

# City of Morro Bay

## City Council Agenda

---

### *Mission Statement*

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

---

**REGULAR MEETING – AUGUST 25, 2008**

**CLOSED SESSION – AUGUST 25, 2008  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

**CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS:** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two (2) parcels.

- Property: Embarcadero/Market.  
Negotiating Parties: Potential Buyers and City of Morro Bay.  
Negotiations: Voluntary Purchase and Sale.
- Property: Navy Fuel Depot Property along Panorama Drive  
Negotiating Parties: US Government and City of Morro Bay.  
Negotiations: Voluntary Purchase and Sale.

**CS-2 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR.** Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

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

**PUBLIC SESSION – AUGUST 25, 2008  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS

CLOSED SESSION REPORT

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

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

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

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

COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 11, 2008; (ADMINISTRATION)

**RECOMMENDATION: This item has been pulled from the agenda.**

A-2 ANNUAL REVIEW OF MASTER FEE SCHEDULE; (FINANCE)

**RECOMMENDATION: Accept the Master Fee Schedule as amended.**

A-3 DISCUSSION ON COST ALLOCATION PLAN UPDATE PROPOSAL FROM REVENUE AND COST SPECIALISTS; (FINANCE)

**RECOMMENDATION: Approve the proposal, and direct staff to enter into a service contract.**

A-4 RESOLUTION NO. 54-08 OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD "BORROW" LOCAL GOVERNMENT, REDEVELOPMENT AND TRANSPORTATION FUNDS; (COUNCIL)

**RECOMMENDATION: Adopt Resolution No. 54-08.**

A-5 APPROVAL OF LETTER OF SUPPORT FOR THE COMMERCIAL AIR SERVICE AT THE SAN LUIS OBISPO COUNTY REGIONAL AIRPORT; (COUNCIL)

**RECOMMENDATION: Approve sending letter of support to the San Luis Obispo County Air Transportation Alliance**

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

B-1 CONCEPT PLAN APPROVAL FOR A CONDITIONAL USE PERMIT FOR THE TEMPORARY HARBOR OFFICE REPLACEMENT PROJECT; (PUBLIC SERVICES)

**RECOMMENDATION: Conditionally approve the project.**

**C. UNFINISHED BUSINESS**

C-1 DISCUSSION ON THE STATUS OF THE SALE OF CITY-OWNED PROPERTY AT THE SEC OF CORAL AND SAN JACINTO AND AUTHORIZATION FOR STAFF TO PREPARE AND SOLICIT A REQUEST FOR PROPOSALS FOR REAL ESTATE CONTRACT SERVICES TO ASSIST IN THE SALE OF THE PROPERTY; (CITY ATTORNEY)

**RECOMMENDATION:** Authorize staff to prepare and solicit a Request for Proposals for real estate contract services to assist in the sale of City-owned property located at the southeast corner of Coral Avenue and San Jacinto Street.

C-2 CONSIDERATION AND CHOICE OF WEBSITE REDESIGN VENDOR;  
(FINANCE)

**RECOMMENDATION:** Select a vendor, and direct staff to sign the contract and begin the website redesign process.

D. NEW BUSINESS

D-1 UPDATE ON THE MORRO BASIN NITRATE STUDY; (PUBLIC SERVICES)

**RECOMMENDATION:** Receive report for information.

D-2 APPROVAL TO ENTER INTO THE 2008/2009 CENTRAL COAST WATER RELIABILITY AGREEMENT WITH THE COUNTY OF SAN LUIS OBISPO;  
(PUBLIC SERVICES)

**RECOMMENDATION:** Authorize the Utilities/Capital Projects Manager to enter into the 2008/2009 Central Coast Water Reliability Agreement with the County of San Luis Obispo.

D-3 DISCUSSION ON TRADEMARKING THE SLOGAN, "DISCOVER YOUR BETTER NATURE"; (CITY ATTORNEY)

**RECOMMENDATION:** Review this report, and direct staff on whether to Trademark the slogan, "Discover Your Better Nature."

D-4 CONSIDERATION OF REORGANIZATION OF CITY DEPARTMENTS INCLUDING ADMINISTRATION, FINANCE AND RECREATION & PARKS; AMENDMENTS AND TITLE CHANGE TO THE JOB DESCRIPTIONS FOR THE FINANCE DIRECTOR AND RECREATION AND PARKS MAINTENANCE SUPERINTENDENT AND APPROVAL OF THE PERSONNEL TECHNICIAN JOB DESCRIPTION; (ADMINISTRATION)

**RECOMMENDATION:** Pursuant to the *Assessment of City Organization and Financial Options* document prepared by Management Partners, review staff recommendations and direct staff accordingly.

E. ADJOURNMENT

**THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6200 FOR FURTHER INFORMATION.**

**MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.**

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



**AGENDA NO.: A-1**  
**Meeting Date: 5/25/08**  
**Action: \_\_\_\_\_**

**THIS ITEM HAS**

**BEEN PULLED FROM**

**THE AGENDA**



# Staff Report

AGENDA NO: \_\_\_\_\_

Meeting Date: 08/25/08 Action: \_\_\_\_\_

**TO:** Honorable Mayor and City Council      **DATE:** August 18, 2008

**FROM:** Susan Slayton, Finance Director

**SUBJECT:** ANNUAL REVIEW OF MASTER FEE SCHEDULE

**RECOMMENDATION:** Accept the Master Fee Schedule as amended.

**FISCAL IMPACT:** Potential for increased revenue as a result of fee changes; amount unknown.

**SUMMARY:** Based on direction received at the August 11, 2008 City Council meeting, Staff has reviewed and edited the Master Fee Schedule to include changes made on Resolution #18-08 (Harbor), Resolution #49-08 (Finance and Public Services), annual Engineering News Record (ENR) adjustments for impact fees, new sections for Impact Fees and Transit Fees, and verbiage. Five new monetary changes are recommended by Public Services and Fire, 3 on page 8, 1 on page 12 and 1 on page 21.

**DISCUSSION:** At the August 11, 2008 City Council meeting, some proposed changes to the Master Fee Schedule were presented, amended and approved. At that time, Council expressed the desire to receive Master Fee Schedule changes annually in one document as opposed to each department bringing its own fees separately. Presented tonight is that collective document for approval.

The old Master Fee Schedule and the new draft one are presented with changes noted. Some items have been deleted as they are no longer applicable or are redundant. Changes previously brought before Council are incorporated, which include the Harbor fees approved in April 2008, and the Finance and Public Services changes that were presented in August 2008. New fee sections for the development impact fees and Transit fees have been added to the schedule. Wording has been changed or updated as noted, especially in the Fire Department pages.

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review:

City Attorney Review: \_\_\_\_\_

Page 1 of 2

Five new monetary changes are recommended as follows:

CATEGORY	PAGE #	CURRENT FEE	RECOMMENDED FEE
Raising manhole to grade	8	\$420	Cost of providing service
Sewage spill cleanup	8	\$475	Cost of providing service
Spill in right-of-way cleanup	8	\$108	Cost of providing service
Connection permit	12	\$72	Fee plus staff time
Additional plan review	21	Personnel costs	Personnel costs plus actual cost of consultant

The first three recommended changes may or may not result in increased revenue to the City. All three are attached to the actual cost of the service provided, which could be less than the suggested fee. The other two are adding additional costs to the current fee: Public Servicesø Connection Permits would cost \$72 per permit plus the cost of staff time for inspection, and the Fire Departmentø Additional Plan Review will cost for Fire staff time plus the actual cost of the consultant used in plan review.

The Master Fee Schedule will return to Council with annual updates in April or May 2009, and yearly thereafter.



# Staff Report

AGENDA NO: \_\_\_\_\_

Meeting Date: 08/25/08 Action: \_\_\_\_\_

**TO:** Honorable Mayor and City Council      **DATE:** August 18, 2008  
**FROM:** Susan Slayton, Finance Director  
**SUBJECT:** DISCUSSION ON COST ALLOCATION PLAN UPDATE PROPOSAL FROM  
REVENUE & COST SPECIALISTS

**RECOMMENDATION:** Approve the proposal and direct staff to enter into a service contract.

**FISCAL IMPACT:** The cost of the plan is \$25,100 plus \$1,400 per onsite meeting. Revenue & Cost Specialists, LLC (RCS), does not anticipate the need for onsite meetings.

This is a one-time project that should be funded from excess General Fund cash as a result of the savings from the Administration reorganization or possibly from the General Accumulation Fund with a stipulation to return it at year end if excess cash exists in the General Fund.

**SUMMARY:** Based on Recommendation 6 of the Management Partners *Assessment of City Organization and Financial Options* study, Staff solicited a bid for a cost allocation plan update proposal from Revenue and Cost Specialists, LLC (RCS). The proposal provides for a Federal Office of Management and Budget (OMB) Circular A-87 compliant cost allocation plan for grant reimbursements, a total cost allocation plan for use in cost calculations for justifying transfers from the enterprise funds, and a fully-burdened hourly rate calculation on staff. Additionally, the City will receive the software product from Government Software Systems that is used to prepare the plan so that Staff can update these plans annually.

**DISCUSSION:**

Excerpt from Management Partners *Assessment of City Organization and Financial Options* study:

Most cities charge non-General Fund operations (such as enterprise funds) for the use of General Fund support, such as the City Attorney's time, Finance Department's time, and the like. These are considered typical costs of doing business and thus, are charged to the enterprise so that the General Fund is not

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review:

City Attorney Review: \_\_\_\_\_

Page 1 of 2

subsidizing them. In Morro Bay, the overhead charges are outdated and are in need of an update to ensure that enterprises are cost covering and not a drain on the General Fund.

**Recommendation 6: Prepare an updated overhead study.** The overhead allocation plan was last done in 1999 and does not appear to be a dynamic, self-adjusting model. This will be especially crucial as changes are made to the overall City budget which will affect allocations. The study will cost between \$50,000 and \$75,000 but will recover that cost for the General Fund the first year and save that amount in all following years, creating new revenues to the General Fund.

Based on this recommendation, Staff solicited a proposal for an overhead rate and fee study from a vendor who has prepared this type of plan for the City before, Revenue and Cost Specialists, LLC (RCS). RCS has worked with the Recreation and Parks Department and Public Services in updating fees. The cost proposal received from RCS is considerably lower than the estimate in Recommendation 6 above, and Staff has confidence in RCS ability to prepare this plan. Staff is familiar with the software component of the proposal, and is excited about the ability to perform annual updates.

The project will result in an OMB Circular A-87 compliant cost allocation plan, a total City cost allocation plan and a fully-burdened hourly rate schedule on staff members. The OMB compliance plan is important for billing staff costs on Federal grant programs.

**RESOLUTION NO. 54-08**

**A RESOLUTION OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET  
DECISIONS THAT WOULD "BORROW" LOCAL GOVERNMENT,  
REDEVELOPMENT AND TRANSPORTATION FUNDS**

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

**WHEREAS**, on July 1, 2008 the State Legislature missed its Constitutional budget deadline; and

**WHEREAS**, both the Governor and the Legislative Budget Conference Committee have recommended balanced budgets without resorting to loans or seizures of local government property tax, redevelopment tax increment and transportation sales tax funds; and

**WHEREAS**, in 1952 the voters of California approved Article XVI, Section 16 of the California Constitution, providing for tax increment financing for community revitalization not balancing the state budget, and the voters never authorized the legislature to take or borrow community redevelopment funds for state programs; and

**WHEREAS**, in 2004 by an 84% margin of approval the voters of California approved Proposition 1A and sent a loud and unambiguous message to state leaders that they should stop the destructive and irresponsible practice of taking local government funds to finance the state budget and paper over the state deficit; and

**WHEREAS**, in 2006 by a 77% margin of approval the voters of California also approved Proposition 1A, providing similar protections to transportation funding for state and local transportation projects, including important street maintenance and public transit programs; and

**WHEREAS**, both ballot measures allow the Governor to declare a severe state of fiscal hardship and borrow these funds if they are repaid in three years with interest, but the Governor believes it would be irresponsible to borrow such funds because it would deepen the state's structural deficit and cripple local government and transportation services; and

**WHEREAS**, refusal by the Legislature to carry out its constitutional obligation to compromise on a balanced budget is not a severe state of fiscal hardship and would not justify reductions in critical local services, community revitalization programs and infrastructure maintenance at a time when cities are struggling to balance their own budgets during this economic down turn; and

**WHEREAS**, city investments in infrastructure, affordable housing and basic public safety and other community services will create needed jobs and speed our economic recovery; and

**WHEREAS**, the Legislature should balance the state budget with state revenues and respect the overwhelming support of voters for not using local property taxes, redevelopment tax increment and transportation sales tax funds to fund the day-to-day operating cost of state programs; and

**WHEREAS**, it would be the height of fiscal irresponsibility to paper over the state structural deficit with more borrowing, and Californians deserve state leaders who will tell them honestly what needs to be done to produce a balanced budget; and

**WHEREAS**, it is time for the state of California to cut up its local government credit cards and deal with the budget deficit in a straightforward way. Balance the state budget with state funds.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Morro Bay hereby opposes any and all efforts by state government to borrow or seize local tax funds, redevelopment tax increment and transportation sales tax funds by the state government to finance state operations. Such a move would be fiscally irresponsible for the state and hamper effective local services and infrastructure investments.

**BE IT RESOLVED FURTHER**, that the Mayor is hereby directed to send this resolution and communicate this Council's strong and unswerving opposition on this matter to our Legislators and the Governor along with an expression of our continued appreciation for the Governor's and any supportive legislators' steadfast opposition to further borrowing or seizure of these funds.

**PASSED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 25th day of August 2008 by the following vote:

AYES:  
NOES:  
ABSENT:

---

JANICE PETERS, MAYOR

ATTEST:

---

BRIDGETT BAUER, CITY CLERK



# City of Morro Bay

Morro Bay, CA 93442  
(805) 772-6200

August 25, 2008

San Luis Obispo County Air Transportation Alliance  
c/o Economic Vitality Corporation  
P.O. Box 5257  
San Luis Obispo, CA 93403

RE: Commercial Air Service at the San Luis Obispo County Regional Airport

Dear Members of the Alliance:

The City of Morro Bay is concerned in the reduction of airline service in the County of San Luis Obispo, which causes a negative impact on our citizens, businesses and our vital tourism industry. We urge you to make every effort to maintain the airport as a viable transportation facility.

Sincerely,

Janice Peters  
Mayor

**FINANCE**  
595 Harbor Street

**ADMINISTRATION**  
595 Harbor Street

**FIRE DEPT.**  
715 Harbor Street

**PUBLIC SERVICES**  
955 Shasta Avenue

**HARBOR DEPT.**  
1275 Embarcadero Road

**CITY ATTORNEY**  
955 Shasta Avenue

**POLICE DEPT.**  
870 Morro Bay Boulevard

**RECREATION & PARKS**  
1001 Kennedy Way



AGENDA NO: \_\_\_\_\_

Meeting Date: 8/25/08 Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 18, 2008

**FROM:** MIKE PRATER, PLANNING MANAGER

**SUBJECT:** CONCEPT PLAN APPROVAL FOR A CONDITIONAL USE PERMIT FOR THE TEMPORARY HARBOR OFFICE REPLACEMENT PROJECT, UPO-206

**RECOMMENDATION:** Staff recommends the City Council conditionally approve the project.

**FISCAL IMPACT:** In February 2006, the City Council adopted their mid-year budget adjustment, which appropriated funding for the planning and design work for a replacement building and Harbor office.

**SUMMARY:** The Harbor Department is proposing to replace the existing Harbor office with a new Modular building that will continue to serve the City employees. This project requires the removal/demolition of the existing 966 square foot structure that is 50+ years old and shows signs of wear. The existing structure contains asbestos, lead paint and mold has been found. The Harbor employees have been operating out of the current facility since 80ø and are running out of room to effectively and efficiently continue City business.

**BACKGROUND:** The Planning Commission held a public hearing on May 19, 2008 to discuss this project and made a recommendation to the City Council to approve the replacement of the Harbor office with the recommendation that the maximum height of building not to exceed 14-feet, if possible VOTE: 4-1 (Woodson opposed). The Commissioners had concerns about the aesthetics of building and felt it should be industrial in nature; that the new building is not attractive, looks almost the same as the existing building from the 50ø, and the project lacks sidewalk access. The Commissioners discussed the 14ø height limit and expressed interest in complying with the height limit.

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review:

City Attorney Review: \_\_\_\_\_

Page 1 of 7

### Planning Framework

The subject site is located in the Commercial Fishing (CF) districts and is zoned with a Planned Development (PD) Overlay. Pursuant to Section 17.40.030 of the Zoning Ordinance, all development on lands zoned with a PD Overlay requires Conditional Use Permit approval. In cases where the site exceeds an acre, or the site is publicly owned, both the Planning Commission and Council must approve concept plans. The City of Morro Bay Waterfront Master Plan (WMP) was adopted by City Council Resolution 43-96 in 1996. The WMP is a planning study that identifies the need for infrastructure improvements, planning and design elements to maximize the recreational potential and access to water. In this case, the City's review and eye is not towards the focus of the study but rather maintaining the harbor patrol presence and office duties. The WMP also includes design guidelines that amended the City's Planned Development (PD) overlay zone standards. The objective of the WMP is to balance the need to maintain a working waterfront while planning for improvements and enhancement of the commercial and public access elements of the Morro Bay waterfront.

### **DISCUSSION:**

This project requires the removal/demolition of the existing 966 square foot structure and replaces it with a new modular building that is 1,440 square feet. The use of the building will be the same as the current use to serve Harbor employees. A condition of approval has been added to require the site be used as a governmental building. The PD Overlay also allows flexibility from strict application of zoning standards, such as density and setbacks, where a better design or public benefit would result. The project is seeking flexibility to height, lot coverage, setbacks and possibly parking standards. The WMP allows 70 percent lot coverage and 86 percent is requested. Because the structure requests zero setbacks and is a single story in height the coverage is increased. The applicant is requesting flexibility from this requirement under the PD process. The project also seeks flexibility under the PD process to deviate from the setback requirements even after adjusting the lease lines. The requirements for the front and exterior side yard setbacks are 5 feet and zero is requested. The project will however maintain safe traffic and fire lane circulation.

The Harborwalk pathway is slated to be the pedestrian sidewalk in this area and was designed to traverse along the revetment adjacent to the water and not run along the front of the building between the parking lot and structure. However, in order for this segment to be completed the City needs to work out concerns with the Coast Guard to complete the connection. The project will be allowed to defer the Harborwalk improvements until connectivity plans have been developed, however the project is conditioned to make this improvement.

Buildings along the waterfront should be in keeping with the fishing village community and add to the ambiance of the waterfront area. In this case, the building is not intended to be permanent but rather a temporary solution. This building is replacing a vertical wood siding blue tone structure with similar appearance. The building is proposed at one level, with a roof pitch to match the existing setting. The California Coastal Commission has tentatively agreed to issue a permit waiver to replace the building with a like structure for the same intended use and

appearance. This permit waiver can streamline the process and ensure no additional conditions be required for the project or of the City.

The WMP does not require a view corridor for lots less than 49 feet in width. The proposed project is considered a public benefit however no new benefits are proposed. The project has been revised to show the pedestrian improvements. The Planning Commission felt that the public benefit from the new facility warrants deviation from the Waterfront Master Plan and Zoning Ordinance standards. Temporary facilities are being considered to continue harbor functions and services while the Modular building will be installed.

**CONCLUSION:** This project can be found consistent with the waterfront design guidelines with offsetting public benefits with the fact the facility will provide for better employee working conditions to serve the public. The applicant has prepared photographs indicating how the new project will relate to its surroundings. The project is requesting a slight deviation from the height, setbacks and lot coverage requirements. Lateral access will be provided in the future when final negotiations with the Coast Guard allows for connectivity. The proposed project is consistent with the development standards of the zoning ordinance and all applicable provisions of the General Plan, and Local Coastal Plan and Zoning Ordinance with incorporation of recommended conditions. The project has also been determined to be exempt from CEQA.

**EXHIBIT A**  
**FINDINGS FOR APPROVAL**  
**UP0-206**

**California Environmental Quality Act (CEQA)**

- A. This project has been found to be categorically exempt under CEQA due to its small size and limited change to the existing facilities on the site. The project qualifies for Class 3 exemptions.

**Conditional Use Permit Findings**

- B. The project is an allowable use in the CF/PD zoning district and is consistent with the certified Local Coastal Program and General Plan for the City of Morro Bay, based on the analysis and discussion in the staff report; and
- C. The establishment, maintenance, or operation of the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use, as evidenced by public testimony received during the public hearing; and the facility will help provide for health, safety and general welfare for the neighborhood.
- D. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City because the project, as conditioned, will be constructed and will operate in accordance with all applicable City standards and regulations intended to protect persons and property, as indicated in the staff report.
- E. The project's architecture and general appearance is in keeping with the character of the surrounding area, is compatible with the City's design themes and is not detrimental to the orderly and harmonious development of the City or to the desirability of investment or occupation in the neighborhood because the architect has reviewed the existing architecture in the City and developed the design to be harmonious and the project helps protect investments and occupations in the neighborhood with emergency services on the water.

**Waterfront Master Plan Findings**

- F. The proposed project makes a positive contribution to the visual and public accessibility to the bay while maintaining a harbor patrol presence:
- a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by being a public benefit and only exceeding the height by 7 inches.
  - b. In the case of granting height greater than 14 feet, the proposed project could increase the pitch to allow for 17 feet in height but that would decrease more public view than the lower pitch roofline. In addition, the project is a public benefit that provides significant public benefit pursuant to the Planned Development Overlay zone requirements that allows the deviation.
  - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.

- d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations and safety services.
- e. The design recognizes the pedestrian orientation of the Embarcadero and does not block the future frontage enhancements of the Harborwalk design and layout for better pedestrian experience in that the project will provide lateral public access to the water and docks once the connectivity issues are worked out with the Coast Guard. In the meantime the public can access the North T-Pier along the waterfront.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of wood siding.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more vertical articulation with windows and siding.
- h. The proposed project does not diminish, either directly or by cumulative impact of several other projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

#### **Planned Development Overlay**

- G. With approval of the project, the City finds that with the heightened level of review the proposed project is acceptable and consistent with Morro Bay standards and the project includes public benefits to deviate from the height, lot coverage and setback standards.

#### **Architectural Consideration**

- H. As required by Ordinance Section 17.48.200 the City find that the architectural treatment and general appearance of all proposed building, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development ;of the city or to the desirability of investment of occupation in the area.

**EXHIBIT B**  
**CONDITIONS OF APPROVAL**  
**UPO-206**

**STANDARD CONDITIONS**

1. This permit is granted for the use as described in the staff report for the August 25, 2008 City Council hearing and as depicted on plans received by the Public Services Department March 3, 2008, (Exhibit C of the staff report). The approved use is modified, however, by the following Conditions of Approval:
2. **Inaugurate Within Two Years:** If the approved use is not commenced within two (2) years of the effective date of this approval, this approval will automatically become null and void. However, upon written request by the applicant prior to the expiration date of this approval, up to two (2) one-year time extensions may be granted. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. **Changes:** Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an amendment subject to Planning Commission review.
4. **Compliance with the Law:** All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. **Hold Harmless:** The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
7. **Compliance with Conditions:** The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
8. **Acceptance of Conditions:** Prior to obtaining a building permit and within thirty (30) days of the effective date of this permit, the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.
9. **Water Saving Devices:** Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.

## PLANNING CONDITIONS

10. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved building plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
11. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
12. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view from adjoining public streets in a manner approved by the Director of Public Services. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.
13. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Public Services. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 20 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
14. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Public Services.
15. Property Line Verification and adjustments. It is the applicant responsibility to verify lot lines or lease lines and complete the process for adjusting them to meet the building criteria before permit issuance.
16. Demolition of the existing structure shall be in accordance with California Fire Code, Fire safety During Construction, Alteration or Demolition of a Building.
17. If the applicant elects to post the Categorical Exemption with the Clerk's Office then a required fee of \$25 fee shall be made payable to the County of San Luis Obispo and delivered to the County Clerk along with the Categorical Exemption form. The Notice of Exemption along with the fee may be filed after the appeal period has ended and the planning permit is effective. This filing has the effect of starting a 30-day statute of limitations period for challenges to the decision in place of the 180-day period otherwise in effect.
18. The Harbor Department shall be required to install the Harborwalk segment along the site when connectivity arrangements are finalized with the Coast Guard, or if not resolved then a new location shall be constructed.
19. The use of the building shall always be used for governmental offices or a new permit shall be obtained to change the use. Concurrence from the California Coastal Commission shall be sought before a new use can occupy the building.



AGENDA NO: \_\_\_\_\_

Meeting Date: 8/25/08 Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** 8/20/08

**FROM:** Rob Schultz, City Attorney

**SUBJECT:** Discussion on the Status of the Sale of City-Owned Property at the SEC of Coral and San Jacinto and Authorization for Staff to Prepare and Solicit a Request for Proposals for Real Estate Contract Services to Assist in the Sale of the Property.

### **RECOMMENDATION:**

Authorize Staff to prepare and solicit a Request for Proposals for real estate contract services to assist in the sale of City-owned property located at the southeast corner of Coral Avenue and San Jacinto Street.

### **FISCAL IMPACT:**

None at this time.

### **DISCUSSION:**

As you are aware, the City obtained ownership of the property at SEC Coral/San Jacinto Street in September 1996. At the time of the dedication, the property was a possible site for an additional fire station. In 2005 the City Council determined that alternative sites were better suited for a fire station. Therefore, pursuant to Resolution 30-05, the City Council authorized the sale of the City-owned property at SEC Coral/San Jacinto Street. The City received a few unacceptable bids for the property. In 2006 the City Council decided to subdivide the property to maximize its value. After the subdivision was completed in 2007, the City relisted the property for \$2.4 million dollars. To date, the City has received no offers for the property.

### **CONCLUSION:**

Due to the lack of interest in the property, it is Staff's recommendation that the City Council direct Staff to prepare and solicit a Request for Proposals for real estate contract services for the sale of City-owned property located at the SEC of Coral Avenue and San Jacinto Street. Hopefully, a real estate company can assist the City in finding a buyer for the property at an acceptable price.

**Prepared By:** \_\_\_\_\_      **Dept Review:** \_\_\_\_\_

**City Manager Review:** \_\_\_\_\_

**City Attorney Review:** \_\_\_\_\_

Page 1 of 1



# Staff Report

AGENDA NO: \_\_\_\_\_

Meeting Date: 08/25/08 Action: \_\_\_\_\_

**TO:** Honorable Mayor and City Council      **DATE:** August 20, 2008  
**FROM:** Susan Slayton, Finance Director  
**SUBJECT:** CONSIDERATION AND CHOICE OF A WEBSITE REDESIGN VENDOR

**RECOMMENDATION:**

Council to select a vendor, direct Staff to sign the contract and begin the website redesign process.

**FISCAL IMPACT:**

Funds are available in the General Fund's Reserve for Public, Educational and Governmental (PEG) Access Fees or the General Fund Accumulation Fund.

**SUMMARY:**

At the April 28, 2008 City Council meeting, Staff was directed to reissue the Request for Proposal (RFP) for website redesign with reduced requirements and a top budget of \$10,000. Twenty proposals were submitted. After review by the Website Redesign Proposal Review Committee, the following three vendors are recommended: (1) CivicPlus - \$9,930, (2) PMC - \$9,949, and (3) Elements (aka New Image Technologies; company name was changed after proposal was submitted) - \$10,000. Staff requests that Council select a vendor for this task and direct Staff to secure a contract and kick off the project. Staff has verified that the project costs can be paid with the PEG access fees that are being collected in the General Fund or, since this is a one-time project, General Fund Accumulation money can be authorized.

**DISCUSSION:**

At April 28, 2008 City Council meeting, Staff was directed to reissue a reduced version of the Request for Proposal (RFP) for website redesign and include a project budget of \$10,000. From the twenty responses to this RFP, the Website Redesign Proposal Review Committee has chosen three potential vendors.

These vendors were chosen based on their overall experience with website design and their preparation of government-related websites. Two of the vendors, PMC (Monterey) and Elements

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

Page 1 of 2

(SLO) are local to California, which the Committee felt was very important. CivicPlus is located in Kansas, but has California government website experience. All of the vendors submitted complete proposals with project estimates within the City's budget. Each vendor offers training to staff members and project timelines were similar (12 to 19 weeks). Copies of the proposals are available for Council to review in the City Clerk's office.

The Committee requested that Council be provided with three website examples per vendor along with the vendor's company website so that Council may investigate their work and envision Morro Bay's redesign.

***CIVIC PLUS:***

Vendor site	<a href="http://www.civicplus.com">www.civicplus.com</a>
City of Pismo Beach	<a href="http://www.pismo-beach.org">www.pismo-beach.org</a>
Town of Windsor	<a href="http://www.townofwindsor.com">www.townofwindsor.com</a>
Town of Bethany Beach	<a href="http://www.townofbethanybeach.com">www.townofbethanybeach.com</a>

***PMC:***

Vendor site	<a href="http://www.pmcworld.com">www.pmcworld.com</a>
County of Napa	<a href="http://www.napacountygeneralplan.com">www.napacountygeneralplan.com</a>
City of Ione	<a href="http://www.ione-ca.com">www.ione-ca.com</a>
City of Chico General Plan	<a href="http://www.chicogeneralplan.com">www.chicogeneralplan.com</a>

***ELEMENTS:***

Vendor site	<a href="http://www.elementsinc.net">www.elementsinc.net</a>
Morro Bay Chamber of Commerce	<a href="http://morrobay.org">morrobay.org</a>
Santa Maria Chamber of Commerce	<a href="http://santamaria.com">santamaria.com</a>
SLO Chamber of Commerce	<a href="http://slochamber.org">slochamber.org</a> or <a href="http://visitslo.com">visitslo.com</a>

Staff is asking Council to choose a vendor and direct staff to proceed with the contract and project.



**AGENDA NO.: D-1**  
**Meeting Date: 8/25/08**  
**Action: \_\_\_\_\_**

**THIS STAFF REPORT**

**WILL BE AVAILABLE**

**IN HARD COPY AND LOCATED AT**

**CITY HALL, LIBRARY AND MILLS**

**COPY CENTER**



AGENDA NO: \_\_\_\_\_

Meeting Date: 8/25/08 Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 19, 2008

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

**SUBJECT:** Approval to enter into the 2008/2009 Central Coast Water Reliability Agreement with the County of San Luis Obispo

### **RECOMMENDATION:**

It is recommended that the City Council authorize the Utilities/Capital Projects Manager to enter into the 2008/2009 Central Coast Water Reliability Agreement (RA) with the County of San Luis Obispo.

### **FISCAL IMPACT:**

The pricing of the water to be transferred under this agreement will be \$160 an acre foot (af). The City under current projections is facing a shortfall of up to 52 af of State Water Deliveries for the remainder of 2008. This will result then in a maximum impact of \$8,320 to the Water Division Operating budget. For 2009 the delivery percentage has not yet been determined. For anything more than a 36.4% delivery year the impact to the water fund from entering into this agreement will be positive. There is no immediate impact to ratepayers to pursue this recommendation.

### **BACKGROUND:**

The historical practice by the County of San Luis Obispo has been to ensure requested deliveries to the State Water Subcontractors the largest of which is the City. They have accomplished this, by using the unallocated State water amount allotted to the County of San Luis Obispo, as a form of informal drought buffer to benefit the reliability of water delivered to the subcontractors. For the first half of calendar year 2008 the City entered into an agreement for the draft form of this program. The agreement as finalized is now a multi year agreement serving both 2008/2009.

The agreement as finalized will work in this basic fashion:

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review:

City Attorney Review: \_\_\_\_\_

Page 1 of 4

- 1- The State will issue through the Department of Water Resources a forecasted delivery schedule, updated monthly until May of each year
- 2- The subcontractors to the County will have first right of refusal to purchase additional water to ensure that their needs are met.
- 3- Any amounts in surplus beyond what the subcontractors have need for and right to will be offered for sale to CCWA.
- 4- Any revised delivery forecast from the State will retrigger steps 1 through 3.

For the City, we have a water service amount of 1313 af. Our wet water delivery does not exceed this amount. We have purchased additional drought buffers in the amount of 2290 af. The drought buffer is used in determining how much water will be delivered in a less than 100% delivery scenario. Each year the State projects its anticipated delivery percentage for the upcoming year. This delivery percentage can change during the year based upon hydrologic and legal factors but generally increases. For the current year the delivery percentage is currently projected at 35%. Under this scenario the City will receive  $(1313 \text{ af} + 2290 \text{ af}) * 35\% = 1261.05 \text{ af}$  of water delivered this year. The County, through this agreement, is providing us the opportunity to reach our full delivery request of 1313 af by purchasing additional State Water at \$160 per af.

For the last three years our State Water deliveries have been 1007, 1009, and 1116 af annually. Our Water demand for 2007 was 1446 af of water with 1116 af of State Water received, and 311af of groundwater produced. Projecting the same conditions into 2008 we have the following 1261 af State Water and 185af groundwater. Water demands and supply are most critical during the two-week State water shutdown in November of each year. In previous years we received State Water during the shutdown which we will not receive this year.

### **DISCUSSION:**

The issue discussed herein is for the years of 2008 and 2009. This agreement is not intended to be used as a provision for a long term water supply into the future. The City has an adopted policy document directing the use of our water resources the 2005 Urban Water Management Plan (UWMP). The broader subject of long term water supply will come before the Council later this year in the periodic review of the adopted UWMP. Some of the sources of water available to the City outlined in that document are: State Water, Desalination, Morro Groundwater, Chorro Groundwater, Mutual Aid Agreements, and Water Conservation (including reclamation).

In evaluating our options in regards to entering into the RA we can consider each of the above listed sources and the probable costs and timeline for pursuing the available alternatives.

State Water- In terms of the State Water program for this year and beyond, we have the option to purchase additional drought buffer or to purchase additional water rights. In order to protect full deliveries in a 25 % year we would need to purchase an additional 1600af of drought buffer. Once drought buffer is purchased it cannot be returned and is an annual cost into perpetuity. This year's cost for drought buffer is \$73 per af. The

law of diminishing returns comes into play as deliveries are further reduced. For example the entire 20,000 af of unallocated County water right, if purchased for drought buffer, could protect the full City delivery in a 5.5% delivery year. In pursuing additional water rights there are pipeline and cost constraints that would need to be considered. Recent estimates of costs to permanently acquire additional State Water have ranged upwards of \$20,000 per af. If the County continues with the RA into future years, in delivery years that exceed 36%, it may be possible for the City to sell unused drought buffer through the RA thereby reduce our total State Water costs.

Desalination ó Foreseeing the need to treat groundwater for Nitrate contamination now and into the indefinite future, the desalination plant has plans underway for an energy recovery system to retrofit the plant. Hopefully in time for this years State Water shutdown. Current costs for treatment are in the \$600 per af range. The energy recovery system should increase system efficiency and reduce those costs. It will not be possible to update the plant, nor to expand its capacity to serve as a substitute to entering into the R A. In the future its role is likely to become more critical as it is immune to the effects of drought.

Morro and Chorro Groundwater ó While these well fields represent our historic and most economical water production, the groundwater basins in both the Morro and Chorro valleys have experienced increasing pollution and degradation. Until steps are taken to preclude the pollution of these resources it is safe to assume that there will be times when the well water will exceed safe drinking water standards. Already all of the ground water produced in the Morro Valley is of such quality that it is subjected to treatment using the desalination plant. In the Chorro Valley all of the wells have experienced Nitrate events that exceed safe drinking water standards. The water produced from these resources is now either treated, or blended to ensure safe drinking water for the City. The water rights for the wells in both of the groundwater basins have never been perfected, and future use could become even more constrained. In the long term, there are significant hurdles to overcome in keeping these well fields as an economic and reliable source of drinking water. In the short term, treatment of the Morro Valley groundwater through the desalination plant, blending that treated water with some amount of State water and with Chorro valley groundwater is probably the most economical alternative to entering into the RA. The treated Morro valley water blended with Chorro Valley groundwater is insufficient to meet our current water demands.

Mutual Aid Agreements ó Mutual Aid agreements are intended to be used as an emergency source of water. Their use under a longer term circumstance contemplated herein may not be possible. In discussing mutual aid, the several potential sources of raw water worth discussing are Nacimiento project water and Whale Rock project water. There are pros and cons in considering any form of water delivery from these sources. Both sources, Whale Rock and Nacimiento, have users who have born the costs of developing these resources. In an emergency situation, the City would bear any operating costs for the treatment and conveyance of the water incurred by these agencies. It is also likely that the City would be required to òpay backò the water at some point in the future. The City has received water from the Whale Rock reservoir in the past. The water was treated at the CMC treatment plant and pumped into the Chorro Valley pipeline. It is not known whether the CMC water treatment plant is to be operated this year, and this is the only means through which potable water can be delivered from Whale Rock participants at this time. Nacimiento project water is not yet available. While both of these sources may be worth pursuing with a long term agreement,

neither is likely to fill the water needs of the City over the next few years as effectively as the RA.

Water Conservation (including reclamation) ó The City has some of the lowest per capita water usage rates in the State. While conservation of the valuable resource of water is always laudable, under increasing conservation measures the phenomena of demand hardening occurs. The phenomena is that as water users cut their usage through conservation, additional cuts in water usage become increasingly difficult. In 1999 Carollo engineers produced a Comprehensive Recycled Water Study for the City. This document determined that there is very limited demand for recycled water within the City, and that the pursuit of this alternative would not yet be cost effective. With the upgrade of our waste water treatment plant the demand for reclaimed water may increase. While there are conservation measures that can be enforced under drought conditions to reduce demand even further, implementation of the RA will preclude the need to take such drastic steps.

### **CONCLUSION:**

Many of the available water sources to the City have been studied in detail. While there may be some long term benefits to be had in pursuing water from additional sources, such as a Whale rock exchange or purchase of Nacimiento project water, none of the discussed sources will be more economical or timely than pursuing water needs through the RA.

It is therefore recommended by staff, that the City Council authorize the Utilities/Capital Projects Manager to enter into the 2008/2009 Central Coast Water Reliability Agreement with the County of San Luis Obispo.



AGENDA NO: \_\_\_\_\_

Meeting Date: 8/25/08 Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 19, 2008  
**FROM:** Rob Schultz, City Attorney  
**SUBJECT:** Discussion on Trademarking the Slogan, "Discover Your Better Nature"

### **RECOMMENDATION:**

Staff recommends that City Council review this report and direct Staff on whether to Trademark the slogan, "Discover Your Better Nature."

### **FISCAL IMPACT:**

Between \$500 and \$3000, depending on whether it is done by the City Attorney or Outside Counsel.

### **BACKGROUND:**

The City's Promotions Committee directed the City Attorney to research and process an application with the Federal Trademark Commission to trademark the slogan, "Discover Your Better Nature." The City Attorney explained to the City's Promotions Committee that it does not have the authority to direct the City Attorney to perform such a task and that direction to perform such a task must come from the City Council. This discussion is now in front of the City Council for review and direction.

### **DISCUSSION:**

Obtaining a federal trademark registration is a time-consuming process that may require the expertise of an intellectual property attorney to successfully navigate the numerous obstacles that can arise. This process begins with the selection of the trademark, which in our case is "Discover Your Better Nature." The first step is to ensure that the chosen mark is more than likely available for registration. To do so, the City would conduct a trademark availability search.

Prepared By: \_\_\_\_\_ Dept Review: \_\_\_\_\_

City Manager Review:

City Attorney Review: \_\_\_\_\_

Page 1 of 3

Anyone can conduct a search free of charge at the Patent and Trademark Office website. In many cases, however, only experienced trademark lawyers know how to properly search the Patent and Trademark Office database and, what is more important, how to interpret this search. In some cases it may appear that a trademark is not available when in fact it is. What is worse, it may appear a trademark is available when it is not.

In addition to the Patent and Trademark Office website, many trademark lawyers may use proprietary databases maintained by private companies that provide for more sophisticated search tools. Although these are expensive, they may be worth it because they increase the chance of making the right decision on selecting a trademark and applying for its registration.

After performing an availability search and determining that that "Discover Your Better Nature" is available, the trademark application is prepared. The application would include all of the necessary information for the Patent and Trademark Office examiner to approve the application:

1. The exact trademark must be identified and any design element described.
2. The proper owner of the trademark needs to be identified.
3. It must be stated whether the trademark has been used in U.S. commerce or whether the application is to be filed based on an intent to use basis (which postpones the requirement of showing use).
4. If there has been use, the date of first use as well as an image of the trademark as used in commerce must be submitted.
5. The application must list with specificity what goods or services the trademark is or will be used on.
6. If the applicant has recently filed an application in a foreign country or owns a registration in a foreign country for the identical mark, this information might form an alternative basis for filing the application.
7. Where appropriate, other information such as claims of acquired distinctiveness, disclaimers, translations, and ownership of prior registrations for the same mark should be included.
8. The proper placing of the mark within one or more international classes according to the treaty of Nice should be determined.

A number of issues can arise during this initial step. For example, what is "use in commerce" or what is the proper way to categorize the mark? It is important to fully understand these and other concepts and to have access to and know how to use the Trademark Manual of Examining Procedure, the Acceptable Identification of Goods and Services Manual, and the Design Search Code Manual.

After preparing and reviewing the trademark application, the City would sign a declaration in support of the facts and assertions made on it. The application is then submitted to the Patent and Trademark Office. Assuming there are no obstacles, it can take some 11 to 18 months from the date of

submission of an application to final registration. However, it is important to note that if the trademark registration is ultimately granted, the applicant's priority date is the filing date.

The next step in the process involves Patent and Trademark Office assistants entering the application data into their databases. It is during this step, some 4 to 8 weeks after submission, that the City would receive a notice stating that a pseudo mark or design codes were assigned to the application to facilitate the future examination process. Reviewing this notice for errors is important.

At six to seven months after submission, an examiner at the Patent and Trademark Office will review the application for procedural errors and substantive issues. If any errors or issues are found, the examiner will issue an Office Action. The applicant has a six-month window from the date the examiner issues the Office Action in which to respond or allow the application to become abandoned.

Multiple Office Actions can be issued addressing new points each time. A second Office Action covering the same point as the prior Office Action is termed a Final Office Action. The applicant has one last chance to overcome the rejection either by regular response or by appeal to the Trademark Trial and Appeal Board, or the application becomes abandoned.

After the examiner has deemed one's trademark application satisfactory, she or he approves the application for publication. The application is sent to the publication office for a final review. If the application is in order, a notice is issued that it will be published in the Patent and Trademark Office's Official Gazette. It takes approximately six weeks from the examiner's approval for one to receive a publication date. The publication of the trademark takes place about four weeks later. So, publication should be expected some two and half to three months after examiner approval.

The publication process is intended to provide interested parties in the public with notice of the pending registration of one's trademark. Such parties have a 30-day window from the date of publication to either file an opposition to one's registration or request an extension of time to file an opposition before the Trademark Trial and Appeal Board. Assuming no opposition ensues, one can expect to receive one's certificate of registration some two to three months after the end of the opposition period.

It is at this point that one is permitted the use of the ® symbol. Prior to registration, one may use the TM symbol. Though one's common law trademark rights persist for as long as one does not abandon use of the trademark, post-registration requires a few regular "maintenance" filings between the fifth and sixth year and every tenth year thereafter.

### **CONCLUSION:**

For the City Attorney to perform the above outline procedures would only cost the City approximately \$500.00 in registration fees. However, the City Attorney can make no promises that it has the expertise to complete the process or that the project could be completed in the near future, due to workload. The alternative is to let Outside Counsel perform the tasks, which would cost the City approximately \$3000.



AGENDA NO: \_\_\_\_\_

Meeting Date: \_\_\_\_\_ Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** 8/19/2008

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

**SUBJECT:** Consideration of Reorganization of City Departments Including Administration, Finance and Recreation & Parks; Amendments and Title Change to the Job Descriptions for the Finance Director and Recreation and Parks Maintenance Superintendent and Approval of the Personnel Technician Job Description

**RECOMMENDATION:** Pursuant to the Recommendation Nos. 4, 13 and 20 in the *Assessment of City Organization and Financial Options* document prepared by Management Partners, staff recommends the following:

1. Elimination of the Assistant City Manager position
2. Funding of the Recreation and Parks Director position
3. Amendment of the Finance Directors Job Description
4. Approval of the Recreation and Parks Maintenance Superintendent Job Description
5. Funding of an Office Assistant IV position
6. Approval of the Personnel Technician Job Description
7. Reduction of the Account Clerk I position from full to ½ time.

### **FISCAL IMPACT**

The fiscal impact of implementing the above recommendations is a savings of approximately \$130,000 to the General Fund.

### **SUMMARY**

The City Council contracted with a firm called Management Partners in late 2007 to conduct an organizational assessment of the City of Morro Bay. The firm began fact finding and research for the study in early 2008 and produced a document entitled *Assessment of City Organization and Financial Options* in May 2008. The document outlined 21 Revenue Control Strategies, 13 Revenue Creation Strategies and 4 Long Range Strategies the City could consider for overall improved financial health.

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review:

City Attorney Review: \_\_\_\_\_

Page 1 of 3

The City Council then held a workshop on these strategies/recommendations on August 13, 2008. The Workshop consisted of the Mayor and Council Members reviewing the strategies/recommendations and determining a priority (in conjunction with the priorities determined in the Goal Setting workshop held in June 2008). During the workshop held on August 13, 2008, staff identified approximately 10 of the strategies/recommendations that had been addressed to date by the City Council and Staff.

Specifically in reference to the Management Partners Study, this staff report addresses Strategy/Recommendation No 4 "Elimination of the Assistant City Manager position or Consolidate Some Operating Departments", No. 13 "Streamline the Business License Operation in Order to Reduce Support Department Costs" and No. 20 "Create a Single, Consolidated Maintenance Division for the City".

### **DISCUSSION**

In order to achieve the above referenced General Fund savings, all the proposed recommendations must be completed as they are interrelated and work in harmony. The following is a description of the recommendations. All fiscal impact figures include salary + benefit costs.

1. Eliminate Assistant City Manager position " this action will result in the Finance Director taking over the majority of the personnel duties and negotiations, the City Attorney absorbing risk management functions and the Recreation and Parks Director overseeing the Recreation and Parks Department. Savings to the General Fund is approximately \$156,000.
2. Funding of the Recreation and Parks Director position " the Assistant City Manager (ACM) position was responsible for the administration/management of the Recreation and Parks Department. With the elimination of the ACM, the Recreation and Parks Director position must be funded. Cost to the General Fund is approximately \$122,000.
3. Amendment of the Finance Director Job Description - with the addition of personnel responsibilities to the existing Finance Directors position, the job description must be amended and staff is also recommending a title change to Administrative Services Director which more accurately describes the position. There is no fiscal impact associated with this recommendation.
4. Approval of the Recreation and Parks Maintenance Superintendent Job Description - a combination of the Facilities Superintendent and Parks Superintendent job descriptions " in an effort to begin consolidating the maintenance divisions in the City, staff recommends combining the parks and facilities divisions under one maintenance superintendent position. The savings to the General fund is approximately \$88,000.
5. Funding of an Office Assistant IV (OA IV) position in the Recreation and Parks Department " with the downsizing of two maintenance superintendents to one, some administrative tasks remain unassigned (facility rentals, collection of fees, scheduling of facilities), those tasks will be absorbed by the OA IV position. The funding dedicated to the existing part/time office attendant position (\$25,800) will be reallocated to the OA IV position, thus reducing the cost to the General Fund to \$15,800.

6. Approval of the Personnel Technician Job Description ó this job description was completed yet never taken before the City Council for final approval. This is a housekeeping function and there is no fiscal impact associated with this recommendation.
7. Amendment of the Account Clerk I position in the Finance Department from full to ½ time. The savings to the General Fund is approximately +\$23,400.

### **CONCLUSION**

The City Council and staff has spent considerable time, effort and funding to take a comprehensive look at the overall City structure. The effort recommended above is the first step toward financial health for the City of Morro Bay, supported by the Management Partners report as well as the Goals and Strategic Planning set forth by the City Council in mid June.

u.w.council.reorganization 8 08