high tide line. After many years of dispute with private property owners, who also claimed an interest in the land, most title issues were settled in the 1950s-1960s by designating those lands west of Embarcadero Road as public trust lands owned by the State, and those lands east of Embarcadero Road as privately owned. Attached is a map of the tidelands grant in Morro Bay.

In 1947, the State of California granted those public trust lands in Morro Bay to the County of San Luis Obispo. The City of Morro Bay assumed trusteeship of the granted lands upon incorporation in 1964-1965. The tidelands grant in Morro Bay is in perpetuity, provided the City conforms to the terms of the legislative grant. The granted lands must be used for commerce, fisheries, navigation, recreational purposes, parklands, public access, public parking and environmental protection or enhancement. Residential use of these public lands is specifically prohibited. The City may lease out these lands to private businesses for a period up to 50 years and all revenues from such leases must be expended within the area of the granted lands for the purposes of the public trust. Much of the granted lands were leased to established businesses in the 1960s on long-term leases that provided low rental rates in exchange for tenant investment in the business on the sites or settlement of previous land ownership or county lease disputes. Some of these old long-term leases have accrued significant "bonus" value to the benefit of the private party because waterfront property values have increased far in excess of the contractual rental return to the City.

Over the years, the City has changed its leasing practices and policies to better protect the public interest by adopting modern lease formats and standards for fair market rent and periodic rental adjustments. There has been some resistance on the part of existing tenants to changes in the City's leasing practices and many issues regarding granted land use and City policy have been difficult to make clear to the general public because of their complexity. In 1985, the City created the Harbor Department to focus property management efforts in the tidelands and to assure the State that tidelands revenues were properly accounted for. The Harbor Department is operated through a City enterprise fund known as the Harbor Fund. Similar to the Water and Wastewater enterprise funds, all Harbor services are funded with either users fees or property management income (no tax revenues). In FY88-89 Harbor Fund lease revenues were \$427,634 increasing to \$777,784 in lease revenues in FY98-99. The aggressive modernization of the City's property management practices over the last 15 years have allowed the Harbor Department to expand services to the boating public and improve existing harbor/park facilities.

While many coastal cities in California manage tidelands grants similar to that in Morro Bay, such a property management role is not necessarily a natural fit for local government. Familiarity with the history and terms of the various contract forms allows for resolution on contract interpretation issues before they become problems.

The Harbor Department routinely handles five to ten lease "questions" a week. If these questions were put through a political or bureaucratic process, the result would replicate the situation in Morro Bay in the mid-1980s when the Harbor Commission reviewed all lease actions. The City Council reorganized the Harbor Commission into the current Harbor Advisory Board and took lease management issues out of the Board's purview to streamline City responsiveness and improve lease management. Inability to answer contract interpretation questions, or to process City required contractual approvals in a timely manner could cripple tenants' ability to succeed on the tidelands lease sites.

On the one hand, the purpose of the tidelands grant is to develop harbor facilities and with percentage rents, the City is essentially a partner with the lessees along the tidelands. On the other hand, facility development and the desire to increase harbor lease revenues through tidelands lease improvement and business success must be balanced with City planning and land use policies requiring public benefit on sites and good community projects. In the 1990s the City demonstrated it can successfully achieve that balance by working cooperatively with tenants to renegotiate long-term leases (with increased rental revenues) for commercial redevelopment.

The City Manager coordinates the various interests by delegating lease management to the Harbor Director with the understanding that planning, zoning and land use issues shall be determined in accordance with adopted City Plans and Policies administered by the City Planning Staff, legal issues by the City Attorney and insurance issues by the City Risk Manager. The City has previously adopted a lease negotiation policy and a master lease format as policy but has never attempted a more comprehensive statement of management policy. The purpose of this document is an attempt to integrate existing policy with broader statement of public leasing policy to enhance public understanding and provide a framework for future actions.

The City of Morro Bay will use the following policy guidelines in management of the tidelands and Harbor Fee leases in the Harbor Department lease management program.

GENERAL POLICY

The City will manage the tidelands leases to provide and support harbor facilities and enhancement.

The City shall appropriately account for tidelands revenues and expenses in compliance the state law and the tidelands grant.

The Harbor Department will actively work with and attempt to enhance marine dependent or marine related uses in compliance with the adopted City Plans and Policies, and the City's goals of maintaining a small commercial fishing harbor and working waterfront.

The City shall at all times be governed in its management of the tidelands properties by the granting statutes as interpreted and managed by the State Lands Commission.

The Harbor Department will manage leases in a way that will strive to support tidelands visitor serving lease businesses to increase revenues consistent with adopted City Plans and Policies, and coordinated with City planning and land use policies.

Many property management functions of the City such as: lease assignment, sublease approval, lease renewal, extension or renegotiations contractually require City Council review and approval. The City Council approval process can sometimes be misconstrued by the public or the lessees to mean the City Council approves other issues, required permits or plans for the site. The Harbor Department will process lease contract administration issues requiring City Council approval in a timely fashion so lessees are not unduly burdened in their business operations. Any such approval shall not waive any and all other permits, approvals or governmental regulations such as planning and land use permits, building permits, etc.

SPECIFIC POLICIES FOR CONTRACT ADMINISTRATION

Master Lease Format: The City has developed a master lease format based on modern leasing practices and similar formats used by other public agencies. The City master lease format adopted in 1986 is hereby amended and attached to this policy statement. Any lease agreements in the future will be in the approved master lease format. The City may use a license agreement for temporary, interim or non-exclusive use of property when appropriate.

Approved Uses: Uses on the lease sites shall be in conformance with the Tidelands Trust and the City Conditional Use Permit for the site. Proposed new uses for lease sites must be in conformance with the then planning, zoning and land use policies of the City. Lessees proposing or considering new uses for a site will be referred to the Planning Division or Department of the City for review and approval.

Negotiation: Following is the lease negotiation policy adopted by the City Council July 10, 1987:

“It is the policy of the City Council of the City of Morro Bay that negotiations relative to leasing public tidelands shall commence and remain at the appropriate staff level, as managed by the City Administrator. The City Administrator is to serve as the initial level of negotiation appeal, with the City Attorney participating when legal issues arise. Differences of opinion shall be resolved to the maximum extent possible between the parties at the staff level, *prior* to any City Council consideration of the lease.

In the event certain lease issues remain unresolved upon exhaustion of administrative review, the lessee (tenant) may submit a written document to the City Council outlining their points and perspectives concerning the outstanding lease issues. Upon City receipt of the written report, the City Clerk shall cause the item to be placed on the City Council agenda, and the lessee or his/her representative may provide a brief verbal summary of their perspectives to the City Council during a public meeting. It is the policy of the City Council to receive under advisement any written or verbal report at that time, but not to comment on or negotiate in public.

Following receipt of this input from the lessee, the City Council will exercise its authority under California Government Code Section 54956.8, to meet in Closed Session to give instructions to the City’s negotiator(s) regarding negotiations for lease of real property (public tidelands). Upon conclusion of the Closed Session considering the points submitted by the tenant, the City’s negotiators will be properly instructed and authorized to finalize negotiations and the lease with the tenant.”

The following two sub paragraphs are added for clarification on the negotiation process:

- A. In many cases parties who are considering buying a tidelands leasehold interest desire to renegotiate the lease (to extend the term, change rent or uses) prior to completing the sale/assignment of the lease. Normally, City staff will not negotiate with prospective tenants due to limited staff time and the potential impact on the "sale" price of a lease. **Prospective buyers of leasehold interest are buying the existing lease agreement only.**

- B. All lease sites eventually need to be reconstructed or significantly remodeled. In general, the City desires such reconstruction to bring improvements up to modern building codes, design criteria, and market conditions. The City acknowledges that tenants will need to renegotiate leases to new longer terms to amortize and collateralize their investment on the public property. The normal stage for lease negotiation to commence in a reconstruction redevelopment situation is when the tenant has received Planning Commission and/or City Council approval of a Concept Plan for a Conditional Use Permit to redevelop the site. The project will therefore be at a stage when the CUP can be attached to a new lease and the tenant can be required to construct improvements in compliance with the CUP in a given period of time. The appropriate term for the new lease will be determined by the size of the lease site and the level of private investment proposed for the public property.

Lease Renewal: The practice of the City in the past has been to automatically renew or renegotiate a lease with an existing tenant. This has led to a false sense of private ownership of the lease site and sometimes leads to tenants not maintaining lease or reconstructing prior to the expiration of a given lease term. The City should set some standards for renewing a lease. Lease expiration dates should be encouraged to coincide where adjoining sites may have mutual planning benefits. In some cases, the City should not renew a lease, either for the purpose of consolidating sites or to pursue other extenuating public benefit.

The City will use the following standards for determining whether it should negotiate a new lease with a tenant:

- A. The tenant has a good history of performance and lease compliance and the improvements on the site are well maintained. Example standards for determining "good history" of lessee performance are:
 - 1. The tenant's record with respect to the prompt and accurate payment of rent due the City;
 - 2. The tenant's record of compliance with existing lease conditions;
 - 3. The appropriateness of the proposed tenant business with respect to the total mix of uses and services available to the public and with respect to the long-term planning goals of the City;
 - 4. The tenant's financial and personal investment in tenant business and the leasehold improvements;
 - 5. The contribution to the surrounding business community made by the tenant's business;
 - 6. The quality of direct services to the public provided by the tenant and its business;
 - 7. The value received by the public in goods or services.
 - 8. The total financial return to City from the leasehold;
 - 9. Other pertinent considerations as may be appropriate as determined by the City Council.

B. In addition to the above, the City recognizes that there are three distinct zoning areas on the waterfront that require different considerations in lease renewals issues. As follows:

1. Tidelands Park south water area only leases. In this area the City leases only the water areas as the upland property and access to the water areas is owned and controlled by private parties. The City will encourage continuation/enhancement of marine dependent uses such as boats slips and boat repair facilities where feasible. However, this area is not suitable for large redevelopment projects and in most cases the City will negotiate a new 10 to 30 year lease extension with existing tenants when they meet the above criteria.
2. Embarcadero from Beach Street to Tidelands Park. In this area, the City controls land and water areas. In this area tenants are encouraged to propose redevelopments of lease sites to improve public benefits on these sites, enhance the Embarcadero business environment, and renegotiate leases to modern terms. To help accomplish this, and to provide tenants motivation not to let long-term leases run to the very end of their terms with degraded building/improvements, and under market lease terms, the City will generally not renew leases with existing tenants in this area if they allow their leases to run to a term of less than five years remaining.
3. Embarcadero from Beach Street north. This area is designated with zoning to preserve commercial fishing/marine dependent uses. In addition, existing restaurants or retail uses are grandfathered in. The City will strongly encourage tenants who propose enhancement of commercial fishing uses or marine dependent uses by considering new long-term leases that facilitate these types of projects. Existing restaurant/retail sites shall be extended or renewed if the tenant can develop plans for enhancement of the site within the constraints of CF District zoning. Within the general outlines of this policy the City Council will provide specific direction to the City's designated negotiator on the Morro Bay Power Plant outfall lease.

In general, leases that are not renewed should be put out to public bid or kept in short-term interim lease arrangements until adjacent sites become available for consolidation. In addition, the City has many long-term ground leases (known as the County or Pipkin leases), which provide low rent in exchange for tenant investment or settlement of previous disputes. These long-term leases provide that the tenant-constructed improvements revert to City ownership upon lease termination and this was a critical part of the consideration in allowing the tenant such a long-term lease at the specified rents. The County and Pipkin leases were 50-year leases (the maximum term set by the tidelands grant) and may not be extended or renewed. The City shall encourage tenants to renegotiate these leases into the new City master lease format well before the termination date of that lease.

In the CF District the City should attempt to consolidate leases in the area between the T-Piers to facilitate marine dependent redevelopment such as a seafood processing plant.

Fair Market Rent: State Law requires that fair market rent be charged for use of the granted tidelands. Fair market rental shall be determined through the use of an independent appraiser to appraise the fair market value of the property and the City will set a minimum annual rent equal to 8% of the appraised value of the land or improvements if the improvements have reverted to the City. The lease rent will be structured to provide for a minimum annual rent as outlined above or a percentage of gross sales rent as shown on the attached Schedules entitled Standard City percentage of gross sales rent.

In cases where the tenant is proposing complete redevelopment of a site to eminent modern design criteria at significant private investment the City may allow both temporary reductions in the outlined minimum rent to offset tenants period of reduced revenues during construction and reduction in the standard retail percentage of gross sales to 3% for the first 10 years of a new long-term lease agreement.

Maintenance of Improvements: The City has a paramount interest in ensuring that the improvements on the lease site are being properly maintained and are in a safe and secure condition. The City shall contract to have the lease sites inspected and a report made on such inspections every five years. City staff will require significant deficiencies noted in the lease site inspection reports to be repaired or cured by the tenants. As long-term leases draw close to expiration tenants tend to defer maintenance and the City must carefully monitor and strictly enforce lease maintenance provisions to protect the reversionary interest in the lease site improvements.

Percentage of Gross Sales Audits: Where tenants are subject to percentage of gross sales rent, the City will contract to have the business accounting records examined for lease compliance at least every five years. City staff will require tenants to comply with or cure any deficiencies noted in the accounting records examinations.

Lease Assignment/Sale: All City leases require City Council approval of the sale or assignment of a lease agreement. Any tenant requesting such approval will be required to pay fees noted in the master fee schedule, to submit financial documentation to indicate qualifications to the satisfaction of the Finance Director, and be in full compliance with the terms and conditions of their lease agreement. If the proposed assignment or sale includes a change in use of the site, then the change in use will be reviewed by the Public Services Department of the City for conformance with planning and zoning regulations. Proposed changes in uses for lease sites must comply with City planning and zoning ordinances, the City's adopted Local Coastal Plan and Measure D limitations for properties north of Beach Street. Where zoning allows a variety of uses, preference will be given to coastal related uses whenever possible.

Sublease Approval: All leases require City approval of sublease agreements. Prior to approval of the sublease, the tenant shall pay any fees noted in the master fee schedule; submit a properly executed copy of the City standard Consent to Sublease form and a copy of the Sublease Agreement. Future lease agreements may provide for the City Manager or designee to approve sublease agreements which meet the stated qualifications for approval and which comply with the terms and conditions of the lease agreements.

Financing: The City will not approve financing related to or using the lease site, or leasehold interest as collateral unless such financing is for sole investment upon the lease site or for City requested public improvements.

SCHEDULE A

PERCENTAGE RENT FOR GROUND LEASES

		% GROSS SALES
FOOD SERVICE:	Restaurant, Dining Room	3
	Snack Bar, Delicatessen,	5
	Fast Food, Convenience Food	5
	Bar/Lounge, Beer & Wine Sales	5
RETAIL SALES & SERVICE:	Tenant	3-5
FISH & SEAFOOD:	Retail Sales	3-5
	Wholesale Sales	0
MOORINGS, TIES & SLIPS:	Pier/Fixed Piles	10
	Pier/Floating	10
BOAT REPAIR & SALES:	Boat & Marine Repair	3
	New Boat Sales	1
	Used Boat Sales	2
FUEL:	Gasoline	\$0.02/gal.
	Diesel	\$0.015/gal.
MOTEL:		5
ALL OTHER USES:		5

Percentage Rental is to be based on the gross amount received from any and all sources of income derived from the lease site.

SCHEDULE B

PERCENTAGE RENT FOR BUILDING LEASES

		% GROSS SALES
FOOD SERVICE:	Restaurant, Dining Room	5
	Snack Bar, Delicatessen,	7
	Fast Food, Convenience Food	7
	Bar/Lounge, Beer & Wine Sales	10
RETAIL SALES & SERVICE:	Tenant	7
	Sublease	7
FISH & SEAFOOD:	Retail Sales	5
	Wholesale Sales	0.5
MOORINGS, TIES & SLIPS:	Pier/Fixed Piles	20
	Pier/Floating	20
BOAT REPAIR & SALES:	Boat & Marine Repair	5
	New & Used Boat Sales	2
FUEL:	Gasoline	.02/gal.
	Diesel	\$0.015/gal.
MOTEL:		10
RV PARK:		25
ALL OTHER USES:		10

Percentage Rental is to be based on the gross amount received from any and all sources of income derived from the lease site.



AGENDA NO: D-5

MEETING DATE: 5/28/13

Staff Report

TO: Honorable Mayor and City Council

DATE: May 22, 2013

FROM: Andrea Lueker, City Manager

SUBJECT: Review of the 2008 Management Partner Study (Assessment of City Organization and Financial Options), Including Progress on the 21 Expenditure Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies and Provide Further Direction to Staff

SUMMARY

This item was agendaized for the May 14, 2013 City Council meeting as Item D-8. It became apparent that there was not enough time to hear all the New Business items that evening; as such, it was decided to open up for public comment from those in attendance and then continue this item to a future meeting.

Attached is the staff report from the May 14, 2013 meeting in its entirety.

Prepared By: JB

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____



AGENDA NO: D-8

Meeting Date: 5/14/13

Staff Report

TO: Honorable Mayor and City Council

DATE: 5/7/13

FROM: Andrea K. Lueker, City Manager

SUBJECT: Review of the 2008 Management Partner Study (Assessment of City Organization and Financial Options), Including Progress on the 21 Expenditure Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies and Provide Further Direction to Staff

RECOMMENDATION

Staff recommends the City Council review the attached report on the progress made on the 21 Expenditure Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies from the 2008 Management Partners Assessment of City Organization and Financial Options document and provide staff direction.

ALTERNATIVES

Alternative 1 –receive and review the 2008 Report, January and August 2009 and May 2013 updates and provide no further direction.

Alternative 2 – receive and review the 2008 Report, January and August 2009 and May 2013 updates and direct staff to pursue one or more recommendations.

Alternative 3 –receive and review the 2008 Report, January and August 2009 and May 2013 updates and ask that staff bring back this issue for discussion at the May 22, 2013 budget hearing for consideration of funding for an update of the entire document.

FISCAL IMPACT

There is no fiscal impact related to the review of the 2008 Management Partner Study (Assessment of City Organization and Financial Options). The fiscal impact of the listed alternatives is as follows:

Alternative 1 – no fiscal impact.

Alternative 2 – to be determined based on recommendation from City Council

Alternative 3 –the cost provided by Management Partners to update the document is \$39,500– this would include approximately 229 hours of work.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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BACKGROUND

In 2006/2007, the City of Morro Bay experienced significant financial hardships with expenses to provide public services increasing faster than city revenues could keep up. To make matters worse, the City was lagging in important general revenue sources such as sales tax. In the Fall of 2007, the City Council requested a study be performed that would identify opportunities for improvement at various levels of the City's organization. The scope of the study included an examination of processes and procedures, effectiveness and efficiency of service delivery, organizational design and staffing levels as well as other services currently being provided. At their November 13, 2007 meeting, the City Council reviewed the four proposals received and narrowed their selection to two proposals. At the December 10, 2007 City Council meeting, the decision was made to contract with Management Partners.

Management Partners began research and fact finding for the study in early 2008. They used a number of analytical and management techniques for the project which enabled the Management Partners staff to obtain high quality stakeholder input and suggestions on potential strategies, gain full understanding of the extent of the City's financial situation, and compare and contrast Morro Bay against other peer jurisdictions. The research and fact-finding techniques included a thorough review of documents, personal interviews with the key managers in the City, selection of 10 communities (in consultation with the City) for benchmarking purposes, implementation of two electronic surveys (one to City employees and the second to elected officials and Advisory Board and Commission members), organization of city employee focus groups (6 in total with 63 people participating) and financial modeling.

The report produced by Management Partners, entitled "City Organization and Financial Options" which can still be found on the City's website, contains 38 recommendations, including 21 Expenditure Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies the City could consider for overall improved financial health. After receiving the document in May 2008, the City Council scheduled a public workshop in August (the delay between receipt of the document and the 1st public workshop was due to the City being in the midst of the fiscal year budget adoption process as well as the hiring of a permanent City Manger). That August 13, 2008 workshop was held with staff first providing an update on the progress made on recommendations that had occurred since receipt of the document, approximately 10 strategies/recommendations had been addressed at that time. Just prior to the workshop, the City Council was asked to rank the Management Partner recommendations on a scale of 1 to 5 (in conjunction with the priorities determined in the Goal Setting Workshop held in June 2008). The City Council was then able to focus their discussion on those top scoring recommendations. Following the August 2008 workshop, staff provided an update on the Management Partner recommendations in January 2009 and then again, at a second workshop that was held in August 2009.

The City also included the Management Partners recommendations in their discussions during the goal setting processes in June 2008, February 2009 and March 2010 which were conducted by Amy Paul of Management Partners.

At the December 11, 2012 City Council meeting during the Declaration of Future Agenda Items, Mayor Irons asked and received support for City staff to bring back a proposal to update the Management Partners study. Following the meeting, staff contacted Andy Belknap of Management

Partners and asked that he provide a proposal to update the study that was originally completed in 2008. Mr. Belknap has provided a proposal, and staff brought back the proposal and corresponding staff report to the City Council at their February 26, 2013 meeting. The proposal provided by Management Partners indicated that an update effort would cost approximately \$39,500 and require 229 hours of work. The City Council discussed this issue and directed staff to provide an in-house update of the progress on the recommendations to the City Council in April/May 2013.

DISCUSSION

Staff has attached the original document that the City Council reviewed in August 2008 and subsequently updated in January and August, 2009. That document has been further updated with any progress on the goals since 2009, being added.

CONCLUSION

Based on the direction from City Council at their February 26, 2013 meeting, staff has provided an in-house update to the 21 Expenditure Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies originally provided in the report.



City of Morro Bay

Management Partners Report Assessment of City Organization and Financial Options

Updated January & August 2009, May 2013

Prior to the August 2008 meeting, the City Council was asked to rank each one of the 38 recommendations with a score from 1 to 5 with 1 being “less interested” and 5 being “most interested” (the tabulated score follows each listed recommendation). The recommendations that ranked highest were then discussed and final direction given at the August 2008 meeting. Staff updated this document in January 2009 and again in August 2009 to show the progress on the City Council’s direction. Pursuant to City Council direction, staff updated this document in May 2013. A number of the recommendations were not originally addressed by the City Council and as a result only have a May 2013 Update note.

Recommendations

Recommendation #1 Use this report to lobby the Coastal Commission for an expeditious approval of the City’s General Plan (also addressed under Recommendation #35)

August 2008 Update – Staff sent correspondence to the California Coastal Commission (CCC). The Mayor also made a public appearance/comment at the CCC hearings in SLO stressing the importance of their return of the City’s General Plan, in 2008.

Recommendation #2 Hold an annual policy meeting for the City Council to develop a set of longer-term goals and subordinate objectives to guide staff

August 2008 Update – City Council scheduled initial goal setting in June 2008.

January 2009 Update- N/A

August 2009 Update – City Council scheduled goal setting in February 2009.

May 2013 Update – Since 2008, the City Council has either had a Goal Setting Workshop or process and established or confirmed goals for the upcoming period. The Established Goals from each of the workshops or sessions can be found on the City’s website for review.

Recommendation #3 (18 score) Incorporate overall goals from the Council’s policy meeting into a set of budget directions for each department head as a guide for program development – the Council and staff concurred this action is currently occurring.

January 2009 Update – In June 2008, the City Council established 20 goals at their Goal Setting Workshop. Included within the 20 goals were 6 priority goals that were also accompanied by “success factors”. The 6 priority goals are:

- 1. Decide who will deliver Fire Services.*
- 2. Provide funding for competitive salaries and encourage retention of all City employees.*
- 3. Establish new revenue sources.*
- 4. Repair and/or replace failing infrastructure.*
- 5. Form a redevelopment agency.*

6. *Develop ways to be attractive to businesses.*

These goals are kept in the forefront during program development as well as inserted in the staff report recommendation section when appropriate.

August 2009 Update – *In February 2009, the City Council held their second goal setting workshop. At that workshop they reviewed the 6 priority goals and 20 other goals from the 2008 workshop. The 2009 Goal Setting Workshop concluded with the City Council identifying 5 priority goals, 9 other goals and 2 other carryover goals from last year's process, these goals were then unanimously adopted by the City Council at their March 9, 2009. The 5 priority goals are:*

Goal A – Develop and maintain a structurally sustainable budget.

Goal B – Reduce overall administrative costs

Goal C – Establish new revenue sources

Goal D – Complete fire station construction

Goal E – Ensure a safe and sustainable water supply in Morro Bay

Each goal had a number of sub-tasks which Staff addressed in a report presented to the City Council in August 2009. At that meeting the City Council then determined a priority for completion of those sub-tasks.

May 2013 Update – *since 2008, the City Council has either had a Goal Setting Workshop or process and established or confirmed goals for the upcoming period. The Established Goals from each of the workshops or sessions can be found on the City's website for review.*

Recommendation #4 (23 score) Eliminate the Assistant City Manager position or consolidate some operating departments – This recommendation is currently in progress with discussion in closed session and an agenda item dealing with the reorganization scheduled for the August 25, 2008 meeting.

January 2009 Update – *This goal was accomplished through action the City Council took at their August 25, 2008 meeting.*

August 2009 Update – *N/A.*

May, 2013 Update – *N/A.*

Recommendation #5 Reduce the City's contribution to the Chamber, other charitable groups and for promotions and advertising.

May, 2013 Update – *Funding to the Chamber to operate the Visitors Center was decreased several fiscal years ago, due to overall budget reductions in the City. Funding for Charitable Groups, otherwise known as Aid to Agencies, was also eliminated several years ago when the City experienced significant budget reductions.*

Recommendation #6 Prepare an Updated Overhead Study

May, 2013 Update – *As indicated under Recommendation #23, the plan was updated in 2009.*

Recommendation #7 Investigate contracting all daily operations of the Harbor Department to a professional harbor management company

May, 2013 Update- *There was no interest expressed in this option when the report was reviewed in 2008 and 2009.*

Recommendation #8 (21 score) If the City chooses to retain harbor operations, transfer harbor maintenance functions to a consolidated maintenance division.

Final Direction – Council directed this to be looked in to in conjunction with Recommendation #20. Council discussed this recommendation refers to recommendation #20 and Harbor Maintenance should be included in the review of possible consolidation of maintenance in the City.

January 2009 Update – *The Harbor Department performs maintenance efforts on the waterfront and therefore they will be included in the study referenced under Recommendation #20.*

August 2009 Update- *This evaluation will occur subsequent to the evaluation of the maintenance survey.*

May 2013 Update – *This evaluation took place in 2010 and at that time, including the Harbor Maintenance in the consolidated maintenance effort was not pursued.*

Recommendation #9 Reduce the Harbor Patrol function to one or two officers charged with enforcement duties only; and

Recommendation #10 Manage administrative functions such as derelict boat removal using non-sworn staff

May 2013 Update – *Both these options and others were reviewed in 2010 and not supported.*

Recommendation #11 Obtain formal proposals from the Sheriff on the cost for providing law enforcement serviced to the City based on reduced service levels or restore the Morro Bay Police Department's budget to the level of peer cities if the City chooses to keep its own police Department

May 2013 Update – *A proposal from the Sheriff's Department was obtained in 2009 and not supported. The budget of the Police Department has not been significantly amended since this study was completed.*

Recommendation #12 Adopt a paid-on call fire department service model similar to that used by the majority of peer cities or Request a proposal from Cal Fire to provide the lowest possible level of fire service to Morro Bay and build up to a desirable service level from that point.

May 2013 Update – *The City Council was not interested in the paid-on-call fire department service model in 2009. The City did engage in a thorough review of Cal Fire and rejected their proposal in 2009.*

Recommendation #13 (16 score) Streamline the business license operation in order to reduce support department costs, and move the function to the City Clerk – City Manager Lueker is looking at reorganization of the Administration, Finance, Personnel and Recreation and Parks Departments currently. Reassigning duties will be addressed and staff will report back to the City Council.

Final Direction – Bring back further analysis to the City Council on the transfer of duties, including a discussion on extending to a 2-year business license.

January 2009 Update –*The Account Clerk 1 position has been downsized to ½ time and benefits through action taken at the August 25, 2008 City Council meeting. The ½ position will become vacant on February 17, 2009 and is not slated to be refilled. The duties are currently being reassigned. Staff also brought forward the concept of a 2-year business license cycle at the October 27, 2008 City Council meeting. The Council determined, based on staff's recommendation, the 2-year cycle would not be cost effective.*

August 2009 Update – *The business license process has been changed from renewals in June to renewals throughout the year, coinciding with the original application date. This change which allowed the*

license renewal to be spread more evenly throughout the year which then provided the impetus to move the business license process to the Public Services Department.

May 2013 Update – The business license process has further been modified to provide on on-line form and e-mailing the business license form to all Department for concurrent review. Further modifications will include electronic submission of the on-line form. Public Services staff in conjunction with City Hall staff continues to fine-tune tracking of business licenses, addressing delinquent licenses as well.

Recommendation #14 (15 score) Reassess the IT program in 1 to 2 years – Council discussed the website update and the coordination with IT. Staff explained that the function of updating the website to keep it current (once the redesign was completed) would probably be shifted from IT to another staff person.

Final Direction – Bring back this in 1 year to see how the interaction between the new website and the IT staff is working.

January 2009 Update – The new website will be live in March 2009 at which time update of the website will be shifted to a staff member from each department rather than the IT staff person and each department will be responsible for content under its purview. Review of the IT program will occur in August 2009 as directed.

August 2009 Update – Since the new website has come on-line (Spring 2009), some of the upkeep work and all posting of the agendas has shifted from the Information System Administrator to designated staff in each Department. During the review of the Goal Setting Workshop Outcomes for 2009 at the August 10, 2009 City Council meeting, the Council reviewed a reorganization of the time line for completion of identified goals. A review of the IT Department is slated for June 2010.

May 2013 Update – Staff conducted a review of the IT program in late 2010 as well as asking for proposals from agencies for comparison purposes. In that review, it was determined the current IT Department was cost effective and contracting out would not be beneficial for this service

Recommendation #15 Increase reliance on contract labor for community development operations.

May 2013 Update – The City continues to contract for such services when appropriate and available.

Recommendation #16 Shift as much infrastructure maintenance work as possible to private contractors.

May 2013 Update – The City continues to contract for such services when appropriate and available.

Recommendation #17 (14 score) Eliminate General Fund support of the tourist trolley program and Recommendation #33 (19 score) Make all Enterprise Funds self-supporting – these are related in that the Transit Fund is the only Enterprise Fund that is not self-supporting. Management Analyst Burlingame reported she is currently gathering data on cost recovery to be presented in the future to City Council so they can review the amount of subsidy.

Final Direction – provide data to City Council for review.

January 2009 Update – A report on the trolley operations for 2008 is on the City Council Agenda Planning Guide for a March 2009 date. At that time, the City Council will review the trolley budget, including the General Fund support, performance data and service levels to determine what changes need to be made for the 2009 season.

August 2009 Update – The City Council addressed the General Fund support of the trolley during the 2009/2010 budget process and eliminated the General Fund support as well as amended some of the hours of operation. Currently the trolley is funded by fares, paid advertising spaces, rentals, sponsorships and the Parking in Lieu with no General Fund support. Staff anticipates the general fund support will be a topic of discussion for each budget period.

May 2013 Update – The trolley continues to operate without a General Fund subsidy.

January 2009 Update - As well, staff has had an initial meeting in January 2009 with San Luis Obispo Council of Governments and Regional Transit Authority staffs to discuss funding issues and evaluation of potential economies of scale and other options to operating the local transit service. Further study is forthcoming.

August 2009 Update – An additional meeting was held in May to further discuss the issue, however, it was decided to wait until after the Regional Transit Authority had completed its move to their new facility and takeover of service in August 2009 to continue discussions.

May 2013 Update – Staff has continued to meet and discuss a regional concept in the provision of the local transit, but to date, the alternatives provided have not met with the City Council's or the communities expectations for service. Staff will continue to have an open dialog with SLOCOG and RTA regarding a regional approach.

January 2009 Update - Other than the Transit Fund, all other enterprise funds to date are self-supporting (Harbor, Water and Wastewater). Staff has applied for a Rural Transit Fund grant for operational assistance for Morro Bay Dial-A-Ride and trolley that, if awarded, are intended to replace the General Fund support for fiscal year 2009/2010.

August 2009 Update – A Rural Transit Fund Grant was awarded in early 2009 allowing the City to reduce the General Fund support of Dial-A-Ride for fiscal year 2009/2010. However, recently the City was notified the SLOCOG Board will be considering in October a reduction 12% this fiscal year to all jurisdictions' annual Transportation Development Act allocations. If this occurs the City will need to review the transit programming and funding and request necessary amendments to the existing budget at mid-year to account for the approximate \$44,000 loss in funding.

May 2013 Update – No further update.

Recommendation #18 (14 score) Create a cost center for the recreation programs, into which all revenues and expenditures are moved.

Final Direction – this issue was covered under Recommendation #19 and will return for discussion in 2-3 years.

January 2009 Update – Pursuant to City Council direction, this item will be discussed no sooner than August 2010 and may not be revisited until 2011.

August 2009 Update – During the review of the Goal Setting Workshop Outcomes for 2009 at the August 10, 2009 City Council meeting, the Council reviewed a reorganization of the time line for completion of identified goals. This item remains slated for January 2011.

May 2013 Update – The concept of a Cost Center for recreation programs has not been discussed in detail at either the Recreation and Parks Commission or the City Council. Although the annual budget does identify subsidy allocations, there has not been direct isolation of these programs other than the division's operating budget. Program evaluations are provided to the RPC post event.

Recommendation #19 (16 score) Restructure the recreation programs to be cost-covering.

Final Direction – Bring back this issue in 2-3 years for a review.

January 2009 Update – Pursuant to City Council direction, this item will be discussed no sooner than August 2010 and may not be revisited until 2011.

August 2009 Update – During the review of the Goal Setting Workshop Outcomes for 2009 at the August 10, 2009 City Council meeting, the Council reviewed a reorganization of the time line for completion of identified goals. This item remains slated for January 2011.

May 2013 Update – Staff has begun the process of developing a Fiscal Sustainability Program, which includes service inventory and assessment. Cost recovery and subsidy allocation analysis is based on community benefit. These cost recovery categories and the corresponding programs establish program fees and level of service offered to the community. The initial concepts of the Fiscal Sustainability Program were presented to the Recreation and Parks Commission at their regular meeting on July 17, 2012

Recommendation #20 (22 score) Create a single consolidated maintenance division for the City – Staff has begun this work with the maintenance staff in the Recreation and Parks Department.

Councilmember Peirce felt it necessary to study what each maintenance division did prior to the determination to combine and the Council members concurred.

Final Direction - All council members felt this was a priority, move forward with review.

January 2009 Update – Staff began with the Recreation and Parks Department combining the Parks Superintendent (management level) position and the Facilities Superintendent (management level) position to one Maintenance Superintendent (management level) position overseeing both the Parks and Facilities Division. Currently staff is completing work on a survey tool to distribute to all maintenance staff in Recreation and Parks, Harbor and Public Services, to study how often, amount of time spent and location of maintenance efforts-basically a time and duty study. The results of this survey will aid in an effort to determine whether consolidation is a valid move. Once the survey tool is ready for distribution; staff anticipates a survey period of 45-60 days.

August 2009 Update - The maintenance survey was distributed in March 2009 with an 8 week survey period. Information was gathered, initially tabulated and returned to the City Manager from the Department Heads mid-summer. Due to the prolonged budget process, staff has not yet assessed the documentation provided. During the August 10, 2009 City Council review of the Goal Setting Workshop Outcomes for 2009, the Council indicated the review of the maintenance survey was a top priority and it would be completed by October 2009.

May 2013 Update – The consolidated maintenance concept has been accomplished with the exception of the specific Harbor maintenance issues and has been in place for just over two years. Upon initial consolidation, there were a number of issues that needed to be addressed, but over the past two years and with the staffing changes, the consolidation efforts and work product has continued to thrive. While most individual maintenance staff members have their areas of expertise, cross training continues to take place, several group projects have been accomplished and the lines between facilities, streets and parks continued to disappear.

Recommendation #21 Create a Parks and Recreation District endowed in its creation by its own property tax assessment.

May 2013 Update – There was no interest expressed in this option when the report was reviewed in 2008/09.

Recommendation #22 (16 score) Sell surplus properties to provide a short-term financial bridge and to invest in economic development – Council discussed the list of potential properties and had specific questions regarding what was on the list and what was available for liquidation. City Attorney Schultz indicated that perhaps bundling the available properties with the Cloisters property might be a good way to liquidate.

Final Direction – In October/November, bring a list of surplus property to closed session.

January 2009 Update – No action has been taken.

August 2009 Update – No action has been taken.

May 2013 Update – No further action has been taken.

Recommendation #23 (18 score) Update the cost allocation plan and charge for direct services where appropriate and Recommendation #6 (18 score) Prepare an updated overhead study – Finance Director Slayton had solicited a proposal from Revenue and Cost Specialists to do a study to address both issues and would be putting this item on the agenda for approval on August 25, 2008. The approximate cost of the study was \$25,000.

Final Direction – Bring funding request for the study to the August 25th City Council meeting.

January 2009 Update – Funding was approved for an updated cost allocation study (which would include an overhead study). The study is underway with an expected draft available in early Spring 2009.

August 2009 Update – Despite some setbacks, the Final Cost Allocation Study was completed and is available for review. Any changes in allocations will take place for the 2010/2011 budget process. In reviewing the document, there are not substantial changes thus not greatly affecting the General Fund bottom line.

May 2013 Update – On September 15, 2009, the City completed the cost allocation plan, and with the 2010/11 budget, implemented the new Enterprise funds' transfers for administrative services. The Water and Sewer Fund cost allocations dropped by \$58,000 and the Harbor's increased by \$40k.

Recommendation #24 (14 score) Increase Harbor Fees – Harbor Director Algert discussed that the Harbor Fees are increased on a regular basis, CPI. Due to the granting agency, it is not possible to charge for launching a boat, but a charge for parking could be imposed. Councilmember DeMeritt stated her priority for increasing the fees for mooring sites, she inquired if Morro Bay was within 5% of the rates for other harbors? Algert listed the number of types of mooring sites and who managed the sites (48 shore side, 120 off-shore of which 50 are managed by yacht club and Marina Square, remaining 70 are city managed of which the City owns the gear and tackle on 10).

Final Direction – Harbor Director to complete a staff report within the next year to look at comparison of mooring fees, going through Harbor Advisory Board.

Final Direction – bring forward, pursuant to motion of the Harbor Advisory Board a proposed fee for parking at the launch ramp (Spring 2009).

January 2009 Update – This item is scheduled at the Harbor Advisory Board for late winter and is on the Agenda Planning Guide for City Council on April 13, 2009.

August 2009 Update – This item was addressed at the April 27, 2009 City Council meeting and the following motion passed 5-0: 1) increase all live aboard fees by the cost of Consumer Price Index annually until such time that Harbor facilities and services are improved; then the item can be revisited; 2) implement a parking fee of \$1 per hour with a maximum of \$10 per day for boat trailer spaces only at

the boat launch ramp, using an automated machine. The maximum fee for parking at the boat launch ramp was subsequently reduced through an action (approval of the Master Fee Schedule) at the June 22, 2009 City Council meeting from a maximum of \$10 per day to a maximum of \$5 per day for boat trailer space.

May 2013 Update – Fees are raised through the Master Fee Schedule by CPI on a yearly basis. City Council also authorized to recoup use of water fees in the public facilities in 2012 and staff continues to work on that issue. Also authorized by City Council was a \$1,000 mooring transfer fee.

Recommendation #25 Increase encroachment fees.

May 2013 Update – The City Council increased special encroachment fees in 2008, other encroachment fees are raised through the Master Fee Schedule by CPI on a yearly basis.

Recommendation #26 Implement street and highways code to require property owners to fix sidewalks

May 2013 Update – There was no interest expressed in this option when the report was reviewed in 2008/09.

Recommendation #27 Add fee to the refuse contract for street sweeping

May 2013 Update – There was no interest expressed in this option when the report was reviewed in 2008/09.

Recommendation #28 Add General Plan maintenance fee to all development and permit applications, as allowed by state law

May 2013 Update – This was completed in 2008.

Recommendation #29 Implement city-wide prop 218 assessment for street lighting and street maintenance

May 2013 Update – There was no interest expressed in this option when the report was reviewed in 2008/09.

Recommendation #30 (14 score) Increase the City's Transient Occupancy Tax (TOT) and

Recommendation #31 (14 score) Implement a Utility User Tax (UUT) – Council discussed the Utility Users Tax and the TOT and whether and how they could be placed on the ballot. UUT and how it could be placed on the ballot, the status of the Countywide Business Improvement District (BID).

Final Direction – the Council would discuss the TOT after the Countywide Bid process was reviewed in Fall 2008 and continue to discuss a UUT for either a special election (earlier than 2010) or a general election in 2010.

January 2009 Update – As stated under Recommendation #34, staff initially brought both these items forward at the January 12, 2009 meeting and will bring them back in late February/March 2009.

August 2009 Update – At the March 9, 2009 City Council meeting, the Council determined to not move forward with the UUT. At that same meeting the Council directed staff to return to Council with

information on placing a transient occupancy tax measure on the 2010 ballot as well as directed staff to return to Council with information on placing a special assessment/parcel tax measure on the 2010 ballot. Staff has included both these issues on this workshop agenda for discussion. This City did not move forward with either a TOT increase or a special assessment/parcel tax.

May 2013 Update – The City was successful in the passage of Measure Q, a ½ cent general sales tax that passed in 2010. The City Council has directed staff at their March 26, 2013 meeting to return in Jun/July 2013 to have a discussion on the timeline for a dedicated sales tax ballot measure to repair streets.

Recommendation #32 Implement a general or special parcel tax

May 2013 Update – There was no interest expressed in this option when the report was reviewed in 2008/09.

Recommendation #33 Make all enterprise funds self-supporting

May 2013 Update – See information under Recommendation #17.

Recommendation 34 (19 score) Establish a 911 fee, a fee added to local phone bills intended to support the operation of the local 911 center

– the Council discussed the ability to impose this fee and City Attorney Schultz reported he could return to City Council will more information on implementation.

Final Direction – Council supports additional research into the 911 fee, City Attorney to come back to Council with an analysis.

January 2009 Update – City staff brought forward a staff report at the January 12, 2009 City Council meeting asking Council to authorize the City Attorney to research and prepare draft ordinances for consideration as future ballot measures for both a Utility User Tax (UUT) and a 911 fee. Council considered staff's recommendation and asked staff to return within two months for further review. Both the UUT and the 911 fee are on the Agenda Planning Guide for late February/March 2009.

August 2009 Update – At the March 9, 2009 City Council meeting, the Council determined to not move forward with either the UUT or the 911 fee.

May 2013 Update – No further update.

Recommendation #35 (score 20) Coalesce a vision of the City's future, building on the City's environmental advantages

– Bruce Ambo reported the Coastal Commission had indicated return of the City's General Plan in October/November. He further stated that visioning would be in conjunction with the RDA study of the downtown area. Further discussion was held regarding a workshop with business owners and staff to identify low cost loans and how to fast track building plans.

Final Direction - Councilmember Peirce and his business promotions group to conduct an informal survey to business owners tabulate the results and bring back to the City Council.

Final Direction - City Manager Lueker to arrange a joint meeting between the City Promotions Committee and the City Council.

January 2009 Update – Staff has been informed the Coastal Commission is currently, actively reviewing the General Plan. Staff is encouraged by this and hopes to receive the General Plan in 2009.

August 2009 Update – The City has not received any further information concerning the General Plan, but has contacted the Coastal Commission again to encourage its return.

May 2013 Update – Several efforts, since this time have been pursued to update the plan, including grant submission for funding as well as assignment of a committee to work on an in-house update. The most recent effort, as discussed during the 2013 Goal Setting process, includes submission of a grant for funding and in lieu of receiving grant funds, staff has proposed some additional funding in the FY 2013/14 budget to address Long Term Planning as well as a work plan for updating the document.

January 2009 Update - The Business Promotions group working with the Chamber of Commerce will begin their Business Owners Survey in the near future. The City Council has also asked to have this item brought back for the February 26, 2009 City Council agenda to appoint a Council member to the committee.

August 2009 Update - The Business Promotions Group continues to work on the business surveys, as reported by the Chamber of Commerce.

May 2013 Update – While the Business Promotion Group is no longer functioning, the City has funded an Economic Development program through the Morro Bay Chamber of Commerce. The City also formed a short-term Planning Study Committee to look at what is working and not working in the Planning and Building Divisions and what solutions can be found. The committee came back with a number of recommendations, which included update the General Plan, Better Information/Handouts (file information is being digitized for access, handout and on-line information about the permits is available), How to Minimize Incomplete Submittals (discussion of a fee for a pre-application meeting was discussed as well as intake meetings), Providing Information on the Status of a Project to the Applicant (electronic submission and distribution of plans).

January 2009 Update - A joint Community Promotions Committee/City Council meeting was held on October 13, 2008 with the Community Promotions Committee reviewing their marketing strategies. Staff anticipates this will be an annual meeting.

August 2009 Update - A joint Community Promotions Committee/City Council meeting has been scheduled on the Agenda Planning Guide for October 12, 2009. The Council may want to entertain the idea of inviting the Morro Bay Tourism Business Improvement District as well and reschedule the meeting for early December in order to review the progress made on the website.

May 2013 Update – the Community Promotions Committee was dissolved in 2012 with ½ of their funding (approximately \$58,000) going to the Morro Bay Tourism Business Improvement District and the remaining ½ of the funding going to the Economic Development Division.

Recommendation #36 (18 score) Finalize the General Plan update and secure approval from the Coastal Commission in order to implement fundamental economic development on the major properties and any secondary issues – the Council reiterated the sending of letters citing specific instances where an approved General Plan would have benefitted the City in some way, to date the Mayor made a public comment at the Coastal Commission meeting held in San Luis Obispo as well as sent one letter, a second letter reiterating the information Director Ambo was given regarding return of the General Plan was forthcoming.

Final Direction – Send a letter regarding the cell phone tower conflict to the Coastal Commission as well as other letters are the situation warrants.

January 2009 Update – The City has sent several letters to the Coastal Commission outlining issues that would have been resolved had our updated General Plan/Local Coastal Plan been in place. Various examples include the cell tower, mixed use design issues and parking incentives.

Coastal Commission staff has indicated they are currently working through an electronic format of the document however no return date has been identified.

August 2009 Update – *The City has not received any further information concerning the General Plan, but has contacted the Coastal Commission again to encourage its return.*

May 2013 Update - *As stated above, several efforts, since this time have been pursued to update the plan, including grant submission for funding as well as assignment of a committee to work on an in-house update. The most recent effort, as discussed during the 2013 Goal Setting process, includes resubmission of a grant for funding and in lieu of receiving grant funds, staff has proposed some additional funding in the FY 2013/14 budget to address Long Term Planning as well as a work plan for updating the document.*

Recommendation #37 (23 score) Develop and Implement a Redevelopment Agency in conjunction with plans to develop these properties – Staff has submitted two grants to fund a feasibility study, the first step needed to determine if a redevelopment agency is feasible. Staff anticipates hearing in September the status of the grant funding.

January 2009 Update – *Two Community Development Block Grants were submitted to fund a Redevelopment Feasibility Study. One grant was awarded for 35K, the second was denied, however, staff is in contact with the granting agency to substantiate reasons for reversing/reconsidering denial. If reversing/reconsideration are not possible, then the information gleaned will be used to reapply for next year's cycle of funding. Staff anticipates reapplying for both grants in 2009 to help fund the RDA Implementation should the Redevelopment Feasibility Study point and the City Council agree to that direction. At the City Council meeting on January 12, 2009, the City Council approved funding for the Redevelopment Feasibility Study. A contract has been signed; work is in progress with a timeframe for completion of 4-5 months.*

August 2009 Update – *At the August 10, 2009 City Council meeting, the Council voted 3-2 to table any further discussion regarding formation of a Redevelopment Agency.*

May 2013 Update – *AB 26 dissolved Redevelopment Agencies as of October 1, 2011; the CA Supreme Court upheld this law December 2011, and all redevelopment agencies ceased to exist after Feb 1, 2012. However, it is likely that some sort of redevelopment agency-type program will be created in the future and staff will monitor and provide the City Council updates as they become available.*

Recommendation #38 (16 score) Proactively develop a strategic plan to redevelop City-owned harbor property, the power plant and Chevron properties – Councilmember DeMeritt suggested meeting quarterly or on a regular basis with Randy Hickok of Dynegy to make sure the City is kept informed of the status of the power plant. Director Ambo discussed the Navy Fuel Property and that it had moved to a “for sale” status and the 93 mile pipeline would be included in the sale. Councilmember Winholtz asked that this item come back to closed session.

Final Direction – *City Attorney Schultz to send a letter to Randy Hickok and arrange a regular meeting.*

Final Direction – *agendize the Navy Fuel Property for August 25th closed session.*

January 2009 Update – *Staff has contacted Dynegy regarding periodic meetings, the meeting schedule has yet to be determined.*

August 2009 Update – *Staff met with Mr. Hickok in early 2009 and reported back to the City Council at a March 3, 2009 closed session. No further meetings have been scheduled.*

May 2013 Update- The City Attorney has kept in discussions with Dynegy and provides input as information becomes available.

January 2009 Update - The General Services Administration informed City staff that the City was required to bid/provide a proposal for the property which included the 10 acre site and a 93 mile pipeline. Prior to the City preparing a bid/proposal, at a minimum, soils testing, archaeological review and an appraisal would have had to be completed, resulting in significant costs. Due to the inability to divide the property and the costs to prepare a bid/proposal, there was no further action taken.

August 2009 Update – N/A.

May 2013 Update – This property was sold in early 2012 to a private purchaser.



AGENDA NO: D-6

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 22, 2013

FROM: Kathleen Wold, Planning Manager

SUBJECT: Status report on Amendments to the Zoning Ordinance (Title 17) as it relates to Section 17.48.32 (Secondary Units), Section 17.44.020.1 (North Main Street Commercial Area Parking) and Section 17.27 (Antennas and Wireless Telecommunications Facilities)

RECOMMENDATION

Staff recommends that the Council review the materials presented in the packet by staff and direct staff to submit to Coastal Commission a Local Coastal Plan amendment to include all three Zoning Ordinance Amendments.

ALTERNATIVES

An alternative would be to consider the three Zoning Ordinances separately and direct staff to submit to Coastal Commission one, two, or three of the amendments or any combination thereof.

FISCAL IMPACT

There is no fiscal impact to this report as it only presents a status update on Zoning Ordinance Amendments.

BACKGROUND

Staff has provided for you a packet of information for each Ordinance change. In reviewing the minutes from each project, staff determined that there were no members of the public who spoke regarding the Wireless or the Main Street parking amendment during the public hearing process either pro or con. In addition, the motions that were made on these two amendments were passed unanimously by City Council. Since these two Ordinance Amendments were approved by Council without concerns, staff will focus on the Secondary Unit Ordinance Amendment. In order to provide the issues that were brought up during the Public Hearing in a concise manner, staff has excerpted from the February 14, 2012 minutes item B-2, which are as follows:

Councilmember Smukler asked for a review of history as to how we came to the

Prepared By: KW

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

existing regulations of the 900 square feet to both Public Services Director Livick and City Attorney Schultz. He followed up with a question of whether we did a review of other coastal communities in our county of what their regulations are for secondary units.

Mayor Yates opened the hearing for public comment.

Jamie Irons brought up the fact that there is no data from Planning staff or the public that the current Ordinance even had a problem. He also questioned why it wasn't certified back in 2005. There was a 3 day public workshop when this Ordinance was originally crafted and now Council majority is asking to revise that process; he asked that Council reconsider these actions and send it back to a public workshop to do it the right way.

Betty Winholtz concurred with Mr. Irons. She is concerned with the potential of being able to build 2 homes on a lot, each 1200 square feet and then subdivide them and sell both off. She feels there are 3 things being repeated in the staff report that she wants to correct. She feels it is in error that: we are fixing our Ordinance in regards to compliance with State law; that we are increasing small affordable housing units; and, that we are ensuring compatibility with existing neighborhoods. We should listen to public input and shouldn't undermine the public process.

John Barta commented that the granny unit issue is not about land being subdivided and sold separately, never was and never will be. Granny units are there because they allow us to have a healthy community. No one is going to be required to build a 1200 sq foot granny unit. From 2005 to the present we have had a more restrictive process and as a result, very few granny units have been built. In order to have a viable community where people can afford to live, we will need a robust granny unit program.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler felt that there wasn't enough data to move forward with this tonight. He also feels we would be abandoning the public process by moving forward. If we plan on changing, we should have another public workshop. He feels that 900 square feet is a fair and more affordable number and wants to stick with the existing Ordinance that was developed through the public process and move forward with the certification of that.

Councilmember Leage thinks the owner of the property should have the choice of up to 1200 square feet and agrees that just because you can, doesn't mean you

will. He doesn't feel 1200 square feet is too big as long as the property owner feels they can rent it out.

Mayor Yates doesn't see a problem with this and feels it's irrelevant to compare us with what other communities are doing. He also doesn't feel that 1200 square feet is too big nor does she feel that everybody building a secondary unit to 1200 square feet will occur.

Councilmember Johnson is good with this as well. She feels that 1200 square feet is still a reasonably sized smaller home and that this subject has been "work shopped" enough as we've had 2 public hearings already.

Councilmember Borchard agreed, public process has been on-going on this issue and in fact we are having a public process on it right now. A 1200 square foot limit would help the applicants expedite a project as well as save costs without having to go to a CUP. This should also help with our housing inventory.

MOTION: Councilmember Borchard moved the City Council approve Item B2 as presented in the staff report. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Smukler voting no

The minutes indicate that there was discussion by the public and the Council over the issue of the appropriate size of a secondary unit and whether or not the existing Ordinance is flawed.

CONCLUSION

Staff recommends that the Council review the materials presented in the packet and provide direction on how to proceed. If the Council determines that the three Ordinance amendments are ready to submit to the Coastal Commission as presented in this staff report, staff will immediately prepare an application and submit to the Commission by June 14, 2013. If the Council does not feel that all three are ready, staff will prepare any amendment deemed ready for submittal to the Coastal Commission.

ATTACHMENTS

1. Section 17.48.32 (Secondary Units) materials
2. Section 17.44.020.1 (North Main Street Commercial Area Parking)
3. Section 17.27 (Antennas and Wireless Telecommunications Facilities).

ATTACHMENT 1

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – FEBRUARY 14, 2012
CITY HALL CONFERENCE ROOM - 5:00 P.M.

AGENDA NO: A-1
MEETING DATE: 02/28/2012

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

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Susan Slayton	Administrative Services Director
	Bill Avery	Chief Negotiator

CLOSED SESSION

Mayor Yates adjourned the meeting to Closed Session.

Mayor Yates read the Closed Session Statement.

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

CS-2 **GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two (2) parcels.

- **Property: 3300 Panorama Drive**
Negotiating Parties: US General Services Administration and City of Morro Bay
Negotiations: Purchase and Sale
- **Property: 895 Monterey Street**
Negotiating Parties: Woolley and City of Morro Bay
Negotiations: Voluntary Purchase and Sale

The meeting adjourned at 5:50pm.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 14, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

have spoken and there is no damage here. The applicant isn't asking for anything beyond the existing wall and feels there is a simple solution which would be to ask for a simple easement.

Mayor Yates closed the hearing for public comment.

Councilmember Borchard asked staff if an easement was an option which Public Services Director Livick responded that even with an easement, the driveway would still encroach into a portion of the 25 foot ESH buffer.

Councilmember Johnson asked clarification of staff regarding the following issues: the project's conditions of approval; drainage issues; the cutting down of willows; location of the proposed driveway; what part does the existing wall play in the ESH; if the driveway is permitted, can we require it be constructed of a permeable surface; and, possible granting of an easement. She is willing to stand by the 2010 Planning Commission decision to use a common driveway.

Councilmember Leage feels that they could be able to use the common driveway and still get around the corner to which Public Services Director said was a possibility though it isn't the proposal submitted by the applicant.

Councilmember Smukler also feels there is sufficient room with the existing driveway to utilize a common driveway. The 2010 Planning Commission also thought so; and it's his intent to stand by the 2010 Planning Commission decision.

Mayor Yates feels it is wrong to force someone to use an existing driveway when they want 2 separate stand-alone properties without an easement; they are staying on the same side of the existing retaining wall; he doesn't have a problem with granting this.

MOTION: Councilmember Borchard moved the City Council uphold the appeal and direct the project to follow the 2010 Planning Commission approval. The motion was seconded by Councilmember Smukler and carried 4-1 with Mayor Yates voting no.

B-2 REVIEW OF DRAFT ZONING TEXT AMENDMENT A00-013
AMENDING SECTION 17.48.32 (SECONDARY UNITS); (PUBLIC
SERVICES)

Public Services Director provided his staff report regarding the status of secondary units. City Council last heard this item back on March 22, 2011 where there was direction to return with the discussed amendments to MBMC Section 17.48.320, at a future meeting. The proposed secondary unit revision was then discussed at the December 7, 2011 and January 4, 2012 Planning Commission meetings where they also made recommendations which are a part of this report.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING - FEBRUARY 14, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Smukler asked for a review of history as to how we came to the existing regulations of the 900 square feet to both Public Services Director Livick and City Attorney Schultz. He followed up with a question of whether we did a review of other coastal communities in our county of what their regulations are for secondary units.

Mayor Yates opened the hearing for public comment.

Jamie Irons brought up the fact that there is no data from Planning staff or the public that the current Ordinance even had a problem. He also questioned why it wasn't certified back in 2005. There was a 3 day public workshop when this Ordinance was originally crafted and now Council majority is asking to revise that process; he asked that Council reconsider these actions and send it back to a public workshop to do it the right way.

Betty Winholtz concurred with Mr. Irons. She is concerned with the potential of being able to build 2 homes on a lot, each 1200 square feet and then subdivide them and sell both off. She feels there are 3 things being repeated in the staff report that she wants to correct. She feels it is in error that: we are fixing our Ordinance in regards to compliance with State law; that we are increasing small affordable housing units; and, that we are ensuring compatibility with existing neighborhoods. We should listen to public input and shouldn't undermine the public process.

John Barta commented that the granny unit issue is not about land being subdivided and sold separately, never was and never will be. Granny units are there because they allow us to have a healthy community. No one is going to be required to build a 1200 sq foot granny unit. From 2005 to the present we have had a more restrictive process and as a result, very few granny units have been built. In order to have a viable community where people can afford to live, we will need a robust granny unit program.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler felt that there wasn't enough data to move forward with this tonight. He also feels we would be abandoning the public process by moving forward. If we plan on changing, we should have another public workshop. He feels that 900 square feet is a fair and more affordable number and wants to stick with the existing Ordinance that was developed through the public process and move forward with the certification of that.

Councilmember Leage thinks the owner of the property should have the choice of up to 1200 square feet and agrees that just because you can, doesn't mean you will. He doesn't feel 1200 square feet is too big as long as the property owner feels they can rent it out.

Mayor Yates doesn't see a problem with this and feels it's irrelevant to compare us with what other communities are doing. He also doesn't feel that 1200 square feet is too big nor does he feel that everybody building a secondary unit to 1200 square feet will occur.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 14, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Johnson is good with this as well. She feels that 1200 square feet is still a reasonably sized smaller home and that this subject has been “workshopped” enough as we’ve had 2 public hearings already.

Councilmember Borchard agreed, public process has been on-going on this issue and in fact we are having a public process on it right now. A 1200 square foot limit would help the applicants expedite a project as well as save costs without having to go to a CUP. This should also help with our housing inventory.

MOTION: Councilmember Borchard moved the City Council approve Item B2 as presented in the staff report. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Smukler voting no.

C. UNFINISHED BUSINESS -- None.

D. NEW BUSINESS

D-1 DISCUSSION ON THE CLOSURE OF ATASCADERO STATE BEACH (MORRO STRAND); (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report requesting the budget amendments as presented.

San Luis Obispo Coast District Superintendent, Nick Franco also spoke. He stated that the park closures were as a result of state-wide budget cuts. Morro Strand State Park was one of 70 parks slated to be closed. There are 3 options to keeping a park open: donor agreements, concession agreements and operating agreements. In an effort to keep our park open, there have been on-going discussions with Cal Poly. If there is nothing in place by March or April, the State will have to move forward with plans to close the park but they will still keep the talks open.

All Councilmembers were in total support of keeping the park open.

Mayor Yates stated that July was probably the worst possible time for this to occur. He also knows of someone who has expressed interest in running the park.

Councilmember Smukler thinks the discussions with Cal Poly are promising as that fits within our mission.

Councilmember Leage wants to do all we can to keep the park open.

Councilmember Johnson wanted to know how people can get ahold of Mr. Franco. (805) 927-2065; nfranco@hearstcastle.com



AGENDA NO: B-2

MEETING DATE: February 14, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 7, 2012
FROM: Kathleen Wold, AICP – Planning and Building Manager
Rob Livick, PE/PLS – Public Services Director/City Engineer
SUBJECT: Review of Draft Zoning Text Amendment A00-013 amending Section 17.48.32 (Secondary Units).

RECOMMENDATION:

Staff recommends the City Council:

- 1) Open the public hearing and receive testimony; and
- 2) Provide direction to staff to incorporate any changes and bring the ordinance back to City Council for "First Reading".

FISCAL IMPACT:

This action has minimal fiscal impact in that the processing and publication of the ordinance change will require some staff resources. Additionally, the reduction in fees through processing a public hearing is offset by a reduction in staff time required to review the project.

BACKGROUND/DISCUSSION:

The purpose of this amendment is to modify the current regulations and comply with the amendments made in 2002 to State Law Section 65852.2 which requires cities to set standards for the development of second dwelling units with ministerial review in an effort to increase supply of small, affordable housing units while ensuring that those units remain compatible with the existing neighborhood. Nothing in this amendment will affect the due process rights that citizens possess through the City's Local Coastal Plan or the California Coastal Act. Language will be added to the ordinance to this effect based on Coastal Commission Staff comments.

On March 22, 2011 the City Attorney brought to the City Council a staff report on the status of secondary dwelling unit regulations with a recommendation that City Council provide direction to staff. At this meeting the Council directed staff to return with the following amendments to Morro Bay Municipal code Section 17.48.320 (Secondary Units):

1. Minimum and Maximum Floor area. The floor area of a second unit shall not exceed

Prepared By: RL/KW

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

the maximum allowable amount of 1,200 square feet as per State guidelines.

2. Architectural compatibility. The architectural design, exterior materials and colors, roof pitch and style, reasonable compatible of the second unit....
3. Parking. The parking space can be open and uncovered; however neither may be in tandem with required parking....
4. Conditional Use Permit. Remove entire requirement.

Staff has researched the Secondary Unit regulations and found that the changes proposed in 2005 were never certified by the California Coastal Commission (CCC). Because the changes approved by the City Council in 2005 were never certified by the CCC staff has used the prior secondary unit regulations as the base document and made changes to that document as instructed by the City Council. All changes proposed are consistent with Government Code Section 65852.150 and 65852.2 which pertain to Secondary Units.

The proposed revisions to Chapter 17.48 are as follows (words in italics are added and words with strikethrough will be deleted):

17.48.320 GRANNY SECONDARY UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. *The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements;* Pursuant to ~~Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions:~~

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

B. A. Location

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

C. B. Lot Coverage

Maximum lot coverage allowed for the District that they are located in.

D. C. Design

Said unit shall be ~~consistent~~ *reasonably compatible* with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

~~E.~~ D. Size

The total floor area, not including a garage, for a granny secondary unit shall not exceed 1,200 square feet *as per State guidelines*.

~~F.~~ E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. That it is not permitted anywhere else in the City.

~~G.~~ Water Equivalencies and Other Public Facilities

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

~~H.~~ F. Compliance with Title 14

A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

~~I.~~ Use Limitation

~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

In addition to the above changes there are also the following changes:

- Remove requirement for a Conditional Use Permit in the AG, R-A, R-1, R-2, R-3, R-4 and CRR zone districts; and,
- Change title from Granny Unit to Secondary Unit within Section 17.44 (Parking), Section 17.12 (Definitions).

Staff has included both Attachment A the redlined version of the proposed changes and Attachment B which shows the final version of the text for your convenience.

In addition to changes to the Secondary Unit regulations, staff is recommending the following changes to the Guesthouse regulations to be consistent with State law.

17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

~~B. Use Permit Requirements~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

B. Location. Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.

Environmental Determination

A Negative Declaration was prepared for this project, as defined by CEQA, 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 October 31, 2011 and ending on November 29, 2011.

Public Notification

Notice of this item will be published as a 1/8th page in the San Luis Obispo Tribune newspaper prior to the "first reading" notifying all Morro Bay residents of these proposed changes.

Planning Commission Recommendations

This proposed secondary unit revision was discussed at the December 7, 2011 Planning Commission meeting and then continued to their meeting of January 4, 2012. Six members of the public spoke in regards to modifications to the ordinance. The commissioners considered the public testimony and adopted planning commission resolution with the following amendments to the proposed ordinance:

1. Change language in 17.48.320 C to read " said unit shall be consistent and/or reasonably compatible".

2. The increased floor area of an attached second unit shall not exceed 30-percent of the existing living area, per state law.
3. A detached unit shall not exceed 1,200 square feet.

CONCLUSION:

The proposed Text Amendment will bring the City's regulations regarding Secondary Units into conformance with Government Code Section 65852.150 and 65852.2 and incorporate the recommendations given to staff by the Planning Commission and previous direction from City Council. And, to bring this ordinance revision, along with the revisions to definitions and parking sections, to insure consistency with terminology, back to City Council for "First Reading" on February 28, 2012.

ATTACHMENTS

1. Planning Commission Meeting Minutes of January 4, 2012
2. Current City of Morro Bay Section 17.48.320

SYNOPSIS MINUTES -- MORRO BAY PLANNING COMMISSION
REGULAR MEETING -- JANUARY 4, 2012

Commissioner Irons asked to pull Item A-1 for discussion. Irons noted that on page 3 regarding discussion of item B-3, 2 State Park Road, there was a letter and an email from a resident received which was brought forward and Commissioners discussed the concerns stated in the letter. He asked the minutes be corrected to include that we brought forth the email from the public and discussed the concerns with staff and the applicant.

MOTION: Commissioner Irons moved to approve the minutes as corrected. The motion was seconded by Chairperson Grantham and carried unanimously. (5-0)

B. PUBLIC HEARINGS

- B-1 *Continued Item from the December 7, 2011 Meeting*
Case No.: #A00-013
Site Location: Citywide
Applicant/Project Sponsor: City of Morro Bay
Request: Zoning Text Amendment proposing to amend Section 17.48.320 (Secondary Units) modifying the section to be consistent with State regulations.
CEQA Determination: Mitigated Negative Declaration
Staff Recommendation: Forward a favorable recommendation to the City Council to approve the proposed Zoning Text Amendment and adopt the Mitigated Negative Declaration.
Staff Contact: Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report.

Chairperson Grantham opened the Public Comment period.

Amy Perry, resident of Morro Bay, spoke against the zoning text amendment. She stated that on her block the secondary units have caused parking and noise problems and urged the Commission not to ease the current restrictions.

Betty Winholtz, resident of Morro Bay, spoke against the zoning text amendment. Winholtz stated that allowing second units to go from 900 to 1,200 square feet does not take into consideration the impacts to noise, parking, and circulation on neighborhoods and stated the current law is already compliant with State law; just more restrictive. Winholtz disagreed that the proposed changes will further affordable housing.

Dorothy Cutter, resident of Morro Bay, spoke against the zoning text amendment and expressed concern about allowing two large houses on one small lot. Cutter stated that residents will not want rental homes to surround them cutting off their views, light and air. Cutter stated the State law only states the granny units can be up to 1,200 square feet, but can be less. She stated this is not about affordable housing but about greed.

John Barta, resident of Morro Bay, spoke in favor of the zoning text amendment and stated as a former Planning Commissioner, he was involved with granny units. Barta read from the State law which cites that granny units can ease a rental housing shortage, maximize limited land

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 4, 2012

resources, infrastructure and assist low to moderate income homeowners with supplemental rental income. Barta stated he supports staff's proposal.

Dan Reddell, resident of Morro Bay, spoke in favor of the zoning text amendment, stating he supports reducing these restrictions and that rental income from a second unit could help struggling homeowners.

Roger Ewing, resident of Morro Bay, spoke against the zoning text amendment. Ewing stated that while he agrees with Mr. Reddell, he disagrees with Mr. Barta. Ewing stated 1,200 square feet is not affordable housing and questioned why changes are proposed when this was not approved by the Coastal Commission. He said the Commission should not make changes at the expense of neighbors and urged the Commission to consider the whole community.

Hearing no further comment, Chairperson Grantham closed the Public Comment period.

Commissioner Napier stated as a renter, she appreciates the smaller size for its affordability. The increased cost of renting a secondary unit at 1,200 square feet would not be affordable.

Commissioner Solu asked staff to clarify lot size versus home size in terms of the "building envelope." Wold clarified that the State guidelines allow the density to increase, not the lot coverage to increase.

Commissioner Irons asked for Commission support on the following suggested changes:

1. Secondary units to be consistent with the primary unit noting we do not have design guidelines that require neighborhood compatibility and line out "and the neighborhood".
2. Zoning be left as "consistent" and to line out "reasonably compatible."
3. The total floor area for a detached secondary unit shall not exceed 1,200 square feet which is consistent with State law.
4. Restrict attached guest houses to not exceed 30% of the primary existing unit size and limited to owner occupied housing in the primary dwelling.

Solu and Nagy were not in support of dictating design requirements. Nagy stated regarding size, the lot size requirements are still present. Having a requirement which limits size to a percentage of the main house does not work if the main house is small.

Napier stated her support for Irons' suggestion on design requirement and also size limitations, noting that a developer is still limited to the building envelope.

Grantham stated his support and noted that reasonable compatibility provides flexibility.

MOTION: Grantham moved to pass as amended B-1. Solu seconded the motion.

Discussion included:

Commissioner Solu requested to amend the motion secondary unit subsection Item C to include "said unit shall be consistent and/or reasonably compatible."

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 4, 2012

Commissioner Irons requested to amend the motion to state the increased floor area of an attached second unit shall not exceed 30% of the existing living area to bring us into conformance with State code and also the guest unit on "A" (Section 17.48.315) for an attached unit. A detached unit shall not exceed 1,200 square feet.

Commissioner Irons amended the motion on the floor and Chairperson Grantham seconded. Rob Schultz confirmed State law.

VOTE: The motion carried 3-2 with Commissioners Napier and Irons voting no.

B-2 Case No.: #S00-109 and #AD0-065

Site Location: 821 Pacific and 700, 710 and 710 ½ Bernardo

Applicant/Project Sponsor: Ruth Viau/ Cathy Novak

Request: Requesting Planning Commission to amend the previously approved project conditions by deleting Planning Commission Condition 1, which requires parking to be provided on parcel two east of the power pole.

CEQA Determination: Categorically Exempt Section 15305, Class 5

Staff Recommendation: Conditionally approve amendment to #S00-109 and #AD0-065

Staff Contact: Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report and discussed with Commissioners the non-conforming status of the property including the previously approved parking exception.

Chairperson Grantham opened the Public Comment period.

Cathy Novak, Applicant's Representative, explained the Applicant's request and asked the Commission to support the modified parking request.

Chairperson Grantham closed the Public Comment period.

Commissioners discussed the request with staff.

Irons stated he was not in support of the Applicant's request to delete the parking condition as it is not an unreasonable condition. Irons addressed his concerns made known at the previous Commission meeting where he had requested the garage setback be made conforming at 5 feet from the existing 1 foot. And also his concern regarding the parking, which could be a safety issue having the parking spot straddle the right of way which he felt was not appropriate.

MOTION: Commissioner Nagy made a motion to approve Lot Line Adjustment #S00-109 and Variance #AD0-065, subject to the modified conditions of approval as stated in Exhibit B. The motion was seconded by Chairperson Grantham and carried 3-2 with Commissioners Napier and Irons voting no.

B-3 Case No.: #SP0-141

Site Location: Off premise signs at: Corner of Beach and Market, entry to parking lot of former Virg's location on the Embarcadero, boat launch ramp.

ORDINANCE NO. 576

AN ORDINANCE OF THE CITY OF MORRO BAY ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17 OF THE MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR MINISTERIAL REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES IN ALL ZONES WHERE SINGLE FAMILY HOMES ARE A PERMITTED USE.

THE CITY COUNCIL
City of Morro Bay, California

Case No. A00-013 (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, California State Law §65852.2 requires Cities to establish standards to allow for ministerial secondary dwelling units so as to increase the supply of smaller, affordable housing while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, the proposed amendments meet the intent of the State Law by providing for an option to build a secondary dwelling unit or guest house in all zones that permit single family dwellings and have no more than one single family home existing on the property; 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 December 7, 2011 after a duly noticed PUBLIC HEARING, did forward a recommendation, by adoption of Planning Commission Resolution No. 01-11 that the City Council amend Title 17 (Zoning Ordinance) to comply with the State legislation (AB 1866) as contained in attached Exhibit "A"; and

WHEREAS, on the 13th day of March 2012, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating Secondary Unit and Guesthouse as contained in attached Exhibit "A" 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 amendment based on the following findings:

1. The Zoning Ordinance Amendment proposal is consistent with the State Statute AB 1866 and includes similar language, which was previously in effect.

3. 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.

4. 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 Exhibit "A", attached hereto 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 the 13th day of March 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 A

17.48.320 SECONDARY UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements. Nothing in Government Code Sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j)) Noticing for interested parties and those properties within 100 feet of the second unit property will be required. Approvals of second units in the appealable zone will continue to be appealable to the Coastal Commission.

A. Location

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

B. Lot Coverage

Maximum lot coverage allowed for the District that they are located in.

C. Design

Said unit shall be consistent and/or reasonably compatible with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

D. Size

The total floor area, not including a garage, for a detached secondary unit shall not exceed 1,200 square feet as per State guidelines. The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.

E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setbacks areas and in tandem if both spaces are for the secondary unit. The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

F. Compliance with Title 14

A secondary unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

17.12.545 Secondary Dwelling Unit.

“Secondary dwelling unit” means an attached or detached residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling. This term also means “second unit” for the purposes of Sections 65852.150 and 65852.2 of the California Government Code.

17.44.020.C. e.iii. Secondary Dwelling Unit. In accordance with the provision of Section 1748.320(E) of this title.

17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

B. Location.

Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.

ATTACHMENT 2

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 22, 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
	Mike Lewis	Interim Police 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

Paul Gilliland owns Associated Pacific Contractors, a home grown business for the last 30+ years. Associated Pacific has a unique niche in the marketplace as they perform waterfront and marine construction activities between Santa Cruz and San Diego. Associated Pacific offers expertise in a broad range of technical areas. They are excited about the upcoming dredging contract they have with the City.

Joey Ricano, Director of the California Ocean Outfall Group, stated he had serious reservations about awarding a contract for the dredging project as dredging can be done on a maintenance basis only. Since the area hasn't been dredged in over 63 years, he doesn't feel this is a maintenance project. He also feels this will violate the Marine Protected Area.

Amit Patel, owner/operator of the Day's Inn and former Community Promotions Member spoke in support of the Morro Bay TBID in their attempts to market Morro Bay. Since the inception of the TBID there have been positive changes. He hopes that Council will continue to support and fully fund the request of Morro Bay Tourism Bureau. Please don't cut the efforts off just as business is starting to rebound.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 22, 2012

Mayor Yates closed the hearing for public comment.

Councilmember Smukler requested a timeline for getting the non-profit status. City Attorney Schultz stated that the Articles of Incorporation have been filed; the Bylaws are being worked on and will be given to the Council and the MBTBID in June for their review. The TBID will continue to function as an advisory board until then. Councilmember Smukler then spoke to the correspondence received from a hotelier in the north end which stated that some areas are not receiving the same benefits of the assessment as others in the City. City Attorney Schultz responded that those hoteliers need to become more a part of the process and felt it best to wait for the new Tourism Bureau to be put together before addressing the issue. It would take an amendment to the current Ordinance if a change were to be made.

Councilmember Johnson concurred with Councilmember Smukler's comments.

Councilmember Borchard spoke on the letter Council received from Mr. Gromley regarding the benefits he feels he isn't receiving. She would like to earmark the North end motels for conversation when we start adding vacation rentals into the MBTBID.

MOTION: Councilmember Borchard moved for adoption of Resolution 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. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.

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)

Public Services Director Rob Livick presented the staff report. At the December 13, 2010 Council meeting, it was 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. Based on the request, staff provided various options to Council for their consideration. The proposed amendment went to Planning Commission on April 18, 2012 who gave a favorable recommendation by Resolution 19-12. The change to the existing Ordinance would provide that "Except in the North Main Street Commercial parking Area (as defined) 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." A Negative Declaration was prepared, it was properly noticed, and is now before Council for their consideration.

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

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 22, 2012

Councilmember Borchard thanked staff; it was her goal to offer relief to some of the North Main Street businesses with parking issues. This also works into the ongoing efforts to review the Zoning Ordinance and Local Coastal and General Plan update which takes a long time. She hopes this will help in the interim.

Councilmember Johnson is happy to see that we are making progress on this issue as it has been a very long and difficult process. She sees this as a help to those businesses in North Morro Bay.

Councilmember Smukler is in support of this as it encourages renovations of existing structures. He would still like to see stronger language. He would like to see the word “commercial” added as follows: “...chapter where all changes in **commercial** uses including...”

MOTION: Councilmember Borchard moved for approval of Ordinance No. 578 by number and title only with the inclusion of the word “**commercial**” in the last sentence. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.

C. UNFINISHED BUSINESS

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

Harbor Director Eric Endersby presented the staff report stating that he was given direction to meet with the local sportfishing businesses to come to some general consensus regarding potential areas where a common “co-op” or other joint advertising and/or informational area could be established to promote the sportfishing industry. After discussions, the idea to install two kiosks, one near the South T-Pier and one near the giant chessboard were proposed. Staff is looking for Council support to carry this forward. Staff also requested that this concept be vetted through the Harbor Advisory Board before coming back to Council.

Councilmember Smukler wondered if the Harbor Department would be willing to include the Chamber in their further discussions to which Harbor Director Endersby said yes.

Councilmember Johnson felt it was important to send this to the Harbor Advisory Board in an effort to come up with a plan. Thinks it's a good idea to include the Chamber in the discussions.

Councilmember Borchard also feels it's appropriate to send this concept to the Harbor Advisory Board as well as work with the Chamber. It would also be good to include other coastal dependent businesses that might benefit from the kiosk concept

Mayor Yates stated that this is all great but feels there is some urgency and this all seems too slow of a process. He hopes it would be possible to do something temporarily that would help the sportfishing industry now, while other discussions are ongoing.

Councilmember Smukler questioned whether or not Sharon Moore (Virg's) was comfortable with adding additional water dependent activities to this concept to which she said, yes – down the road. He then asked if Council attempted to encompass all of this now, would that take too much time to which she responded, yes.



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 No. 19-12

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

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

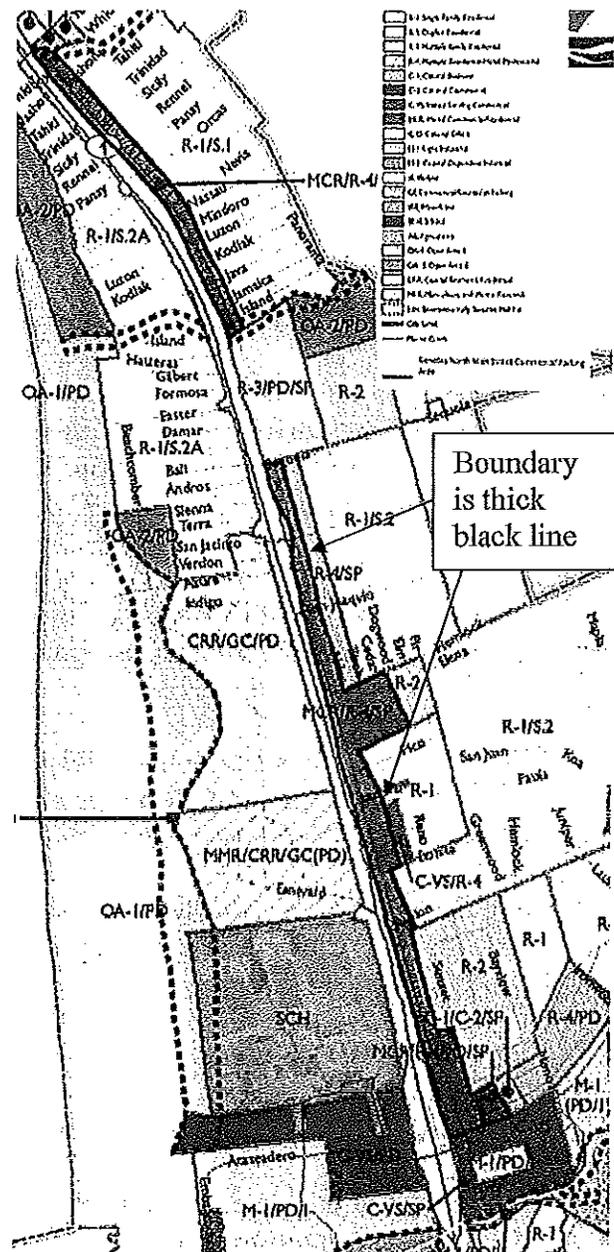
A. Off-Street Parking — General Requirements

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

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 commercial 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



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 Councilmember Borchard and seconded by Councilmember Smukler.

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 3

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – APRIL 26, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

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

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

CS-1 **GOVERNMENT CODE SECTION 54956.8: REAL PROPERTY TRANSACTIONS:** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Property: 699 Embarcadero; Lease Site 75-77/75W-77W
Negotiating Parties: City of Morro Bay and Morro Bay Marina, Inc.
Negotiations: Lease Terms and Conditions.

CS-2 **GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.**
Discussions regarding Personnel Issues related to the reorganization of City Public Services Department.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5: 55p.m.

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

The meeting adjourned at 5:55 p.m.

Technician to ½ time (Fire), Permit Technician to ¾ time (PS), and eliminate the Housing Programs Coordinator position while establishing an Administrative Technician (PS). There were a variety of part-time hourly positions that were affected as well. Following the first Budget Workshop, and when a set number of layoffs are known, staff will be more able to provide to the City Council further impact issues, such as office closures during the lunch hour and/or additional hours, scheduling changes, and staff availability. While we know there will be impacts, it is difficult to fully determine those impacts prior to knowing the final staffing numbers. Staff recommends Council receive this information and provide staff with any further direction.

Mayor Peters opened up the hearing for public comment.

There was no public comment.

This item is informational only, no action was necessary.

B-4 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 556 TO AMEND THE MORRO BAY MUNICIPAL CODE TITLE 17 ADDING CHAPTER 17.27 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED "ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES

Kathleen Wold stated that back in 2005 the City Council approved new regulations for antennas and wireless telecommunications as part of the comprehensive Zoning Ordinance Update. To date the Zoning Ordinance Update has not been certified by the California Coastal Commission therefore city staff must refer to the old regulations when processing new applications for wireless facilities. Recently city staff processed two new applications for wireless facilities under the old requirements. Subsequent to processing these applications City Council gave direction to staff to separate the wireless telecommunication facilities portion of the Update and bring it forward as a separate ordinance for review and approval. Staff brought a draft ordinance forward for Council review on March 22, 2010, minor changes were made to the regulations contained in the Updated Zoning Ordinance to make the regulations compatible with the existing Zoning Ordinance. On March 22, 2010 the Council reviewed the draft ordinance and directed staff to take into consideration comments made by both the council and the public and return with an ordinance for first reading and introduction. The revised ordinance was modified to include an exemption for city data/service facilities and eliminates sections deemed redundant. Staff recommends that city council approve Ordinance No. 556 for introduction and first reading only by number and title only.

Mayor Peters opened up the hearing for public comment.

There was no public comment

Councilmember Winholtz was concerned about the size of the satellite dishes.

Councilmember Grantham said large satellite dishes have not been around for over 10 years.

MOTION: Councilmember Winholtz moved to approve Ordinance 556 for introduction and first reading by number and title only. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B-5 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 557
AMENDING MORRO BAY MUNICIPAL CODE CHAPTER
2.16.080 REGARDING THE DUTIES OF THE CITY ATTORNEY

City Attorney Rob Schultz was directed and is presenting Council with amended City Attorney duties to include a requirement that he/she attend all appeals before the Planning Commission. Staff recommends Council accept public comment and move for introduction and first reading of Ordinance No. 557 by number and title only.

Mayor Peters opened up the hearing for public comment.

There was no public comment.

Councilmember Borchard said she finds it disappointing that we have to draft an amendment to the ordinance rather than just give direction.

MOTION: Councilmember Winholtz moved approval of Ordinance 557 for introduction and first reading by title and number only. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 PRESENTATION BY THE COMMUNITY PROMOTIONS COMMITTEE
REGARDING THEIR GOALS AND BUDGETARY REQUEST FOR 2010-
2011 AND ADOPTION OF AMENDMENTS TO THE BYLAWS FOR THE
COMMUNITY PROMOTIONS COMMITTEE

City Attorney Rob Schultz presented Council with amendments to the Community Promotions Committee's Bylaws. Also, members of the Community Promotions Committee gave a presentation regarding their goals, accomplishments and budgetary requests for the upcoming fiscal year. Presenting on behalf of the Community Promotions Committee were John Sorgenfrei, Peter Candela, Ed Krovitz and Susan Stewart.

MOTION: Councilmember Winholtz moved to adopt the Community Promotions Committee's recommendations for their Bylaws with new wording on the middle of the first paragraph and that the second paragraph of qualifications reflect Mayor Peters' comments that she provided to

On March 22, 2010 the council reviewed the draft ordinance and directed staff to take into consideration comments made by both the council and the public and return with an ordinance for first reading and introduction.

The minutes of the March 22, 2010 meeting reflect that comments were made by Councilmember Winholtz and John Barta, a member of the public. Mr. Barta felt that the radar antennas should be included in the new ordinance. Staff researched this issue and found that radar facilities are regulated by the federal government and should not be regulated in this ordinance. However there may be some confusion between radar facilities and microwave facilities, staff points out that this new ordinance does regulate new microwave facilities.

The minutes indicate that a Councilmember Winholtz was not in favor of allowing any facility to exceed the maximum height limit for the zone district in which it is proposed. . The height limitation contained within the ordinance provides for height limits which will provide an adequate range of telecommunication services thus limiting the number of facilities by each service provider within the city, limiting the height will restrict the service range and may ultimately result in the necessity for addition sites. . Staff points out that the ordinance also requires screening of facilities under certain circumstances reducing the visual impacts associated with most new facilities. The minutes further indicate that she felt the definition of visual was nebulous. Staff has proposed a revised definition of readily visible as follows:

Readily Visible. A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunications facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

Other than the modification as mentioned above the ordinance was modified to include an exemption for city data/service facilities and to eliminate sections 17.30.030.F and 17.48.340 which were determined to be redundant.

CONCLUSION:

Staff recommends that the City Council approve Ordinance No. 556 for introduction and first reading by title only.

Attachments: City Council minutes from March 22, 2010.

Initial Study and Final Negative Declaration for the city of Morro Bay's zoning Ordinance Update.
Ordinance No. 556

Ordinance No. 556

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MORRO BAY ANNOUNCING FINDINGS AND AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 17.27 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED "ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES" AND MODIFYING CHAPTER 17.12 TO INCORPORATE NEW DEFINITIONS, 17.24 TO MODIFY PRIMARY DISTRICT MATRICES TO INCORPORATE THE TEXT CHANGES, 17.30 TO ELIMINATE SECTION 17.30.030.F "ANTENNAS", 17.48 MODIFY TO ELIMINATE SECTION 17.48.340 "SATELLITE DISH ANTENNAS" AND MODIFY THE TITLE PAGE TO REFLECT THE NEW CHAPTER.

THE COUNCIL OF THE CITY OF MORRO BAY DOES ORDAIN AS FOLLOWS:

WHEREAS, the Planning Commission of the City of Morro Bay held a duly noticed public hearings on considering a comprehensive update to the city of Morro Bay's Zoning Ordinance (Title 17) and recommended approval of said update to the City Council and wherein the proposed ordinance Number 556 was contained within this comprehensive update and therefore also recommended for approval; and

WHEREAS, the City Council of the City of Morro Bay conducted duly noticed public hearing on April 26, 2010; and

WHEREAS, the Council has reviewed and considered Ordinance No 556 and has found that Ordinance No. 556 complies with the City of Morro Bay objectives, criteria and procedures for implementation of the California Environmental Quality Act (CEQA) in that the project is covered under the environmental document previously approved for the comprehensive update of the Zoning Ordinance of which this ordinance was a part of and therefore no additional environmental documentation is deemed necessary; and

WHEREAS, following the public hearing after consideration of the memorandums, staff reports, addendums, and consideration of the comments by all persons written and oral; and

WHEREAS, notices of said public hearings were made at the time and in the manner required by law; and

WHEREAS, the Council has duly considered all evidence, including the recommendation of the Planning Commission, testimony of interested parties, and the evaluation and recommendations by staff, presented at said hearings; and

WHEREAS, the City Council finds that the proposed text amendment is consistent with the General Plan, the Local Coastal Plan, the Zoning Ordinance and other applicable City ordinances; and

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

SECTION 1. Environmental Determination. The City Council finds and determines that the project's Negative Declaration adequately addresses the potential environmental impacts of the proposed text amendment to the Zoning Ordinance, and reflects the independent judgment of the City Council. The Council hereby finds that the Negative Declaration adopted for the comprehensive Zoning Ordinance Update is adequate and further finds that no additional environmental review is required to be conducted.

SECTION 2. Findings. The City Council makes the following findings:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter; and,
2. The proposed text amendment is consistent with the General Plan, the Local Coastal Plan, the Zoning Ordinance and other applicable City ordinances; and
3. The proposed amendments are consistent with General Plan policies since the regulations implement General Plan policies including those associated with preservation of neighborhood character, Land Use, and Visual Resources; and
4. The proposed amendments will not significantly alter the character of the neighborhoods or cause significant health, safety or welfare concerns. The proposed regulations will establish clear guidelines for the establishment of antennas and wireless telecommunication facilities ensuring all facilities will be established in a manner that protects the community from health, safety or welfare concerns.

SECTION 3. Revisions. Ordinance No. 556 which revises portions of the existing Title 17 as stated below is hereby adopted.

Modify the title page to reflect the new chapter; and
Chapter 17.12 to incorporate new definitions; and
Chapter 17.24 modify matrixes to incorporate proposed text changes; and
Chapter 17.30 "special uses" modify to eliminate section 17.30.030. F "antennas"; and
Chapter 17.48 modify to eliminate section 17.48.340 satellite dish antennas; and
Add Chapter 17.27

SECTION 4. A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in the Telegram-Tribune, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

INTRODUCED at the regular meeting of the City Council held on the 26th day of April 2010, 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:

JANICE PETERS, MAYOR
CITY OF MORRO BAY

JAMIE BOUCHER, DEPUTY CITY CLERK
CITY OF MORRO BAY

APPROVED AS TO FORM:

ROBERT W. SCHULTZ, ESQ.
CITY ATTORNEY

Title 17

ZONING*

CHAPTERS:

- 17.04 **General Provisions**
 - 17.08 **Interpretation**
 - 17.12 **Definitions**
 - 17.22 **Zoning Map - Boundaries**
 - 17.24 **Primary Districts**
 - 17.27 *Antennas and Wireless Telecommunications Facilities*
 - 17.30 **Special Uses, Special Use Permits and Temporary Use Permits**
 - 17.40 **Special Treatment Overlay and Combining Districts and Specific Plans**
 - 17.44 **Parking, Driveway and Loading Facilities**
 - 17.45 **Bluff Development Standards**
 - 17.48 **General Regulations, Conditions and Exceptions**
 - 17.49 **Community Housing Project Regulations, Residential Conversions and Demolition**
 - 17.50 **Affordable Housing, Density Bonuses and Incentives**
 - 17.52 **Performance Standards**
 - 17.56 **Nonconforming Uses and Structures**
 - 17.58 **Coastal Development Permits and Procedures**
 - 17.60 **Use Permits, Procedures Notices and Variances**
 - 17.61 **Enforcement**
 - 17.64 **Amendments**
 - 17.68 **Signs**
 - 17.70 **Adult Entertainment Businesses**
- Appendix A**

* Prior ordinance history: Prior code §§ 5101.1 -- 5101.3, 5102.1, 5103.1 -- 5103.5, 5104.1, 5104.2.1 -- 5104.2.12, 5104.3, 5104.3.1 -- 5104.3.7, 5104, 5104.4.1 -- 5104.4.4, 5105.1 -- 5105.8, 5106.1 -- 5106.22, 5106.24, 5107.1 -- 5107.9, 5108.1 -- 5108.6, 5109.1 -- 5109.9, 510.1 -- 5110.4, 5110.6 -- 5110.14, 5111.1 -- 5111.7, 5112.1 -- 5112.6; Ords. 65, 77, 100, 107, 136, 141, 173, 174, 176, 178, 182, 186, 195, 204, 207, 208, 212, 220, 225, 230, 236, 243, 445, 470.

Chapter 17.12

DEFINITIONS*

Sections:

17.12.010	Purpose
17.12.012	Access
17.12.015	Accessory Structures
17.12.017	Administrative Coastal Development Permit
17.12.020	Administrative office
17.12.022	Affordable Housing
17.12.025	Aggrieved Person
17.12.026	Agriculture
17.12.030	Alley
17.12.032	<i>Amateur Radio Antenna</i>
17.12.035	Amusement machine
17.12.037	<i>Antenna</i>
17.12.040	Apartment
17.12.050	Apartment house
17.12.055	Arcade
17.12.056	Automobile repair, major
17.12.057	Automobile repair, minor
17.12.058	Average bluff edge elevation
17.12.059	Bed and breakfast establishment
17.12.060	Block
17.12.062	Bluff
17.12.063	Bluff border
17.12.064	Bluff review area setback
17.12.065	Bluff, toe
17.12.066	Bluff top edge
17.12.070	Boarding house
17.12.080	Building
17.12.090	Building, accessory
17.12.092	Building lot coverage
17.12.100	Building, main (primary)
17.12.102	<i>Building-Mounted Telecommunications Facility</i>
17.12.105	Building official
17.12.110	Building site
17.12.115	Bulk
17.12.120	Business, retail
17.12.130	Business, wholesale

17.12.135	Campground
17.12.140	Cantilever
	17.12.150 Carport
17.12.158	Child Day Care Facility
17.12.160	City
17.12.170	City Council
17.12.172	Coastal bluff area
17.12.173	Coastal bluff properties
17.12.175	Coastal dependent development or use
17.12.176	Coastal development permit appeal area
17.12.177	Coastal related development or use
17.12.180	Combining districts
17.12.185	Commission
17.12.187	Community apartment
17.12.188	Community housing project
17.12.189	Condominium
17.12.191	Conversion
17.12.192	Conversion date
17.12.193	Covenant
17.12.194	Cut slope
17.12.195	Customer Service Area
17.12.196	Day Care Facility
17.12.197	Demolition
17.12.198	Density Bonus
17.12.199	Development
17.12.200	Director
17.12.203	District
17.12.205	Dredging
17.12.210	Dwelling
17.12.220	Dwelling groups
17.12.230	Dwelling, multiple
17.12.240	Dwelling, single family
17.12.250	Dwelling, three family or triplex
17.12.260	Dwelling, two family or duplex
17.12.264	Easement
17.12.265	Elderly Housing
17.12.266	Emergency
17.12.267	Environmentally sensitive habitat
17.12.268	Equestrian boarding
17.12.269	Estuary
17.12.270	Family
17.12.272	Family day care home
17.12.275	Feasible
17.12.280	Fence
17.12.281	Fill slope
17.12.282	Finished grade

17.12.238	Floodplain, 100 year
17.12.284	Floodway
17.12.285	Floor area
17.12.287	Floor area, gross
17.12.290	Garage
17.12.292	Garage, public parking
17.12.294	Grading
17.12.295	Granny Unit
17.12.300	Guesthouse
17.12.310	Height of building
17.12.320	Home occupation
17.12.330	Hotel
17.12.333	Infant
17.12.335	Infill
17.12.337	In-Lieu Fees
17.12.340	Junkyard
17.12.344	Kitchen
17.12.345	Landscaping
17.12.346	Lateral Access
17.12.347	Local Coastal Plan, Land Use Plan
17.12.348	Local Coastal Program (Plan and LCP)
17.12.349	Lofts
17.12.350	Lot
17.12.360	Lot, corner
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17.12.370	Lot, front
17.12.380	Lot, inside
17.12.390	Lot line
17.12.400	Lot, key
17.12.410	Lot side
17.12.420	Lot, through
17.12.430	Lot width
17.12.433	Low and moderate income housing
17.12.435	Low-income housing
17.12.440	Mobilehome or manufactured housing
17.12.450	Mobilehome park
17.12.455	Moderate-income housing
17.12.457	Modular Buildings
17.12.459	<i>Monopole</i>
17.12.460	Motel or Hotel
17.12.463	Non-conforming structure
17.12.464	Non-conforming use
17.12.465	Nursery, garden
17.12.466	Offshore oil and gas exploration and development
17.12.467	Open and lacy trees
17.12.468	Open porch or deck

17.12.470 Outdoor dining and display
 17.12.471 Parking space
 17.12.472 Percentage slope
 17.12.475 Permit
 17.12.480 Person
 17.12.482 Plan, concept
 17.12.483 Plan, specific
 17.12.485 Planned unit development (planned residential development)
 17.12.487 Prime agricultural lands
 17.12.490 Professional office
 17.12.492 *Readily Visible*
 17.12.495 Recreational vehicle, motor home or travel trailer
 17.12.500 Recreational vehicle (RV) park
 17.12.501 Redevelopment
 17.12.502 Regular coastal development permit
 17.12.510 Residential security unit
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 17.12.532 *Satellite antenna*
 17.12.540 Screening
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 17.12.560 Setback line
 17.12.570 Side and front of corner lot
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 17.12.585 Stock cooperative
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 17.12.600 Street line
 17.12.610 Structural alterations
 17.12.620 Structure
 17.12.625 Structure, non-conforming
 17.12.627 *Telecommunications Facility*
 17.12.629 *Telecommunications Facility, Co-Located*
 17.12.630 Tenant
 17.12.650 Unbuildable area
 17.12.655 Urban area
 17.12.656 Urban area, non
 17.12.660 Use
 17.12.662 Use, accessory
 17.12.664 Use, conditionally permitted
 17.12.666 Use, illegal
 17.12.668 Use, nonconforming
 17.12.670 Use, permitted

17.12.680	Use, secondary
17.12.685	Use, special
17.12.691	Vacancy rate
17.12.692	Vertical access
17.12.693	Very low affordable housing
17.12.695	Vessels for commercial fishing
17.12.700	Veterinary clinic
17.12.710	Veterinary hospital
17.12.712	Visitor serving facility
17.12.714	Warehouse
17.12.716	Wetlands
17.12.720	Yard
17.12.730	Yard, front
17.12.740	Yard, rear
17.12.750	Yard, side
17.12.755	Yard, exterior or street side
17.12.757	Yard, interior side
17.12.760	Zoning administrator

Antenna. Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception, or both, of electromagnetic radiation waves.

Amateur Radio Antenna. Any antenna used to receive or transmit radio signals on the amateur radio bandwidth, as designated by Federal regulation.

Satellite Antenna. Any antenna used to receive or transmit radio or television signals from orbiting communication satellites.

Building-Mounted Telecommunications Facility. A facility constructed in two general forms, roof mounted, in which an antenna is placed on or above the roof, and facade-mounted, in which an antenna is mounted on the side of a building. Building-mounted facilities can be located on or inside various structures such as building roof or eave trim, church steeples, or other innovative locations.

Monopole. A facility that consists of a single pole structure erected on the ground to support wireless telecommunications antennas and connecting appurtenances.

Telecommunications Facility. A facility that transmits or receives electromagnetic signals, including antennas for cellular, enhanced specialized mobile radio (ESMR), personal communications services (PCS), microwave dishes, earth stations for satellite-based communications, and similar facilities.

Telecommunications Facility, Co-Located. A facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

Readily Visible. A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a

person with normal vision, and distinguished as an antenna or other component of a wireless telecommunications facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

17.24.030 Suburban Residential (RA) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Single-family dwelling.	No	25 ft (no wall may exceed 30 ft.)	20,000 sq. ft.	20,000 sq. ft.	20 ft.	10 ft garage entrance 20ft.	10% of ave. with 10 ft maximum requirement	20% of the depth of the lot with 20 ft. maximum	35% minimum permeable surface	45%
Crop and tree farming; viticulture; farming and if one acre or more grazing, of not more than two (2) cattle or horses per acre or not more than four (4) sheep or goats per acre.					Refer to Chapter 7.16 for animal keeping setbacks					
Rabbit and chicken ranching involving not more than twelve (12) animals					Expressly prohibited: commercial dairies and kennels;					
Accessory uses and buildings normally incidental to other permitted uses but not including commercial uses, and located in accordance with Title 7; home occupations					Guest House (no Kitchen) or Granny Unit with a Single Family Residence					
Temporary Produce Stands	Minor Use		10 acres	1 per lot	20 ft.	10 ft.	10 %	20% of the depth of the lot with 20 ft. maximum		
Additional Residences for Agricultural Employees	Yes				Not permitted within 100' of residential structure or adjacent residentially zoned property					
Equestrian Boarding					Per CUP					
Special Use Permits pursuant to 17.30 <i>Antennas and Wireless Telecommunications Facilities</i>	Yes	See section 17.27								

17.24.040 Single Family Residential (R-1) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling	No	25 ft (No wall may exceed 30 ft.)	Refer to subdivision regulations for sizes for new lots	1/lot or pursuant to Section 17.24.040	20 ft	20% of ave. width of lot with 10 ft maximum and 5 ft minimum Garage entrance 20ft.	10% of ave. width of lot with 5 ft maximum and 3 ft minimum	10% if ave. depth of lot with 10 ft maximum and 6 ft minimum	N/A	45%
Home occupations: structures and uses (include, home oc.) normally incidental to primary use	Minor Use Permit									
Guest house (no kitchen) or Granny unit with a Single Family Residence	Yes									
Community housing project	Yes		1 per CUP	5,000 sq. ft. or per overlay zone					Plan required 20% min. permeable surface area	
Special Use Permits pursuant to 17.30	Yes									
PER CUP										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

17.24.050 Duplex Residential (R-2) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 district	No	25 ft.	Refer to Subdivision regulations for sizes for new lots	2,900 sq. ft.	20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum Garage entrance 20ft.	10% of ave. width of lot with 5 ft. maximum and 3 ft. minimum	5 ft.	N/A	50 %
Duplexes (single structure); second single family dwellings										
Home occupations; structures and uses normally incidental to primary use										
Guest house (no kitchen) or Granny unit with a Single Family Residence	Minor Use Permit									
Apartment units/Bed and Breakfast	Yes									
Community Housing projects			10,000 sq. ft.							
Mobile home parks and other permitted uses as stated in Section 17.40.060			2 acres							
Parking lots-only to serve residential uses			Per CUP	N/A						
Special Use Permits pursuant to 17.30	Yes		Per	CUP						
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

Plan required
15%
minimum permeable surface

17.24.060 Multiple Family Residential (R-3) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 and R-2 districts.	No	25 ft.	Refer to Subdivision Regulations for sizes for new lots	2,175 sq. ft.	15 ft. Garage entrance 20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum Garage entrance 20ft.	5 ft.	5 ft. except where abouts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations; structures and uses normally incidental to primary use									Plan required 15% minimum permeable surface	
Apartment units									permeable surface	
Guest house (no kitchen) or Granny unit with a Single Family Residence	Minor Use Permit								N/A	
Rooming and boarding house; bed and breakfast establishment	Yes			2,900 sq. ft.					Plan required 15% minimum permeable surface	
Community Housing project			6,000 sq. ft.							
Parking Lot			3 acres	N/A						
Mobile home park			3 acres	2,900 sq. ft.						
Special Use Permits pursuant to 17.30	Yes		Per	CUP						
Antennas and Wireless Telecommunications Facilities										

See Section 17.27

17.24.070 Multiple Residential (R-4) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses listed in the R-1, R-2, and R-3 districts.	No	30 ft.	Refer to Subdivision Regulations for sizes for new lots	1,800 sq. ft.	15 ft. Garage entrance 20 ft.	20% of ave. width of lot with 15 ft. maximum and 10 ft. minimum	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations; structures and uses normally incidental to primary uses									Plans required 15% minimum permeable surface	
Apartment units										
Guest House (no kitchen) or Granny unit with a Single Family Residence	Minor Use Permit									
Community housing project										
Rest home; rooming and boarding houses	Yes		6,000 sq. ft.	750 sq. ft.						
Hotel and Motel; Bed and Breakfast establishment			3 acres	2,900 sq. ft.						
Mobile Home Park										
Commercial uses and services, including but not limited to newsstands, gifts and notions, coffee shops, self service laundries and bike rental, which are normally incidental to hotels, motels and mobile home parks, if such uses are provided without direct access to a public street										
Parking lots										
Professional, governmental and general business offices which do not engage in retail sales on the premises	Yes		Per	CUP						
Special Use Permits pursuant to 17.30										
Antennas and Wireless Telecommunications Facilities									See Section 17.27	

17.24.080 Coastal Resource Residential (CRR) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling Structures and uses normally incidental to the primary use; home occupation	No	14 ft./25 ft. (refer to special standards)	20,000 sq. ft. If cluster development 6,000 sq. ft. interior & 7,000 sq. ft. corner. (Refer to Cluster Requirements)	1 unit per lot	20 ft. (In addition garage shall be 20 ft. from sidewalk).	10 ft.	10% of the width of the lot with 6 ft minimum	10 ft. from property lines and from designated view corridor lines.	Plan required	30% If clustered: Refer to Cluster Requirements
Guest house (no kitchen)	Yes									
Granny Units are specifically prohibited <i>Antennas and Wireless Telecommunications Facilities</i>	See Section 17.27									

17.24.090 Central Business (C-1) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses:

	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Tattoo parlors	None except minor CUP if within 100' of or across the street from a residential zone or a school zone									
Video arcades										
Bars when not part of a restaurant	Yes	30 ft. except 25 ft. within 20 ft. of a residential district other than R-4	Refer to Subdivision Regulations for sizes for new lots	2,500 sq. ft.	0 ft. with an average of 2 ft. except 10 ft. when across the street from a residential district		0 ft. except 10 ft. when adjacent to a residential district		Plan required per Section 17.48.290	90%
Hotels, motels;										
Plant nurseries, home improvement centers and tire shops/auto repair subject to a CUP [Ord. 324 exh. B sl. 1988]										
Multi-story parking garages										
Retail sales and personal services not with-in a building.										
Drive-in or drive-thru restaurants.										
Service stations with minor auto repair, car wash.										
Fabrication of items sold on the premises										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

24.100 Service Commercial (C-2) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>Retail uses within a building except liquor stores</p>	<p>No</p>	<p>30 ft. except 25 ft. within 20 ft. of a residential district other than R-4</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>N/A</p>	<p>Average of 2 ft. except 10 ft. when across the street from a residential district</p>	<p>0 ft. except 10' when adjacent to a residential district</p>	<p>Plan required per Section 17.48.290</p>	<p>90%</p>		
<p>Business and professional offices</p>	<p>None required except when within 100' or across the street from a residential zone in which case a Minor Use Permit is required</p>									
<p>The following uses, within building such as: animal hospital; auto sales and service; motor and major automotive repair shop; car cleaning and detail establishments; dry cleaners heavy equipment sales and services; laundries; locker plants; nurseries; plumbing shops; hardware stores; second hand sales; cabinet shops; tire shops; restaurants</p>										
<p>Storage and warehouse establishments such as: mini-warehouses; commercial public storage; wholesale storage and distribution of products to retail outlets; restaurant suppliers excluding wholesale food distributors.</p>										
<p>Liquor sales and convenience stores</p>	<p>Yes</p>									
<p>Outdoor storage and sales establishments and any uses permitted without a use permit when carried on outside a building</p>										
<p>Home improvement centers.</p>										
<p>Service stations, auto body, and paint shops; building and repair of boats.</p>										
<p>Fish processing excluding canning; light fabrication contractors' yards; uses clearly ancillary to primary uses</p>										
<p>One residence for security purposes</p>										
<p>Antennas and Wireless Telecommunications Facilities</p>	<p>See Section 17.27</p>									

17.24.110 Mixed Commercial/Residential (MCR) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Anterior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Parking lots.	Yes	25 ft. (Refer to special standards for imitations and variations)	Refer to Subdivision Regulations for commercial for new lots		5 ft. (Refer to special standards) except 10 ft. when across the street from a residential zone		5 ft. setback for buildings of 15 foot height or less, 10 ft. setback for buildings of greater than 15 foot height.		Plan Required	60%
Fabrication of items sold on the premises.										
bars when not part of a restaurant.										
Hotels, motels.										
Nurseries and home improvement centers.										
The following retail uses and service, within a building: animal hospital; auto sales and service; automotive repair shop; car cleaning and detailing establishments; dry cleaners; heavy equipment sales and service; laundries; locket plants; plumbing shops; second hand sales; cabinet shops; tire shops.										
When not on Main Street, Storage and warehouse establishments such as: mini-warehouses; commercial public storage; wholesale storage retail outlets; restaurant suppliers excluding wholesale food distributors; and Contractors' yards										
Service stations, auto body and paint shops; building and repair of boats										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

17.24.120 Visitor-Serving Commercial (C-VS) District Table II

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>Overnight R-V camping, in-park stores for sundries and other R-V related goods.</p>	<p>Yes</p>	<p>30 ft.</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>2,900 sq. ft.</p>	<p>25 ft.</p>	<p>15 ft.</p>	<p>10 ft.</p>	<p>10 ft.</p>	<p>Plan Required per Section 17.48.290. All street yards shall be landscaped in addition to parking lot landscaping</p>	<p>60%</p>
<p><i>Antennas and Wireless Telecommunications Facilities</i></p>	<p>See Section 17.27</p>									

17.24.130 General Office (G-O) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>Police and fire stations; professional Offices; general Business Offices; retail sales within a building.</p>	<p>None except Minor use Permit if within 100' of or across the street from a residential zone</p>	<p>25 ft.</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>2,900 sq. ft.</p>	<p>5 ft.</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>
<p>Governmental offices; offices or meeting facilities of non-profit organizations; medical and dental offices and clinics</p>	<p>Yes</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Medical, Dental and optometrical laboratories, for the fabrication and processing of products of general sale and distribution; pharmacies; stations; printing and duplicating</p>	<p>Yes</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Plant Nurseries</p>	<p>Yes</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Coffee Shops</p>	<p>Yes</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Personal services permitted in the C-1 zone such as barber shops, beauty shops and shoe repair.</p>	<p>Yes</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Municipal parking lots</p>	<p>Yes</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Antennas and Wireless Telecommunications Facilities</p>	<p>See Section 17.27</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>

17.24.140 Light Industrial (M-1) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
The following uses within a building or surrounded by landscaping and a solid fence or wall at least six (6) feet high: blacksmith shop; lumber yard; boat building; machine shop; bottling plant; heavy equipment and building materials sales and storage; cabinet shop; pipe yard; locker plant; contractors yard; service yard; feed and fuel yard; outdoor storage and sales but not including self-service fuel dispensing facilities; sheet metal shop; auto mechanic shop; auto body paint and repairs shop; warehousing; dry cleaning plant and laundry; nursery for plants.	None except when within 300' of other non M-1 Districts a Minor Use Permit is required, or within 100' or across the street from a residential zone in which case a regular CUP is required	30 ft.	Refer to Subdivision Regulations for sizes for new lots	N/A	25 ft.	10 ft.	0 ft. except 10 ft when adjacent to a residential zone or use	Plan Required	90%	
Light manufacturing, fabrication; component assembling; small parts processing.										
Residence for security purposes										
Food and seafood processing	Yes									
Aquaculture										
<i>Antennas and Wireless Telecommunications Facilities</i>	See Section 17.27									

17.24.150 Coastal Dependiant Industrial (M-2) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Thermal power plant and support facilities; pipelines; storage tanks; wastewater treatment facilities ; other industrial uses which must be located on or adjacent to the sea in order to function; Excluding: OCS land-based support facilities including but not limited to support bases, pipe storage yards and pipeline coating yards	Yes	30 ft. (For new construction only - does not apply to replacement or repair of existing structures)	Refer to Subdivision Regulations	N/A	25 ft	10 ft	0 ft. except 10 ft. when adjacent to residential use or zone.	Plan Required	90%	
Aqua-culture and fish processing plants.										
Uses allowed in the M-1 Zone if coastal related, such as but not limit to: boat construction marine supply and repair, Recreational Vehicle service and other Coastal Related Manufacturing uses.										
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

17.24.170 Waterfront (WF) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Support uses, structures, connections, and appurtenances to water uses including wharves, docks, pier, slips, quay, launches, fuel docks, hoists, and other facilities necessary or convenient for the promotions and accommodation of commerce and navigation; Parks, observation decks and platforms, patios, boardwalks, benches, kiosks, kiosks and other facilities necessary or convenient for the promotion and accommodation of public access to the waterfront; Revetments, bulkheads, seawalls, cliff retaining walls, and other such structures that alter shoreline processes which are found to be necessary for protection of existing development (new development must ensure stability without depending on shoreline protection devices) or public recreation areas, or other coastal development uses [Ord. 263 s1 (part), 1984]	Yes	The height limit for structure shall be twenty five (25) feet, except for development on the west side of the Embarcadero which shall be limited to seventeen (17) feet; height determined by average grades of the land proportion of the site not including bank. Exceptions: see 17.48.070	Refer to Subdivision Regulations for new commercial lots	N/A	0 ft. with a 5 ft average	5 ft. with a 5 ft average	0 ft.	0 ft. except 10 ft. in areas where public boardwalks and viewing platforms are required	Plan required	90%
<i>Antennas and Wireless Telecommunications Facilities</i>	Sector 17.27									

17.24.180 Commercial/Recreational Fishing (CF) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Parks, public open spaces, beach, bike lanes, benches, boardwalks, kiosks, fences and other facilities necessary or convenient for the promotion and accommodation of public access to the waterfront;	Yes	14 ft. along Coleman Drive; 30 ft. other areas (see exception, Section 17.24.180 B. 6.e)	Refer to Subdivision Regulations for new commercial lots	N/A	5 ft.	5 ft.	0 ft.	0 ft.	Plan required	50%
Government buildings and land based support facilities, including but not limited to connections and appurtenances to docks and piers, which are necessary and convenient for the safety and maintenance of waterways;										
Power plant cooling water intake facilities, if found to be consistent with Section 17.24.180.B.1 [Ord. 263 s1 (part), 1984]										
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

17.24.200 Mariculture and Marine Research (MMR) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping Required</p>	<p>Maximum Lot Coverage</p>
<p>Mariculture, marine biology and oceanographic commercial and scientific research;</p>	<p>Yes</p>	<p>14 ft except 4 ft within a public viewshed corridors defined in the LCP Land Use Plan</p>	<p>N/A</p>	<p>Refer to Subdivision Regulations for new commercial lots</p>	<p>20 ft</p>	<p>10 ft</p>	<p>5 ft</p>	<p>10 ft</p>	<p>Plan Required</p>	<p>20%</p>
<p>Breeding, hatching and propagation of fish, shellfish and marine organisms;</p>										
<p>Grow-out and raising of fish and shellfish in ponds, tanks or raceways utilizing sea water;</p>										
<p>Sea water intake and outlet pipelines providing a source of sea water used in mariculture and research activities;</p>										
<p>Related administrative and office uses ancillary to the primary mariculture and marine research uses;</p>										
<p>Parking, delivery and service facilities related to the primary mariculture or research uses (Ord. 338 s2 (part), 1988)</p>										
<p><i>Antennas and Wireless Telecommunications Facilities</i></p>	<p>See Section 17.27</p>									

Chapter 17.30

SPECIAL USES

F. Antennas

~~Radio or television transmitters satellite dish antennas or similar receivers in conjunction with commercial or industrial uses;~~

Chapter 17.48

GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS

SECTIONS:

~~17.48.340~~ ~~Satellite dish antennas~~

~~17.48.340~~ ~~SATELLITE DISH ANTENNAS~~

~~The intent of this Section is to establish regulations which allow for the reasonable use of various telecommunication reception technologies while at the same time protecting other community values such as public safety, views and neighborhood character.~~

A. ~~Small Dish Antennas~~

~~Any satellite dish antenna which is equal to, or less than, thirty inches in diameter or equal to, or less than seven square feet in area may be permitted in any District provided, however, that said satellite dish antenna is not located in any required setback area and the height limit for the zoning District is not exceeded.~~

B. ~~Large Satellite Dish Antennas in Residential Districts~~

~~Satellite dish antennas which are larger than thirty inches in diameter or seven square feet in area may be permitted in any residential District in conjunction with a residential use subject to the following standards.~~

~~1. Setbacks~~

~~Such satellite dishes shall not be located in any required setback.~~

~~2. Height limit~~

~~The height limit for the District shall not be exceeded.~~

~~3. Location~~

~~Such antennas shall be located above the first floor or enclosed within a six foot high fence~~

~~4. Proximity to structures~~

~~No detached satellite dish antenna shall be located closer than six feet from any building.~~

~~C. Exceptions~~

~~Any satellite dish antenna which does not meet the requirements of subsection A or B of this Section, may be permitted in any residential District in conjunction with a residential use subject to obtaining a Conditional Use Permit from the Planning Commission. In addition to the findings required by Chapter 17.60, the Planning Commission shall also find that the intent of this Section is satisfied in its consideration of the Use Permit request. (Ord. 263 § 1 (part), 1984)~~

~~D. Large Satellite Dish Antennas in Non-Residential Districts~~

~~Satellite dish antennas which are larger than thirty inches in diameter or seven square feet in area may be permitted in a non-residential Districts with a Conditional Use Permit.~~

Chapter 17.27 Antennas and Wireless Telecommunications Facilities

Sections:

- 17.27.010 Purpose
- 17.27.020 Applicability; Exemptions
- 17.27.030 Submittal Requirements
- 17.27.040 Standards
- 17.27.050 Procedures
- 17.27.060 Cessation; Exercise of Permits, Transfer of Permits

17.27.010 Purpose

This Chapter provides a uniform and comprehensive set of standards and procedures to regulate the development, siting, installation, and operation of wireless telecommunications antennas and related facilities ("wireless telecommunications facilities") consistent with the goals, objectives, and policies of the General Plan and the applicable requirements of federal law. The regulations are intended to provide for the appropriate development of wireless telecommunications facilities within the City to meet the needs of residents, business-owners, and visitors while protecting public health and safety and preventing visual blight and degradation of the community's aesthetic character and scenic vistas. It is the City's intent to apply these regulations to accomplish the following:

- A. Provide incentives for well-designed and appropriately located antennas and wireless telecommunications facilities.
- B. Encourage the leasing of publicly owned properties where feasible or desirable.
- C. Encourage the use of existing facilities and co-location of facilities by multiple service providers.
- D. Encourage the placement of antennas on existing structures.
- E. Provide a competitive and broad range of telecommunications services and high quality telecommunications infrastructure to meet the community's needs and serve as an important and effective part of Morro Bay's emergency response network.

17.27.020 Applicability; Exemptions

The requirements of this Chapter shall apply to all telecommunications facilities that transmit and/or receive electromagnetic signals including, but not limited to personal communications services (cellular and paging) and radio and television broadcast facilities. All of the following facilities are exempt from these requirements provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property:

- A. Licensed amateur (ham) radio and citizen band operations.

- B. Hand-held, mobile, marine, and portable radio transmitters and/or receivers.
- C. Emergency services radio.
- D. City data/telemetry service facilities.
- E. Radio and television mobile broadcast facilities.
- F. Antennas and equipment cabinets or rooms completely located inside of permitted structures.
- G. A single ground or building-mounted receive-only radio or television antenna not exceeding the maximum height permitted by this ordinance, including any mast, or a receive-only radio or television satellite dish antenna, if they comply with the following restrictions:

1. Residential Districts.

- a. **Satellite Dish One Meter or Less.** A satellite dish that does not exceed one meter in diameter and is for the sole use of a resident occupying the same residential parcel is permitted anywhere on a lot in the residential district so long as it does not exceed the height of the ridgeline of the primary structure on the same parcel.
- b. **Satellite Dish Greater than One Meter.** A satellite dish that is greater than one meter in diameter, is not located within a required front yard or side yard abutting a street, and is screened from view from any public right-of-way and adjoining property.
- c. **Antennas.** An antenna that is mounted on any existing building or other structure that does not exceed 25 feet in height. The antenna must be for the sole use of a resident occupying the same residential parcel on which the antenna is located.

2. Commercial and Industrial Districts.

- a. **Satellite Dish Two Meters or Less.** A satellite dish that does not exceed two meters in diameter is permitted anywhere on a lot in a commercial or industrial district so long as the location does not reduce required parking, diminish pedestrian or vehicular access, or require removal of landscaping maintained as a condition of project approval.
- b. **Satellite Dish Greater than Two Meters.** A satellite dish that is greater than two meters in diameter that is not located within a required front yard or side yard abutting a street and is screened from view from any public right-of-way and adjoining property.
- c. **Mounted Antennas.** An antenna that is mounted on any existing building or other structure when the overall height of the antenna and its supporting tower, pole or mast does not exceed a height of 30 feet or 25 feet if located within 20 feet of a residentially zoned lot.
- d. **Free-Standing Antennas.** A free standing antenna and its supporting tower, pole, or mast that

complies with all applicable setback ordinances when the overall height of the antenna and its supporting structure does not exceed a height of 30 feet or 25 feet if located within 20 feet of a residentially zoned lot.

- e. Undergrounding Required. All wires and/or cables necessary for operation of an antenna shall be placed underground or attached flush with the surface of the building or the structure of the antenna.
- f. Any antenna or wireless telecommunications facility that is exempt from local regulation pursuant to the rules and regulations of the Federal Communications Commission (FCC) or a permit issued by the California Public Utilities Commission (CPUC). The owner or operator of such facility shall provide the Director with a copy of a current FCC or CPUC permit or a copy of applicable FCC regulations prior to its installation.
- g. Minor modifications to existing wireless telecommunications facilities, including replacement in-kind or with smaller or less visible equipment, that meet the standards set forth in this Chapter and will have little or no change in the visual appearance of the facility following written notification to the Director.

17.27.030 Submittal Requirements

An applicant shall file a written application for a Minor Use Permit or Conditional Use Permit with the Director accompanied by the required fee as established in the City's fee schedule. Applications shall be submitted pursuant to application requirement handouts maintained by the City and as amended from time to time.

17.27.040 Standards

In order to ensure compatibility with surrounding land uses and protect public safety and natural, cultural, and scenic resources, all wireless telecommunications facilities shall be located, developed, and operated in compliance with all of the following standards and with applicable standards of the zoning district and overlay district that applies.

- A. Location and Siting.** All facilities shall be designed and sited to minimize their visibility, prevent visual clutter, and reduce conflicts with surrounding land uses. As used in this Chapter, "readily visible" means that it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

1. View Corridor. No facility shall be sited where it will be silhouetted against the sky as viewed from a designated Scenic Highway, public park, or other public recreation area or intrude into a significant or

sensitive view corridor.

2. **Public Locations.** No facility shall be sited where it will be readily visible from a public right-of-way, public park or cultural facility.

3. **Residential Areas.** No facility shall be located in an R district where it is readily visible within 300 feet from a dwelling unit.

4. **Primary Use.** No telecommunications antenna or ancillary facility shall be established as the primary use on any site, except within an M-1 or M-2 district, unless the site has already been developed with a legally established wireless telecommunications facility.

5. **Mounted Facility.** Antennas, support structures, and equipment shelters may be installed on the roof or directly attached to any existing building or structure so long as they comply with the height requirements of this Chapter and they are architecturally integrated into the design of the building or structure and do not protrude more than two feet horizontally from the building or structure.

6. **Relation to Other Facilities.** A wireless telecommunications facility that is readily visible from an off-site location shall not be installed closer than one mile from another wireless telecommunications facility that is readily visible or un-camouflaged, unless it is a co-located facility on a multiple-user site or has been designed or camouflaged so that it blends into the surrounding natural or existing built environment.

B. Support Structures. Support structures for wireless telecommunications facilities shall be any of the following:

1. A single pole (monopole) sunk into the ground and/or attached to a foundation. Any new monopole must be constructed to allow for co-location of at least one other similar wireless telecommunications provider.

2. A monopole mounted on a trailer or a portable foundation if the use is for a temporary wireless telecommunications facility.

3. An existing non-residential building.

4. An existing structure other than a building including but not limited to, light poles, electric utility poles, water towers, steeples, smokestacks, billboards, lattice towers, and flag poles. This term includes an electric utility pole erected to replace an existing electric utility pole, if the replacement pole will serve both electric and wireless telecommunications functions, and if the replacement pole is substantially equivalent to the predecessor pole in placement, height, diameter and profile.

5. A new alternative tower structure such as a clock tower, steeple, functioning security light pole, functioning recreational light pole, or any similar alternative-design support structure that is designed to conceal or camouflage the facility. The term "functioning" as used herein means the light pole serves a useful and appropriate lighting function as well as a wireless telecommunications function.

C. Height.

1. **Freestanding Antenna or Monopole.** A freestanding antenna or monopole shall not exceed the height limit of the district in which the antenna is located.
2. **Building-Mounted Facilities.** Building-mounted wireless telecommunications facilities shall not exceed a height of 15 feet above the height limit of the district or 15 feet above the existing height of a legally established building or structure, whichever is higher, measured from the top of the facility to the point of attachment to the building.
3. **Facilities Mounted on Structures.** Wireless telecommunications facilities mounted on an existing structure shall not exceed the height of the existing structure unless camouflaged as part of the structure design, except antennae may extend up to 15 feet above the height of an electric utility pole.

D. Setbacks. When determining whether a wireless telecommunications facility complies with the following requirements, the setback shall be measured from the closest point on the base of the tower or structure to the applicable property line or structure.

1. **Setback from Zoning District.** All wireless telecommunications facilities shall be set back a minimum distance of 100 feet from an Residential district, dwelling unit, school or daycare facility, public park, or outdoor recreation area.
2. **Setback from Property Line.** Facilities that are not building-mounted shall be set back from any adjacent property line a minimum distance that is equal to 110 percent of the height of the facility (including attached antennae) or a minimum distance equal to the building setback for the district in which it is located, whichever is greater. Guy wire anchors shall be set back at least 20 feet from any property line.

E. Design and Screening. Facility structures and equipment shall be located, designed and screened to blend with the existing natural or built surroundings, as well as any existing supporting structures, so as to reduce visual impacts to the extent feasible.

1. **Preference for Facility Type.** Based on their potential aesthetic impact, the order of preference for facility type is: façade-mounted, roof-mounted, ground-mounted, and free-standing tower or monopole. A proposal for a new ground-mounted or free-standing tower shall include factual information to explain why other facility types are not feasible.
2. **Minimum Functional Height.** All free-standing antennas, monopoles, and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation unless it can be demonstrated that a higher antenna, monopole, or tower will facilitate co-location or other objectives of this Chapter.
3. **Camouflaged.** Telecommunications facilities that are mounted on buildings or structures shall be designed to match existing architectural features, incorporated in building design elements, camouflaged, or otherwise screened to minimize their appearance in a manner that is compatible with the architectural design of the building.

4. Landscaping. All telecommunications facilities subject to the requirements of this Chapter shall be installed in such a manner so as to maintain and enhance existing native vegetation and minimize disturbance of existing topography unless the Public Services Director determines that such changes will help to minimize the visual impact of the facility. Site plans shall include suitable mature landscaping to screen the facility, where necessary.

5. Maintenance of Landscaping. No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it. The owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping.

6. Lighting. Wireless telecommunication facilities shall be not be lighted except when authorized personnel are present on-site at night or unless required by the Federal Aviation Administration. A motion-sensor light may be used for security purposes, if the beam is directed downwards, shielded from adjacent properties and kept off when personnel are present at night.

7. Advertising. No advertising shall be placed on wireless telecommunications facilities, equipment cabinets, or associated structures.

F. Equipment Cabinets and Buildings.

1. Location and Screening. Equipment cabinets shall be located within the building upon which antennae are placed, if technically feasible. Otherwise, equipment cabinets and buildings, and associated equipment such as air conditioning units and emergency generators, shall be screened from view by a wall or landscaping, as approved by the City. Any wall shall be architecturally compatible with the building or immediate surrounding area.

2. Size. An equipment cabinet shall not exceed eight feet in height and a building shall not exceed one story. An equipment cabinet or building may contain an area of up to 300 square feet for a single provider or 600 square feet for multiple wireless providers. An equipment cabinet or building for servicing a public safety communications tower may exceed the size limitations set forth herein.

G. Security Features. All facilities shall be designed to minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances.

1. Fencing. Security fencing, if any, shall not exceed 6 feet to 10 feet in height, consistent with fencing in the area. Fencing shall be no less than the above grade height of the equipment cabinet. Fencing shall be effectively screened from view through the use of landscaping. No chain link fences shall be visible from public view.

2. Maintenance. The permittee shall be responsible for maintaining the site and facilities free from graffiti.

H. Radio Frequency Standards; Noise.

1. Radio Frequency. Wireless telecommunications facilities shall comply with federal standards for radio frequency (RF) emissions and interference. Failure to meet federal standards may result in termination or modification of the permit.

2. Noise. Wireless telecommunications facilities and any related equipment, including backup generators and air conditioning units, shall not generate continuous noise in excess of forty (40) decibels (dBa) measured at the property line of any adjacent residential property, and shall not generate continuous noise in excess of fifty (50) dBa during the hours of 7:00 a.m. to 10:00 p.m. and forty (40) dBa during the hours of 10:00 p.m. to 7:00 a.m. measured at the property line of any non-residential adjacent property. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

I. Co-location. The applicant and owner of any site on which a wireless telecommunications facility is located shall cooperate and exercise good faith in co-locating wireless telecommunications facilities on the same support structures or site. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing information normally will not be considered as an excuse to the duty of good faith.

1. All facilities shall make available unused space for co-location of other telecommunication facilities, including space for these entities providing similar, competing services. Co-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline for a significant period of time. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at applicant's expense. The City may review any information submitted by applicant and permittee(s) in determining whether good faith has been exercised.

2. All co-located and multiple-user telecommunication facilities shall be designed to promote facility and site sharing. Telecommunication towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities and equipment buildings, shall be shared by site users whenever possible.

3. No co-location may be required where it can be shown that the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing telecommunications facilities or failure of the existing facilities to meet federal standards for emissions.

4. Failure to comply with co-location requirements when feasible or cooperate in good faith as provided for in this Chapter is grounds for denial of a permit request or revocation of an existing permit.

J. Fire Prevention. All telecommunication facilities shall be designed and operated in a manner that will minimize the risk of igniting a fire or intensifying one that otherwise occurs.

1. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;

2. The exterior walls and roof covering of all above-ground equipment shelters and cabinets shall be constructed of materials rated as non-flammable in the Uniform Building Code.
3. Monitored automatic fire extinguishing systems approved by the Fire Chief shall be installed in all equipment buildings and enclosures.
4. Openings in all above-ground equipment shelters and cabinets shall be protected against penetration by fire and wind-blown embers to the extent feasible.

K. Surety Bond. As a condition of approval, an applicant for a building permit to erect or install a wireless telecommunications facility shall be required to post a cash or surety bond in a form and amount acceptable to the City Manager to cover removal costs of the facility in the event that its use is abandoned or the approval is otherwise terminated.

17.27.050 Procedures

A wireless telecommunications facility subject to the requirements of this Chapter shall not be established, expanded, or otherwise modified except in conformance with the following requirements.

A. Public Services Director Determination of Compliance. The following wireless telecommunications facilities shall be permitted in any Commercial or Industrial district subject to the Director's determination of compliance with the applicable requirements of this Chapter:

1. A facility affixed to an existing building or structure.
2. A new ground-mounted monopole in an Industrial zone that is not readily visible from off-site or, if visible from off-site, is located at least one mile from any existing or approved monopole.
3. A new alternative tower structure.
4. Public safety communications towers sixty five (65) feet in height or less.
5. Temporary wireless telecommunications facilities.

B. Minor Use Permit. The Director may issue a Minor Use Permit to establish any of the following facilities subject to the requirements of this Chapter, and based on the applicable findings in Section 17.27.050 (D) below.

1. A facility co-located on an existing legally established monopole or support structure in any zoning district.
2. A ground-mounted tower or monopole that complies with the height limit in any Commercial or Industrial district.
3. The location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting

properties and the surrounding neighborhood.

4. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be as attractive as the nature of the use, and its location and setting warrant.

5. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the General Plan/Local Coastal Program, with any other applicable plan adopted by the City Council and with the standards and requirements of this Title.

C. Conditional Use Permit. All other wireless telecommunications facilities shall require the approval of a Conditional Use Permit by the Planning Commission following a public hearing.

D. Findings Required. The Planning Commission or the Director, in the case of a Minor Use Permit, may approve or approve with conditions any Use Permit required under this Chapter after making the findings required for approval of such permits.

1. The applicant has made good faith and reasonable efforts to locate the proposed wireless telecommunications facility on a support structure other than a new ground-mounted antenna, monopole, or lattice tower or to accomplish co-location; and

2. The proposed site results in fewer or less severe environmental impacts than any feasible alternative site.

17.27.060 Cessation; Exercise of Permits; Transfer of Permits

A. Cessation; Exercise of Permits. Permits for wireless telecommunications facilities shall be deemed exercised or expired pursuant to the provisions of Chapter 17.30: Common Procedures.

B. Transfer of Permit. Any FCC-licensed telecommunications carrier that is buying, leasing, or considering a transfer of ownership of an already approved facility, shall provide written notification to the Director and request transfer of the existing Use Permit. The Director may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing Use Permit and all of its conditions including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a State-licensed radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission and the California Public Utilities Commission. If the Director determines that the proposed operation is not consistent with the existing Use Permit, he/she shall notify the applicant who may revise the application or apply for modification to the Use Permit pursuant to the requirements of Chapter

