

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING – SEPTEMBER 22, 2008

**CLOSED SESSION – SEPTEMBER 22, 2008
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

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

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

- Property: 35W and 36W adjacent to 235 Main Street
Negotiating Parties: Martony, Pekarek and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

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

**PUBLIC SESSION – SEPTEMBER 22, 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 SEPTEMBER 8, 2008; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted

A-2 RESOLUTION NO. 58-08 APPROVING OF NEW LEASE AGREEMENT FOR LEASE SITE 129W-131W LOCATED AT 1215 EMBARCADERO WITH MORRO BAY FISH COMPANY; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 58-08.

A-3 RESOLUTION NO. 59-08 APPROVING OF NEW LEASE AGREEMENT FOR LEASE SITE 132W-133W LOCATED AT 1235 EMBARCADERO WITH TOGNAZZINI FAMILY, INC.; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 59-08.

A-4 RESOLUTION NO. 57-08 APPROVING SUBLEASE AGREEMENT FOR A PORTION OF LEASE SITE 124-128/124W-128W LOCATED AT 1215 EMBARCADERO BETWEEN VIRG'S LANDING, INC. AND SLO DIVERS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 57-08.

A-5 APPROVAL OF RESOLUTION NO. 60-08 FOR APPROVAL OF LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 1700 EMBARCADERO, JOINTLY OWNED BY THE CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT, WITH MORRO DUNES TRAVEL TRAILER PARK & RESORT CAMPGROUNDS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 60-08.

A-6 RESOLUTION NO. 56-08 TO JOIN INTERNATIONAL COUNCIL FOR LOCAL ENVIRONMENTAL INITIATIVES - LOCAL GOVERNMENTS FOR SUSTAINABILITY IN ORDER TO CONDUCT A GREENHOUSE GAS EMISSIONS INVENTORY FOR THE CITY OF MORRO BAY; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 56-08.

A-7 PROCLAMATION DECLARING OCTOBER 5-11, 2008 AS "NATIONAL FIRE PREVENTION WEEK"; (FIRE)

RECOMMENDATION: Adopt Proclamation.

A-8 PROCLAMATION DECLARING SEPTEMBER 27, 2008 AS "SAN LUIS OBISPO COUNTY CREEK DAY"; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

- B-1 EXTENSION OF AN INTERIM URGENCY ORDINANCE MODIFYING THE DEVELOPMENT REVIEW FOR PARCELS IN THE R-1 DISTRICT ZONE THAT EXCEED 2,500 SQUARE FEET PENDING COMPLETION OF STUDIES AND THE PREPARATION OF AN UPDATE TO THE CITY'S ZONING CODE; (CITY ATTORNEY)

RECOMMENDATION: Adopt Interim Urgency Ordinance No. 543.

- B-2 RECONSIDERATION OF THE DENIAL OF A REQUEST FOR A TWO-LOT SUBDIVISION AT 735 CABRILLO PLACE PURSUANT TO COURT ORDER; (PUBLIC SERVICES)

RECOMMENDATION: Deny the appeal and make the necessary findings to deny the requested lot split at 735 Cabrillo Place.

- B-3 CONCEPT PLAN APPROVAL FOR THE EMBARCADERO CONFERENCE CENTER LOCATED AT 801-833 EMBARCADERO, UPO-212; (PUBLIC SERVICES)

RECOMMENDATION: Approve the Mitigated Negative Declaration and conditionally approve the Concept Plan.

C. UNFINISHED BUSINESS

- C-1 STATUS REPORT ON THE AGP CONTRACT AND CONSIDERATION OF PROVIDING WEB STREAMING OF COUNCIL MEETINGS; (ADMINISTRATION)

RECOMMENDATION: Receive report for information.

D. NEW BUSINESS – NONE.

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.

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION 6 SEPTEMBER 8, 2008
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

PRESENT: Janice Peters Mayor
 Melody DeMeritt Councilmember
 Rick Grantham Councilmember
 William Peirce Councilmember
 Betty Winholtz Councilmember

STAFF: Andrea Lueker City Manager
 Robert Schultz City Attorney

CLOSED SESSION

MOTION: Councilmember Winholtz moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember DeMeritt 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 as to 3 parcels.

- Property: 625 Harbor Street; Library.
Negotiating Parties: SLO County and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: 35W and 36W adjacent to 235 Main Street
Negotiating Parties: Martony, Pekarek and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: Morro Bay RV Dunes.
Negotiating Parties: Doug Claassen and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

CS-2 GOVERNMENT CODE SECTION 54956.9(A); CONFERENCE WITH LEGAL COUNSEL REGARDING PENDING LITIGATION.

- LINKER vs. CITY OF MORRO BAY
- MORRO BAY vs. MARTONY and PEKAREK

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:55 p.m.

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

The meeting adjourned at 5:55 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	Rick Grantham	Councilmember
	William Peirce	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	Sue Lichtenbaum	Business Coordinator
	Mike Pond	Fire Chief
	Mike Prater	Planning Manager
	Susan Slayton	Finance Director
	Dylan Wade	Utilities/Capital Project Manager
	Joe Woods	Acting Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Rachel Ayotte, Morro Bay High School student, gave an update on what is happening at the high school.

Peter Candela reviewed statistics of the Chamber of Commerce, and announced upcoming events.

Rosalie Valvo announced the Morro Coast Audubon Society became the owner of eight additional acres of land to add to the Los Osos Sweet Springs Natural Preserve. She stated a celebration would be held on September 21st, and a donation of time and/or money would be appreciated.

Keith Taylor stated donations for the brick program for Phase I of the Fire Station is due September 15th.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

Ken Vesterfelt stated tickets are being sold for a raffle that will benefit the Rotary Club and Friends of the Police and Fire Departments, and prizes will be issued at the Harbor Festival. He reviewed that status on the job located at 600 Morro Bay Boulevard.

Rick Gilligan announced an informational meeting would be held to learn more about the proposed community competition-sized and therapy pool on September 10th at the Morro Bay High School.

Lynda Merrill expressed support for Item C-1 (Further Discussion of Responsible Party on Utility Accounts and Water Deposit). She expressed concern with the financial state of the City and urged the City to continue cutting back on City spending. Ms. Merrill addressed Item D-1 (Consideration of Channel Streaming and Purchase of Replacement Equipment for Local Government Channel Insertion Point) stating this would be advantageous for those who do not have cable television. She addressed Item D-3 (Consideration of a Date for a Joint City Council and Community Promotions Committee Meeting) and requested Council considers scheduling an evening meeting.

Patti Dunton expressed concern with the grading of a lot in Morro Bay that is a Native American burial site. She addressed Morro Bay Municipal Code 17.48.310(d) and sections of the General Plan regarding historical resources.

Roger Ewing addressed Item D-1 and encouraged Council considers streaming meetings in order to keep those with satellite dishes informed.

Joey Racano stated precedence was set at the Central Coast Regional Water Quality Control Board meeting when the California Mençs Colony was found in violation of the Marine Life Protection Act. He also addressed the placement of the marina and dredge by the State Marine Reserve, which is a violation of the Coastal Act.

Noah Smukler addressed the implementation of programs promoting water conservation. He also expressed support for video streaming government meetings.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

DECLARATION OF FUTURE AGENDA ITEMS ó None.

A. CONSENT CALENDAR

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

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

A-1 APPROVAL OF MINUTES FOR THE SPECIAL MEETING OF AUGUST 4, 2008, AND THE REGULAR CITY COUNCIL MEETINGS OF AUGUST 11, 2008 AND AUGUST 25, 2008; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 55-08 APPROVING A LANDLORD'S ESTOPPEL CERTIFICATE ON LEASE SITE 53-56/53W-56W; ESTERO LANDING LOCATED AT 501 EMBARCADERO; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 55-08.

A-3 PROCLAMATION DECLARING SEA OTTER AWARENESS WEEK; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Item A-1 from the Consent Calendar.

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

A-1 APPROVAL OF MINUTES FOR THE SPECIAL MEETING OF AUGUST 4, 2008, AND THE REGULAR CITY COUNCIL MEETINGS OF AUGUST 11, 2008 AND AUGUST 25, 2008; (ADMINISTRATION)

Councilmember Winholtz requested the following amendment to the minutes of August 11, 2008, page 8:

ñí .She said it is important to note that Sprint has had a difficult time locating a tower in the City because it is not a desirable use in the locations that are ~~appropriate~~ **proposed.**ö

Mayor Peters requested the following amendment to the minutes of August 11, 2008, page 8:

ñí .She said the City has no ~~evidence~~ **ordinance** over the placement of cell phone towers in residential areas at this time; í ö

Councilmember Winholtz requested the following amendment to the minutes of August 25, 2008, page 3:

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

õMayor Peters requested to agendize the reconsideration of the Palm Avenue right-of-way walkway; ~~Councilmember DeMeritt and Councilmember Winholtz~~ **Councilmember Grantham and Councilmember Peirce** concurred.ö

MOTION: Mayor Peters moved the City Council approve the minutes of August 11, 2008 as amended. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

MOTION: Mayor Peters moved the City Council approve the minutes of August 4, 2008. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz abstaining. (4-0-1)

MOTION: Councilmember Winholtz moved the City Council approve the minutes of August 25, 20008 as amended. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 ZONING ORDINANCE AMENDMENT FOR NEIGHBORHOOD COMPATIBILITY STANDARDS; (PUBLIC SERVICES)

Planning Manager Mike Prater stated a series of public meetings were conducted to solicit and engage community input dealing with neighborhood standards and the growing concern of õmansionization.ö After careful consideration of the physical lot sizes, characteristics of the community, planning policy and ordinance framework, and the substantial amount of information available on the topic the Planning Commission recommends to the City Council that threshold(s) be developed to heighten the review process and elevate projects to the Planning Commission review level. This recommendation is similar to the current interim ordinance that elevates single-family residences greater than 2,500 square feet obtain a Conditional Use Permit. Mr. Prater recommended the City Council accept the Planning Commission recommendation, which would provide staff and the Commission direction to begin developing threshold(s) or work towards another approach.

Mayor Peters opened the hearing for public comment.

The following people expressed support for implementing a floor-to-area ratio: Roger Ewing, Dorothy Cutter, Amenity Perry, Jim Nance, and Sue Perry.

Bill Luffee stated he is confused with what the City is proposing with the proposed threshold concept.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

Chris Saderas stated the floor-to-area ratio should be limited to the architectural design rather than volume.

Verna Parrish stated the proposed threshold program is vague. She requested a more definitive value to the small town atmosphere, and where to invest for profit in the community. Ms. Parrish requested the proposed thresholds provide a style that would provide light on second story setbacks.

Noah Smukler stated Council should move towards a process that communicates neighborhood compatibility, and develops incentives that promote future vision.

Lynda Merrill stated staff is seeking direction on developing thresholds and expressing what expectations are desired.

John Barta stated the proposed floor-to-area ratio is going to turn legal homes into illegal non-conforming homes. He said the Planning Commission is requesting Council to set standards for the community.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz suggested three options for floor-to-area ratio: 1) 1.0 floor-to-area ratio less than normal setbacks such as Los Angeles; 2) 3-tier graduated plus menus such as Burbank; or 3) multi-tiers plus menu such as Santa Cruz. She said she is ready to move forward with this program.

Councilmember Peirce stated Council should request the Planning Commission to come back with a set of standards that works for the community.

Councilmember Grantham stated floor-to-area ratio could not address all neighborhoods. He said the Planning Commission is capable of providing thresholds for Council's consideration.

Councilmember DeMeritt stated this issue started with the consideration of view shed. She said the City needs to set standards to protect property values. Councilmember DeMeritt stated floor-to-area ratio is needed for single-family homes to provide bulk, size and scale on the various lot sizes that would allow neighborhood compatibility and flexibility in building.

Mayor Peters stated what is needed is a combination of floor-to-area ratio and articulation that would create an attractive neighborhood. She said she would like staff to return with the combination of tools and thresholds that would be appropriate for each neighborhood.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

MOTION: Councilmember Grantham moved the City Council direct staff and Planning Commission to develop building thresholds and expectations regarding lot size to building size. The motion was seconded by Councilmember Peirce.

Councilmember DeMeritt stated she would not support the motion because staff needs clearer direction in order to proceed.

VOTE: The motion failed with Councilmember DeMeritt, Councilmember Winholtz and Mayor Peters voting no. (2-3)

MOTION: Councilmember Winholtz moved the City Council direct the Planning Commission with the assistance of Planning Staff to return with a multi-tier floor-to-area ratio and menu similar to Santa Cruz and other cities, and return to Council by January 2009. The motion was seconded by Councilmember DeMeritt and carried with Councilmember Grantham and Councilmember Peirce voting no. (3-2)

Mayor Peters called for a break at 8:36 p.m.; the meeting resumed at 8:42 p.m.

C. UNFINISHED BUSINESS

C-1 FURTHER DISCUSSION OF RESPONSIBLE PARTY ON UTILITY ACCOUNTS AND WATER DEPOSIT; (FINANCE)

Finance Director Susan Slayton stated at the July 14, 2008 City Council meeting, an item was presented to Council amending the Master Fee Schedule; one amendment was the establishment of a Water Utility Deposit, and require the deposit to be paid with new tenant signups. On August 11, 2008, Council voted against a tenant utility deposit and for requiring utility accounts to be carried in the property owner's name. Staff has concerns with this requirement primarily due to water conservation. Ms. Slayton recommended the City Council reconsider this motion, and direct staff accordingly.

Councilmember Winholtz stated tenants are as cautious as landlords when it comes to water conservation. She said it would be a better guarantee that the bill would be paid if the account were in the name of the landlord.

Councilmember Peirce stated it would be difficult for landlords to know how much to raise rents based on water usage. He said he supports staff's recommendation to place the accounts in the name of the tenant.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

Councilmember Grantham stated he also supports staff's recommendation to place the accounts in the name of the tenant.

Councilmember DeMeritt stated it should be between the landlord and tenant on who would be responsible for the water bill.

Mayor Peters stated whoever receives the water bill should pay the deposit.

MOTION: Councilmember Peirce moved the City Council rescind Resolution No. 49-08 and replace with an Ordinance that would return the responsibility of the \$100 water deposit to whoever applies for the water bill, and those who have their water turned off for non-payment would be required to pay a \$100 deposit. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 CONSIDERATION OF CHANNEL STREAMING AND PURCHASE OF REPLACEMENT EQUIPMENT FOR LOCAL GOVERNMENT CHANNEL INSERTION POINT; (ADMINISTRATION)

Management Analyst Janeen Burlingame stated at the June 8, 2008 meeting, Council approved a month-to-month extension of the Video Production Services and Local Government Channel Insertion Point Management Agreement with AGP Video. In addition, Council directed staff to return at the September 22nd meeting with an update on negotiations of a new agreement after information was received from AGP Video regarding upgrading the channel insertion point, camera system automation and web streaming of Council meetings. Should the Council authorize streaming Channel 20, AGP Video has agreed to begin streaming the channel as a pilot project once the new twin computer system has been installed at no additional charge to the City until such time a new agreement is negotiated and web streaming is added as part of the insertion point scope of work. Ms. Burlingame recommended the City Council: 1) approve the purchase of replacement equipment from AGP Video for a twin computer system for channel operations/community calendar; and 2) provide direction to staff as to whether or not to authorize AGP Video to begin streaming Channel 20 as described in the staff report and memorandum.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

MOTION: Councilmember Winholtz moved City Council: 1) approve the purchase of replacement equipment from AGP Video for a twin computer system for channel operations/community calendar; and 2) provide direction to staff as to whether or not to authorize AGP Video to begin streaming Channel 20 as described in the staff report and memorandum. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

D-2 DISCUSSION ON COUNCIL MEMBER REPORTS FROM OTHER COUNTY
AND AGENCY MEETINGS; (COUNCIL)

Councilmember Winholtz stated currently, Council Members use their discretion on what to report at Council meeting regarding their assignments as liaisons to government agencies, non-profits, and other recognized entities to which Members represent the City. All other cities in the County have a time designated toward the end of their meetings for reporting back to their respective Councils. Councilmember Winholtz recommended: 1) the City Council amend its agenda to include an item toward the end of the meeting where members will report on their work as City liaisons with government agencies, non-profits, and other recognized entities that each Council Member attends as a representative; and 2) amend the City Council Guidelines/By Laws to reflect the intent that Members will report to the Council as a whole each month.

MOTION: Councilmember Winholtz moved the City Council direct staff to amend the agenda to read "Mayor and Council Members Announcements and Reports" and remove the word "Presentations". The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

Councilmember Winholtz suggested moving Future Agenda Items to the end of the agenda.

D-3 CONSIDERATION OF A DATE FOR A JOINT CITY COUNCIL AND
COMMUNITY PROMOTIONS COMMITTEE MEETING; (ADMINISTRATION)

City Manager Andrea Lueker stated during the review of the report from Management Partners, *Assessment of City Organization and Financial Options* held on August 13, 2008, the City Council consensus was to schedule a joint meeting with the Community Promotions Committee. Ms. Lueker recommended the City Council choose a date to schedule a joint meeting with the Committee.

Council directed staff to discuss the scheduling of a joint meeting with the Community Promotions Committee to be held before a Council meeting.

No further action was taken on this item.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó SEPTEMBER 8, 2008

ADJOURNMENT

The meeting adjourned at 9:25 p.m.

Recorded by:

Bridgett Bauer
City Clerk



AGENDA NO: A-
Meeting Date: 9/22/08 Action:

Staff Report

O Honorable Mayor and City Council **E 0**

F O Rick Igert Harbor Director

S EC **O OF E E SE EE E FO E SES ES**
1 -1 1 OC E 1 1 E C E O H O O
F SH CO

ECO E O That the City Council adopt Resolution No. 58.08 authorizing the Mayor to execute a new four-year lease agreement with Morro Bay Fish Company for operation of a fish buying station and the ice plant on Lease Sites 129W-131W.

F SC C Under the current lease with MBCFO for these sites, rent is \$1 annually. The new lease will produce revenue to the Harbor Fund of \$6,000 annually.

S The recommended new lease agreement will reestablish a private, for-profit operation of the fish buying dock at this critical support facility for the commercial fishing industry. The proposed lease is a relatively short term so that Morro Bay Fish Company and the City can evaluate the business opportunities and services for consideration in any future long-term lease.

C O After investing more than \$350,000 in establishing a fish buying operation on Lease Sites 129W-132W and constructing the fish market on Lease Site 133W, Gerry Driscoll closed down Driscoll's Wharf in 2004. The City agreed to terminate the Driscoll's Wharf lease for the sites at that time and purchase the in-place equipment in the hope of keeping the dock/market open under a new tenant. The City went through two tenants in the fish market in the intervening years, before the Tognazzinis were able to make that a viable operation. On the dock portion (129W-132W) the City was unable to find any private party willing to operate it as a full-service fish buying station and turned to the Morro Bay Commercial Fishermen's Organization to provide the service in a one-year lease, executed in April 2005 with a \$1 per year rent. That lease has been in a month-to-month holdover since April 2006 as the business environment around commercial fishing continued to worsen. During discussions earlier this year with MBCFO on creating a new lease for the dock sites a private party, Morro Bay Fish Company, submitted a written offer to lease the dock from the City. In the long term, private operations of the fish buying station/ice plant and establishing rental revenue are desirable outcomes for the City, and Staff has negotiated a proposed four-year lease with Morro Bay Fish

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

Company to take over the dock/ice plant operation on a ~~trial~~ basis.

SC SSO Morro Bay Fish Company (Brett Cunningham and David Rose) are currently subleasing the small wharf and fish processing building on Lease Site 81-81W between the Flying Dutchman Restaurant and Rose's Landing Restaurant. Morro Bay Fish Company desires to expand their business and has agreed to provide the services the City seeks at Lease Site 129-131W. A summary of the important terms of the lease follows:

remises 129W-131W including the new ice plant, existing fish hoist and platform scale, approximately 10,500 square feet of dock/water area.

term Four years. This is viewed as something of a trial lease for both parties, as Morro Bay Fish Company attempts to grow their business in a very difficult industry and Staff recommends that the initial lease, at least, be relatively short term so that performance can be evaluated. The lease has been negotiated in the City's short form format because it is under a five-year term.

rent \$500 per month with annual CPI increases, no percentage rent or poundage fees.

Operation of the ice plant Very similar to our existing agreement (which will be terminated if this lease is approved) with the MBCFO. Tenant to maintain and operate the ice plant at Tenant's cost; Tenant has to account for ice plant revenues and expenses separately and establish a maintenance account for revenues in excess of expenses to offset future major maintenance problems. City agrees to an obligation to assist in repairs in the case of a maintenance problem in excess of \$10,000. Since the plant is still relatively new, it is hoped that nothing in this range will occur, but ultimately it is the City's equipment, and at least until the ice plant maintenance account can accumulate a substantial amount, we would be responsible for this obligation.

maintenance utilities and Equipment Tenant will lease and maintain the City's equipment listed in Exhibit B. Standard insurance requirements, maintenance (except ice plant as outlined above) and utilities installed and maintained by Tenants.

CONCLUSION Staff recommends that the City Council adopt Resolution No. 58-08, approving a new four-year lease agreement for Lease Sites 129W-131W with Morro Bay Fish Company for operation and maintenance of the City's ice plant and fish buying station on these sites.

ESO O O -0
 O OF E SE EE E FO E SES ES 1 -1 1
 OC E 1 1 E C E O
 H O O F SH CO
 E SH OF E C H OSE

 HE C CO C
 City of Morro Bay California

HE E S, the City of Morro Bay is the lessor of certain property on the Morro Bay waterfront described as Lease Sites 129W-131W; and,

HE E S, The Morro Bay Commercial Fisherman's Organization (MBCFO) has been operating a full-service fish buying station on the Lease Sites since 2005 under a lease agreement that is on a month-to-month holdover; and,

HE E S the City of Morro Bay desires to support the commercial fishing industry, provide Morro Bay Fish Company an opportunity to expand its operation and reestablish a for-profit business on these Lease Sites.

O HE EFO E E ESO E by the City Council of the City of Morro Bay that a new lease agreement for Lease Sites 129W-131W, located at 1215 Embarcadero, with Morro Bay Fish Company, is hereby approved and that the Mayor is hereby authorized to execute the lease document and the existing lease agreement for these sites with the MBCFO is hereby terminated, effective October 22, 2008.

SSE O E by the City Council of the City of Morro Bay at a regular meeting held thereof on the 22nd day of September 2008, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, MAYOR

BRIDGETT BAUER, CITY CLERK



AGENDA NO: A-
Meeting Date: 9/22/08 Action:

Staff Report

O Honorable Mayor and City Council **E 0**

F O Rick Igert Harbor Director

S EC **O OF E E SE EE E FO E SES ES**
1 -1 OC E 1 E C E O H
O F CO O E

ECO E O That the City Council adopt Resolution No. 59.08 approving a new 20-year lease agreement for Lease Sites 132W-133W, located at 1235 Embarcadero, with Tognazzini Family Incorporated, Mark Tognazzini and Bonnie Tognazzini, Officers.

F SC C The initial 2-year lease for the fish market (133W) did not include percentage rent. The new lease with percentage rents is expected to increase total revenues from the agreements by \$3,000-10,000 annually.

S The recommended new lease agreement will allow the Tognazzinis to install a new fish unloading hoist on Lease Site 132W and continue operation of Tognazzini's Dockside Too.

C O The Tognazzini Family took over the vacant fish market on Lease Site 133W in April 2006.

The existing lease agreement for Lease Site 133W expires in December 2008. The dock to the south, Lease Sites 129-132W has been operated by the Morro Bay Commercial Fishermen's Organization (MBCFO) since 2005 when we were unable to find any other party to run the dock/fish buying business after Gerry Driscoll's departure. That lease with MBCFO is now on a month-to-month holdover. During staff discussions with the MBCFO on extending the existing lease for 129-132W, we received a letter of interest from the Morro Bay Fish Company in leasing the dock for expanding their current fish buying business at 701 Embarcadero. Staff has negotiated a new lease with Morro Bay Fish Company (separate Agenda Item) for Lease Sites 129-131W. Lease Site 132W is proposed to be incorporated into a new 20-year lease with the Tognazzinis. The Tognazzinis will install a new fish hoist on a part of Lease Site 132W and continue using the remainder as outside eating area in support to the existing fish market on 133W.

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

SC SS O These Lease Sites are in the Measure D-zoning area North of Beach Street. Under the current zoning no new retail or expansion of retail operations may occur unless directly related to commercial fishing/marine dependent uses. The Tognazzinis have managed to revive the fish market, food service business on Lease Site 133W and they wish to continue operating Tognazzini's Dockside Too on the premises, and install a fish hoist on 132W. Following is a summary of the terms of the recommended Lease:

remises Lease Sites 132W-133W . approximately 6300 square feet of water/dock area located at 1235 Embarcadero.

term 20-years commencing July 1, 2008 and terminating on June 30, 2028. The proposed lease will be retroactive to July 1, 2008 for percentage rent accounting purposes.

rent Minimum annual rent is set at \$18,000.00 initially with annual CPI increases. Percentage of gross sales rent applies to retail food sales and pier revenue. Last year's total rent from this site (minimum rent only) was \$18,000.00. Staff anticipates that the Tenant's percentage of gross sales rent will exceed the minimum rent in the FY08-09 year.

maintenance utilities and insurance Standard insurance requirements, maintenance and utilities installed maintained and paid for by tenants. Hoist to be installed and operated by Tenant, no later than December 2009.

Fish market Equipment Some of the kitchen equipment in the fish market reverted to City ownership in the lease termination agreement City executed with Gerry Driscoll in 2004. This agreement will have the remaining City owned equipment (which is being repaired and maintained by Tenant) revert to ownership of the Tenant in 2011. The real value of the equipment to the City was to keep the fish market in operation, which this lease agreement will support into the long-term future. Dollar value of 8-10 year old restaurant equipment is 10-25% of original purchase costs.

CO C SO Staff recommends that the City Council adopt Resolution No. 59-08, approving a new 20-year lease agreement for Lease Site 132W-133W with Tognazzini Family Incorporated, Mark Tognazzini and Bonnie Tognazzini, Officers.

ES O O -0
O OF E SE EE E FO E SES ES 1 -1
OC E 1 E C E O
H O F CO O E
H E C CO C
City of Morro Bay California

HE E S, the City of Morro Bay is the lessor of certain property on the Morro Bay waterfront described as Lease Sites 132W-133W; and,

HE E S, Mark and Bonnie Tognazzini have been the lessee of 133W since May 2006; and,

HE E S the existing lease agreement for said property terminates on December 31, 2008; and,

HE E S the City of Morro Bay desires to support the commercial fishing industry, and establish a new fish hoist on Lease Site 132W.

O HE EFO E E ESO E by the City Council of the City of Morro Bay that a new lease agreement for Lease Sites 132W-133W, located at 1235 Embarcadero, with Tognazzini Family Incorporated, Mark Tognazzini and Bonnie Tognazzini, Officers, is hereby approved and that the Mayor is hereby authorized to execute the lease document.

SSE O E by the City Council of the City of Morro Bay at a regular meeting held thereof on the 22nd day of September 2008, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, MAYOR

BRIDGETT BAUER, CITY CLERK



E	O	_____	-	_____
Meeting	Date	_____	0	Action _____

Staff Report

O Honorable Mayor and City Council

E 1 0

F O Rick Igert Harbor Director

S EC **S E SE** **O FO** **O O OF E SES E 1 -1 1 -**
1 **OC E 1 1 E** **C E O E EE 'S**
C S O E S

ECO EO That the City Council adopt Resolution #57-08 approving sublease of a portion of Lease Site 124-128/124W-128W, located at 1215 Embarcadero, between Virgo Landing Inc., and Shawn Stamback, doing business as SLO Divers.

F SC C None

S Virgo Landing, Inc. leases the dock area and building at 1215 Embarcadero, Lease Site 124-128/124W-128W, and has requested approval of a sublease with Shawn Stamback, doing business as SLO Divers. Mr. Stamback plans on operating a dive boat on the site. Virgo Landing Inc. has completed the application for sublease, paid the administrative fee, executed the Consent to Sublease document and provided a copy of the sublease agreement between the parties. Mr. Stamback has provided a brief statement of his proposal and his background. Virgo Landing Inc. is in compliance with the terms of the master lease agreement for Lease Site 124-128/124W-128W.

SC SSO Most of the City's newer leases allow for administrative approval of subleases. However, the lease agreement for Lease Site 124-128/124W-128W is an old county lease format that requires City Council approval of any sublease on the site. The lease agreement states that approval of assignment/sublease shall not be unreasonably withheld. The Measure D zoning in this area allows for existing, but not expansion of recreational commercial sport fishing. Over the last few years, Virgo has cut their boat operations from 4 down to 2. The Papagallo replaced one of the vessels and SLO Divers would replace the other. In addition, due to current fishing regulations, Virgo is unable to charter for rock fishing almost six months of the year so their usage has actually decreased. SLO Divers would be a continuation of the existing uses, and not an expansion.

CO C SO The lease agreement for Lease Site 124-128/124W-128W requires City Council approval of any assignment or sublease of the premises. The tenant and proposed sublessee have completed the required paperwork and paid the sublease application. Staff recommends approval of the sublease for a portion of Lease Site 124-128/124W-128W between Virgo Landing Inc. and Shawn Stamback.

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

ESO O O -0

O OF S E SE EE E FO O O OF
E SES E 1 -1 1 -1 OC E 1 1 E C E O
E EE 'S C SH S C

HE C CO C
City of Morro Bay California

HE E S, the City of Morro Bay is the lessor of certain property on the Morro Bay waterfront described as Lease Site 124-128/124W-128W; and,

HE E S, Virg\$ Landing, Inc. is the lessee of said property; and,

HE E S Darby Neil of Virg\$ Landing Inc. has requested City Council approval of a sublease agreement for a portion of Lease Site 124-128/124W-128W between Virg\$ Landing Inc.; and Shawn Stamback, doing business as SLO Divers; and,

HE E S Virg\$ Landing Inc. has completed the assignment application form, paid the assignment fee and provided background information on the proposed sublessee. The Consent to Sublease agreement has been executed by Mr. Neil and Mr. Stamback and a copy of the sublease agreement has been provided to the City;

O HE EFO E E ESO E by the City Council of the City of Morro Bay that sublease of a portion of a sublease agreement for a portion of Lease Site 124-128/124W-128W-56W between Virg\$ Landing Inc.; and Shawn Stamback, doing business as SLO Divers, is hereby approved and that the Mayor is hereby authorized to execute the Consent to Sublease document.

SSE O E by the City Council of the City of Morro Bay at a regular meeting held thereof on the 22nd day of September 2008, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, MAYOR

BRIDGETT BAUER, CITY CLERK



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 17, 2008

FROM: Rob Schultz, City Attorney

SUBJECT: Approval of Resolution No. 60-08 for Approval of Lease Agreement for Real Property Located at 1700 Embarcadero, Jointly Owned by the City of Morro Bay and Cayucos Sanitary District, with Morro Dunes Travel Trailer Park & Resort Campgrounds

RECOMMENDATION:

That the City Council adopt Resolution 60-08 authorizing the Mayor to execute a new twenty-year lease agreement for the real property located at 1700 Embarcadero with Morro Dunes Travel Trailer Park & Resort Campground.

FISCAL IMPACT:

Approval of the new lease will result in an increase in general fund revenues of approximately \$75,000 annually.

BACKGROUND:

Morro Dunes RV Park and Doug Claassen have been the tenants of the real property at 1700 Embarcadero Road for over 40 years. The current lease expired on April 1, 2007 and has been in holdover status since then, pursuant to paragraph 22 of the lease agreement. Part of the property is completely owned by the City and part of the property is owned 60% by the City and 40% by Cayucos Sanitary District. This item will approve a new twenty-year lease.

Prepared By: _____ Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 4

DISCUSSION:

The existing lease has expired and a new proposed twenty-year lease in the City's master lease format is attached. Following is a summary of the critical terms of the proposed new lease:

Premises: Real Property located at 1700 Embarcadero Road ó approximately 575,000 square feet of land.

Term: 20 years commencing September 1, 2008 and terminating August 30, 2028.

Rent: Minimum annual rent is set at \$175,000 initially with annual CPI increases. Percentage rent is 15% of gross sales.

Maintenance, Utilities and Insurance: Standard insurance requirements, maintenance and utilities installed and maintained and paid by tenant.

CONCLUSION:

That the City Council adopt Resolution 60-08 authorizing the Mayor to execute a new twenty-year lease agreement for the real property located at 1700 Embarcadero with Morro Dunes Travel Trailer Park & Resort Campground.

RESOLUTION NO. 60-08

**APPROVAL OF LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT
1700 EMBARCADERO, JOINTLY OWNED BY THE CITY OF MORRO BAY AND
CAYUCOS SANITARY DISTRICT, WITH MORRO DUNES TRAVEL TRAILER PARK
& RESORT CAMPGROUNDS**

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

WHEREAS, the City of Morro Bay and the Cayucos Sanitary District are the Owners and Lessors of certain property located in the City of Morro Bay at 1700 Embarcadero; and

WHEREAS, Morro Dunes RV Park and Doug Claassen have been the Lessees and Operators of said property for over 40 years pursuant to a lease dated March 28, 1967; and

WHEREAS, the current lease between the Lessors and Lessee expired on April 1, 2007 and has been in holdover status since then pursuant to paragraph 22 of the lease agreement dated March 28, 1967; and

WHEREAS, the City of Morro Bay and the Cayucos Sanitary District desire to continue to lease the property at 1700 Embarcadero Road to Morro Dunes RV Park pursuant to the terms and conditions set forth in the attached Lease Agreement; and

WHEREAS, the City Council of the City of Morro Bay finds that the approval of the Lease Agreement is exempt from review under CEQA because it involves the lease and minor alteration of existing facilities as described in State CEQA Guidelines Section 15301 and is exempt under Class 1, Existing Facilities, Title 2, California Code of Regulations, Section 2905 (a)(2).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that a new lease agreement for real property located at 1700 Embarcadero, with Morro Dunes Travel Trailer Park & Resort Campgrounds, is hereby approved and that the Mayor is hereby authorized to execute the lease document.

BE IT FURTHER RESOLVED that this approval is contingent upon similar approval by the Cayucos Sanitary District as evidenced by signature on the Lease Agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of September, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT BAUER, CITY CLERK



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 22, 2008

FROM: Rachel Grossman, Associate Planner

SUBJECT: Resolution to join International Council for Local Environmental Initiatives – Local Governments for Sustainability (ICLEI) in order to conduct a Greenhouse Gas Emissions Inventory for the City of Morro Bay

RECOMMENDATION: Adopt Resolution No. 56-08

FISCAL IMPACT: There is an initial \$600 cost to join ICLEI and this fee is assessed annually. The Sierra Club has provided funding for the City's first year of membership in ICLEI, and an alternative funding source will need to be identified for future years. An intern associated with the project will perform the data collection, data entry and analysis. Some staff time will be required to validate the approach and the data. Ultimately, the implementation of greenhouse gas reduction programs will have an associated cost, but both the program recommendations and costs are unknown at this time.

SUMMARY: City policies and programs, as well as state regulations promote greenhouse gas reporting and reductions, and recent case law indicates that local agencies must address emissions as part of environmental evaluations associated with updates of General Plans and review of larger projects. In addition, the City of Morro Bay has signed the U.S. Mayor's Climate Protection Agreement that states that they City shall strive to inventory global warming emissions in City operations and in the community, set reduction targets and create an action plan. To facilitate compliance with these policies, programs and regulations, City Staff is recommending that the City move forward with a greenhouse gas inventory. In order to complete the inventory, City Staff recommends that the City join ICLEI. By joining ICLEI, the City will have access to technical assistance, emissions analysis software, case studies, training workshops, publications and other learning and networking opportunities.

BACKGROUND: The City's Land Use, Open Space, Conservation and Circulation Elements of the

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 6

General Plan contain policies related to smart growth, energy conservation and provision of facilities to encourage the use of non-motorized transportation options. These policies indicate the City's support for the reduction of greenhouse gases, and they are an important step towards reducing the production of greenhouse gases within the City since the two primary sources of greenhouse gas emissions are electricity production and vehicle emissions.

At the state level, Assembly Bill (AB) 32 promotes greenhouse gas emissions reporting and reductions. While the Air Resources Board and the local Air Pollution Control District (APCD) have yet to develop standards to implement this bill, the legislation requires reduction plans to be implemented by January of 2010. In addition to the regulatory framework, case law surrounding greenhouse gas emissions indicates that local agencies must address emissions as part of the environmental evaluations associated with updates of General Plans and review of larger projects. Since the City is currently in the process of updating our General Plan and Local Coastal Plan, producing an emissions inventory will be a beneficial tool to assist the City in understanding the impact of policy choices on emissions strategies.

Finally, the City of Morro Bay signed the U.S. Mayor's Climate Protection Agreement, joining what is now a list of nearly 700 cities and counties across the nation. The agreement states:

We urge the federal government and state governments to enact policies and programs to meet or beat the target reducing global warming pollution levels to seven percent below 1990 levels by 2012...

...we will strive to meet or exceed Kyoto Protocol targets for reducing global warming pollution by taking actions in our own operations and communities such as:

- (1) **Inventory global warming emissions in City operations and in the community, set reductions targets and create an action plan;***
- (2) Adopt and enforce land-use policies that reduce sprawl, preserve open space, and create compact, walkable urban communities;*
- (3) Promote transportation options such as bicycle trails, commute trip reduction programs, incentives for car pooling and public transit...*

City staff has been attending bi-monthly meetings held by APCD in order to better understand and respond to the evolving requirements regarding greenhouse gas emissions. In addition, City staff has recently begun working with an intern to collect necessary data for the completion of a greenhouse gas inventory.

DISCUSSION: ICLEI is an international membership association of local governments dedicated to addressing environmental issues through local action. The Cities and Counties for Climate Protection (CCP) Campaign is ICLEI's hallmark program that engages cities, towns and counties in reducing the pollution that causes global warming. There are over 100 members in California (including the cities of San Luis Obispo and Paso Robles, and San Luis Obispo County) alone. ICLEI membership for the City of Morro Bay will cost \$600 per year

(membership cost is based upon the size of the City) and will involve commitment to a five step process. The process includes the following milestones:

1. Conduct a baseline inventory and forecast
2. Adopt an emissions reduction target for the forecast year
3. Develop a Local Action Plan
4. Implement policies and measures
5. Monitor and verify results

There are a number of benefits of joining ICLEI, which include the following services. Participants in the CCP program have access to technical assistance, emissions analysis software, case studies, training workshops, publications and other learning and networking opportunities. The immediate benefit will be to access the emissions analysis software and the technical assistance associated with that software, as well as the training that will enable the City to conduct the inventory with a high level of confidence in the accuracy of the results.

The baseline inventory will include an analysis of the local government's contribution to greenhouse gas production, as well as the community's contribution to greenhouse gas production. The baseline inventory and forecast will be conducted utilizing the ICLEI software, which will enable staff to move forward with establishing a target reduction with the assistance of ICLEI and APCD staff members. This information will provide the framework necessary to draft a local action plan. The local action plan will include programs and policies to help facilitate a reduction in greenhouse gas emissions, both at the government and community levels. The local action plan will be brought before the City Council for review and adoption, and once adopted, City Staff will facilitate implementation of the local action program. Staff has not yet determined the best way to monitor and verify results of the local action plan, however, this important component of this program will be reviewed and established during the drafting of the local action plan.

It is important to note that ICLEI does not require the City to adopt a target or forecast year, adopt a local action plan, implement policies and measures, or identify how to monitor and verify results at this time. Rather, by joining ICLEI, the City commits to taking action on these items sometime in the future. The attached resolution indicates that by joining ICLEI, the City commits to following the five milestone steps discussed previously in this document. At the current time, staff wishes to proceed with the first milestone, which includes conducting a baseline inventory and forecast.

CONCLUSION: Based upon established City policies and programs, state regulations, and the City's participation in the U.S. Mayor's Climate Protection Agreement, staff recommends adoption of resolution No. 56-08 to facilitate production of a baseline greenhouse gas emission inventory, and ultimately a local climate action plan.

RESOLUTION NO. 56-08

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA AUTHORIZING PARTICIPATION IN THE
CITIES FOR CLIMATE PROTECTION CAMPAIGN TO REDUCE GREENHOUSE GAS AND
AIR POLLUTION EMISSIONS THROUGHOUT THE COMMUNITY**

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

WHEREAS, a scientific consensus has developed that carbon dioxide and other greenhouse gases released into the atmosphere have a profound effect on the Earth's climate; and

WHEREAS, the 2007 Fourth Assessment Report from the International Panel on Climate Change (IPCC) states that it is very likely that most of the observed increases in globally averaged temperatures since the mid-20th century are due to human-induced greenhouse gases; and

WHEREAS, in 2006 the U.S. National Climatic Data Center confirmed clear evidence of human influences on climate due to changes in greenhouse gases; and

WHEREAS, the U.S. Conference of Mayors endorsed the 2005 U.S. Mayors' Climate Protection Agreement initiated by Seattle Mayor Nickels and signed by more than 600 mayors in the United States, including our own; and

WHEREAS, the Urban Environmental Accords adopted by local government delegates during the United Nations World Environment Day in 2005 calls for reduced emissions through energy efficiency, land use and transportation planning, waste reduction and wiser energy management; and

WHEREAS, in 2001, at the request of the Administration, the National Academy of Sciences (NAS) reviewed and declared global warming a real problem likely due to human activities; and

WHEREAS, 162 countries including the United States pledged under the United Nations Framework Convention on Climate Change to reduce their greenhouse gas emissions; and

WHEREAS, energy consumption, specifically the burning of fossil fuels, accounts for more than 80 percent of U.S. greenhouse gas emissions; and

WHEREAS, local government actions taken to reduce greenhouse gas emissions and increase energy efficiency provide multiple local benefits by decreasing air pollution, creating jobs, reducing energy expenditures, and saving money for the local government, its businesses and its residents; and

WHEREAS, the Cities for Climate Protection Campaign sponsored by ICLEI ó Local Governments for Sustainability has invited the City of Morro Bay to join ICLEI and become a partner in the Cities for Climate Protection Campaign;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the City of Morro Bay will join ICLEI as a Full Member and participate in the Cities for Climate Protection Campaign, and as a participant, pledges to take a leadership role in promoting public awareness about the causes and impacts of climate change.

BE IT FURTHER RESOLVED, that the City of Morro Bay will undertake the Cities for Climate Protection Campaign's five milestones to reduce both greenhouse gas and air pollution emissions throughout the community, and specifically:

- Conduct a baseline emissions inventory and forecast;
- Adopt an emissions reduction target for the forecast year;
- Develop a Local Action Plan;
- Implement policies and measures; and
- Monitor and verify results.

BE IT FURTHER RESOLVED, that the City of Morro Bay requests assistance from ICLEI's Cities for Climate Protection Campaign as it progresses through the milestones.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of September, 2008 on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT BAUER, City Clerk



AGENDA NO.: A-7
Meeting Date: 9/22/08
Action: _____

**A PROCLAMATION OF THE CITY OF MORRO BAY
DECLARING OCTOBER 5 – OCTOBER 11, 2008
AS “NATIONAL FIRE PREVENTION WEEK”**

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

WHEREAS, the City of Morro Bay is committed to ensuring the safety and security of all those living in and visiting our community; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,500 people in the United States in 2006, according to the latest research from the nonprofit National Fire Protection Association (NFPA), and fire departments in the United States responded to nearly 400,000 home fires; and

WHEREAS, cooking is the leading cause of home fires and home fire injuries, while heating equipment and smoking are the leading causes of home fire deaths; and

WHEREAS, more than half of all home fire deaths occur in the 5 percent of homes with no smoke alarms; and

WHEREAS, children start over 41,900 fires yearly causing over 400 civilian deaths, 1,900 civilian injuries, and causing \$272 million in damage; and

WHEREAS, the Allisa Ann Ruch Burn Relay will be visiting Del Mar Elementary School October 9, 2008 to provide fire safety education and to raise funds for assisting child burn survivors; and

WHEREAS, the City of Morro Bay's first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, Morro Bay residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

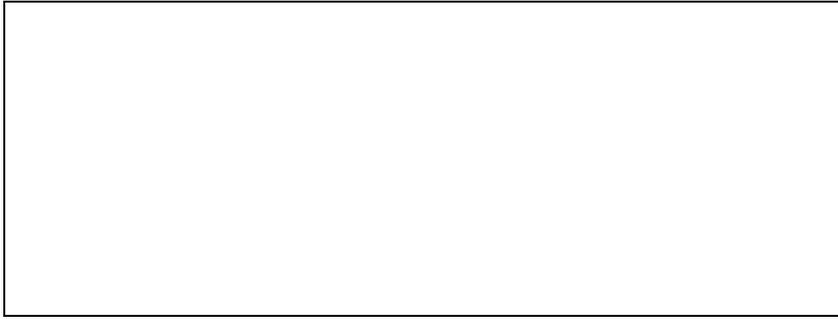
WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, the 2008 Fire Prevention Week theme, "It's Fire Prevention Week - Prevent Home Fires!" effectively serves to remind us all of the simple actions we can take to stay safer from fire

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby recognize and proclaim October 5-11, 2008 as Fire Prevention Week throughout Morro Bay, and we urge all people to protect their homes and families by heeding the important safety messages of Fire Prevention Week 2008, and to support the many public safety activities and efforts of fire and emergency services.

**IN WITNESS WHEREOF I have
Hereunto set my hand and caused
the Seal of the City of Morro Bay
to be affixed this 22nd day of
September 2008.**

**JANICE PETERS, Mayor
City of Morro Bay, California**



Cooking with Care

- Stay in the kitchen when you are frying, grilling, or broiling food. If you leave the kitchen for even a short period time, turn off the stove.
- Keep anything that can catch fire . potholders, oven mitts, wooden utensils, paper or plastic bags . away form your stovetop.
- Wear short, close fitting or tightly rolled sleeves when cooking. Loose clothing can dangle onto stove burners and catch fire.
- Always keep an oven mitt and lid handy. If a small fire starts in a pan on the stove, put on the oven mitt and smother the flames by carefully sliding the lid over the pan. Turn off the burner. Don't remove the lid until it is completely cool.

Everyday Electrical Safety

- Keep lamps, light fixtures, and light bulbs away from anything that can burn, such as lamp shades, bedding, curtains, and clothing.
- Replace cracked and damaged electrical cords.
- Use extension cords for temporary wiring only. Consider having additional circuits or receptacles added by a qualified electrician.
- Homes with young children should have tamper-resistant electrical receptacles.
- Call a qualified electrician or landlord if you have recurring problems with blowing fuses or tripping circuit breakers, discolored or warm wall outlets, flickering lights or a burning or rubbery smell coming from an appliance.

Healthy Heating

- Install and maintain carbon monoxide alarms to avoid risk of carbon monoxide poisoning.
- Maintain heating equipment and chimneys by having them cleaned and inspected every year by a qualified professional.
- Keep all things that can burn, such as paper, bedding or furniture, at least 3 feet away form heating equipment.
- Turn portable space heaters off when you go to bed or leave the room.
- An oven should not be used to heat a home.

Strike Out Smoking-materials Fires

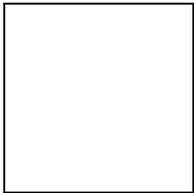
- If you smoke, choose fire-safe cigarettes if they are available in your area.
- If you smoke, smoke outside.
- Wherever you smoke, use deep, sturdy ashtrays.
- Never smoke in a home where oxygen is used.
- Keep matches and lighters up high in a locked cabinet, out of the reach of children.

Candle with Caution

- Keep candles at least 12 inches from anything that can burn.
- Use sturdy, safe candleholders.
- Never leave a burning candle unattended. Blow out candles when you leave a room.
- Avoid using candles in bedrooms and sleeping areas.
- Use flashlights for emergency lighting.

Safety 101

- Install smoke alarms in every bedroom, outside each sleeping area and on every level of the home. For the best protection, interconnect all smoke alarms throughout the home. When one sounds, they all sound.
- Test smoke alarms at least once a month using the test button.
- Replace smoke alarms every 10 years.
- Make sure everyone can hear the sound of the smoke alarms.
- Have a home fire escape plan. Know at least two ways out of every room, if possible, and a meeting place outside. Practice your escape plan twice a year.
- When the smoke alarm sounds, get out and stay out.
- If you are building or remodeling your home, consider a residential fire sprinkler system.



**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING SEPTEMBER 27, 2008 SAN LUIS OBISPO COUNTY CREEK DAY**

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

WHEREAS, healthy creeks provide important habitat for fish, amphibians, birds and other wildlife; and

WHEREAS, clean creeks contribute to a beautiful environment, and benefit agriculture and tourism, San Luis Obispo County's biggest sources of income;

WHEREAS, our creeks in San Luis Obispo County flow throughout our communities and into the ocean, estuary and bay; and

WHEREAS, clean creeks and clean water are required to protect public health, to grow food and fiber, to provide habitat for fish and wildlife, to provide opportunities for public recreation, and to promote sustainable economic development; and

WHEREAS, clean water is a limited and natural resource and must be used wisely; and

WHEREAS trash and debris can harm and even kill local wildlife; and

WHEREAS, fall is an important time to remove trash from our creeks, before rain from winter storms arrive and washes debris into our oceans, estuaries and bays; and

WHEREAS, cleaning our creeks can improve our environment and keep us, our children, and wildlife safe; and

WHEREAS, it is the shared responsibility of citizens, federal, state and local government, organizations, and businesses to protect our natural resources; and

WHEREAS, dedicated citizens of San Luis Obispo County, as individuals, families, friends, neighbors and members of government and private organizations, work hard to maintain the health of our creek systems; and

WHEREAS, members of the San Luis Obispo Creek Day planning committee; including Atascadero Mutual Water Company, Central Coast Salmon Enhancement, Citizens of Santa Margarita, Land Conservancy of San Luis Obispo, Morro Bay National Estuary Program, Cal Poly, Nipomo Conservation District, San Luis Obispo County Partners in Water Quality, and Templeton Conservation District; have come together to organize a county-wide creek clean-up event.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby proclaim September 27, 2008 as San Luis Obispo County Creek Day.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this twenty-second day of September, 2008

JANICE PETERS, Mayor
City of Morro Bay, California



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 15, 2008

FROM: Rob Schultz, City Attorney

SUBJECT: Extension of an Interim Urgency Ordinance Modifying the Development Review for Parcels in the R-1 Districts Zone that Exceed 2,500 Square Feet Pending Completion of Studies and the Preparation of an Update to the City's Zoning Code

RECOMMENDATION:

The City Council should open the public hearing and then adopt Interim Urgency Ordinance No. 543 which would extend the previously enacted Ordinance modifying the development review for parcels in the R-1 District Zone that exceed 2,500 square feet pending completion of studies and the preparation of an update to the City's zoning code.

FISCAL IMPACT:

None at this time. Adoption of Interim Urgency Ordinance No. 543 will require more staff time and hearings to process development review in the R-1 Zone that exceed 2,500 square feet.

DISCUSSION:

Government Code Section 65858 authorized a city to adopt, as an urgency measure, an interim ordinance prohibiting a use that may be in conflict with a general plan, specific plan, or zoning proposal that a city is considering, without following the procedures otherwise required for the adoption of a zoning ordinance. Such an interim urgency measure requires a 4/5 vote of the city council for adoption. No notice or hearing is required for the initial adoption and the urgency ordinance is effective for a forty-five (45) day period. However, after notice and hearing, a council may extend such an interim urgency ordinance for ten (10) months and fifteen (15) days and, subsequently, it may further extend the interim urgency ordinance for an additional one-year period. All extensions require a 4/5 vote for adoption.

The City Council initially granted an Interim Urgency Ordinance for forty-five (45) days and for ten (10) months and fifteen (15) days, and Staff is now recommending that you hold a public hearing and the extend the period in order for Staff to develop regulations for development in the R-1 Zone.

Prepared By: _____ Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 5

ORDINANCE NO. 543

**EXTENSION OF AN INTERIM URGENCY ORDINANCE OF THE
CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA
MODIFYING THE DEVELOPMENT REVIEW FOR PARCELS IN THE
R-1 DISTRICT ZONE THAT EXCEED 2,500 SQUARE FEET
PENDING COMPLETION OF STUDIES AND THE PREPARATION
OF AN UPDATE TO THE CITY'S ZONING CODE**

**THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA**

WHEREAS, the City of Morro Bay (City) has adopted a Local Coastal Plan, Land Use Element and the Housing Element of the General Plan; and

WHEREAS, one of the primary goals in the City's Local Coastal Plan is to maintain an aesthetically pleasing community that maintains the small town fishing village image with new development that compliments existing development and does not detract from the natural environment. Other important goals and principles in the City's LCP are:

- Views of unique and varied coastal scenes are important to people both in terms of aesthetics and functional qualities. Viewing an attractive scene can be, for many, a rewarding experience. For other people, scenic views give identity, character and value to their community.
- The City shall enhance community character with zoning regulations that limit height, size, and other issues to assure that new development occurs as part of a community pattern and character.
- The City shall require new development, including industrial development, in scenic and highly scenic areas and at scenic viewpoints to be sited and designed to protect views to and along the ocean and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and to restore and enhance visual quality in visually degraded areas.
- The City shall, where appropriate, require new development located in scenic and highly scenic areas or adjacent to scenic view areas to consider height/bulk relationships that are compatible with the character of surrounding areas or compatible with neighborhoods or special communities that, because of their unique characteristics, are popular visitor destination points for recreational uses; and

WHEREAS, concerns regarding the impacts of height and density of large single-family dwellings have recently been raised by the community after several projects were approved under the current regulations; and

WHEREAS, the combined height and massing of these large single-family dwellings can tower over and dwarf existing adjacent dwellings and can be wholly at odds with the existing scale and character of the neighborhood; and

WHEREAS, large single-family dwellings could substantially reduce the overall amount of open space in the neighborhood and have a significant detrimental impact on adjacent neighbors' access to light, air, and privacy; and

WHEREAS, the proliferation of such large single-family dwellings continues to raise concerns in the community regarding undesirable aesthetic impacts and has contributed to an erosion of the small town character of Morro Bay; and

WHEREAS, if current development review of single-family dwellings is permitted to continue, housing could be developed which would severely impact existing residences, would be incompatible with the existing neighborhood's scale and character, and would be contrary to the neighborhood's historic development pattern; and

WHEREAS, the potential for development of single-family dwellings under the currently specified review process poses a current and immediate threat to the public health, safety, and welfare of the residents, and the approval of permits without discretionary review for such development would result in a threat to the public health, safety, and welfare; and

WHEREAS, in an effort to develop comprehensive, consistent and appropriate revisions to the City's zoning ordinance relating to single-family dwellings, the City Council has already directed Staff to proceed with a comprehensive study (1) of the City's current zoning ordinance, and (2) as necessary, to prepare new standards and review processes for single-family dwellings; and

WHEREAS, pursuant to section 65858 of the California Government Code, the City Council may, in order to protect the public health, safety, and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with the contemplated modified development standards that the City Staff is studying. Therefore, it is necessary to establish on an interim basis the following development review for single-family residential projects; and

WHEREAS, on September 24, 2007, the City Council adopted Ordinance No. 533 entitled "An Interim Urgency Ordinance of the City Council of the City of Morro Bay, California Extending Temporarily the Development Review for Parcels in the R-1 Districts Zone that Exceed 2,500 Square Feet Pending Completion of Studies and the Preparation of an Update to the City's Zoning Code" which Ordinance expires forty-five days (45) days from the date of its adoption, pursuant to the requirements of Government Code Section 65858; and

WHEREAS, on October 22, 2007, the City Council held a duly noticed public hearing to consider extending the Interim Urgency Ordinances for a period of ten (10) months and fifteen (15) days pursuant to Government Code section 65858(a); and

WHEREAS, on September 22, 2008, the City Council held a duly noticed public hearing to consider extending the Interim Urgency Ordinances for an additional year pursuant to Government Code section 65858(a).

NOW THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1. The purpose of this ordinance is to require additional development review for the issuance of building permits for single-family dwellings in the Single-Family Residential (R-1) District. A Single-Family dwelling within the R-1 District that is larger than 2,500 square feet may be permitted only after obtaining a Conditional Use Permit pursuant to Chapter 17.60. The calculation of square footage shall consist of the area within the exterior walls of a dwelling, not including the first 400 square feet of garage space. The garage area in excess of 400 square feet shall be included as part of the square footage.

SECTION 2. Notwithstanding any provision of the Morro Bay Municipal Code to the contrary, there shall be no issuance of a building permit for a single-family residential dwelling larger than 2,500 square feet in the R-1 District until a Conditional Use Permit is issued by the City of Morro Bay.

SECTION 3. This Interim Urgency Ordinance shall not apply to any applications for projects submitted to City Staff prior to September 24, 2007 that have been deemed complete and have a vested right.

SECTION 4. This Interim Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Morro Bay by Government Code Sections 65858, 36934 and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council as if and to the same extent that such Ordinance had been adopted pursuant to each of the individual sections set forth herein.

SECTION 5. In adopting this Interim Urgency Ordinance, the City Council finds and determines that each of the recitals contained in this Ordinance are true and correct, and that the adoption of this Interim Urgency Ordinance is necessary to protect the public health, safety, and welfare as those terms are defined in Government Code Section 65858(a).

SECTION 6. This Interim Urgency Ordinance is adopted pursuant to Government Code Section 65858 and these provisions, as previously adopted in Interim Urgency Ordinance Nos. 533 and 535, are extended for an additional year and shall remain in full force and effect until September 21, 2009 or sooner upon certification of any zoning amendments adopted by the City Council.

SECTION 7. Any provision of the Morro Bay Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

SECTION 8. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council

hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay on the 22nd day of September 2008 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT BAUER, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 22, 2008

FROM: Rachel Grossman, Associate Planner

SUBJECT: RECONSIDERATION OF THE DENIAL OF A REQUEST FOR A TWO LOT
SUBDIVISION AT 735 CABRILLO PLACE PURSUANT TO COURT ORDER

RECOMMENDATION: It is recommended that the City Council deny the appeal and make the necessary findings to deny the requested lot split at 735 Cabrillo Place.

FISCAL IMPACT: The appellant has paid appeal fees to partially offset the cost of this appeal.

SUMMARY: On June 18, 2007, the Planning Commission continued the applicant's request for Coastal Development Permit and parcel map approvals for a lot split at 735 Cabrillo Place, and requested that staff return with findings for denial at the next regular meeting of the Planning Commission. On July 2, 2007, the Planning Commission approved findings for denial for the proposed lot split, which are included as Attachment D of this report. The applicant subsequently appealed the Planning Commission's decision to the City Council, who denied the applicant's appeal and approved findings for denial on September 10, 2008, which are included as Attachment H of this report. The applicant subsequently legally challenged the City's denial of the requested lot split at 735 Cabrillo Place. The court ruled that the City's findings for denial did not fully support the City's conclusions and that the subject neighborhood was not clearly defined within the City's administrative record. As a result of this ruling, the Court remanded the matter so that proper findings could be made, and so that the neighborhood within which the project is located could be clearly defined.

BACKGROUND: The applicant's proposal requested Coastal Development Permit and Parcel Map approvals to subdivide an existing 13,159 square foot lot into two legal lots that would be 6,002 square feet and 7,157 square feet, respectively. The proposal would not have resulted in any new residential structures, but would have increased the development potential of the site by creating a new single-family

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 20

residential lot on the western side of the existing residence.

On June 18, 2007 Planning Staff brought the requested subdivision before the Planning Commission and recommended approval based upon staff's evaluation of the project and subsequent determination that the subdivision could have potentially been deemed compliant with the City's Subdivision Ordinance, Zoning Ordinance, General Plan and Local Coastal Plan. As a component of Staff's review of the project, the neighborhood was defined as Tract 41, as well as neighboring Tracts to the north, south, east and west. At this time, staff did not believe that the subject neighborhood should merely be defined as Tract 41, as the subject parcel is directly adjacent to another tract and there is a diverse array of housing developments within close proximity of 735 Cabrillo Place.

Staff's evaluation resulted in a recommendation that the subject lot split would be consistent with all design standards contained within the Subdivision Ordinance, as well as Subdivision Ordinance, Zoning Ordinance, General Plan and Local Coastal Plan regulations and policies pertinent to neighborhood compatibility, public views, character, and structure bulk and scale. Sixteen individuals spoke against the project, and one person spoke in support of the project at the public hearing. After thorough review of the proposed project, the Planning Commission determined that though the requested subdivision was indeed consistent with numeric standards contained within the City's Subdivision Ordinance, it would not be compatible with the neighborhood. As a result, the Planning Commission denied the requested subdivision with a vote of 4-1 (Woodson opposed), and the applicant subsequently appealed this denial to the City Council.

On August 27, 2008, the City Council considered the applicant's appeal of the Planning Commission's denial of his request for a lot split at 735 Cabrillo Place. Staff again supported the requested subdivision, based upon the determination that the requested lot split was consistent with the City's Subdivision Ordinance, Zoning Ordinance, General Plan and Local Coastal Plan. At the public hearing, 13 people spoke in support of the proposed project, and 14 people spoke against the proposed project. Those who spoke against the project were generally residents of the Tract 41 neighborhood. The City Council discussed the project in length and determined that the subject neighborhood should be defined as Tract 41 and that the Codes, Covenants and Restrictions (CC&Rs) for this tract originally precluded any re-subdivision of the lots. Though the City Council acknowledged the fact that the CC&Rs had expired, they felt that their intention was still relevant. The City Council went on to discuss their concerns that the proposed subdivision would not be consistent with the neighborhood character of Tract 41 and as such, denied the requested subdivision.

As a result of the City's denial of the requested lot split, the applicant proceeded with a legal challenge to dispute the Council's action. The court ruled that the City's findings for denial did not fully and accurately state the rationale behind the recommendation for project denial, and that the subject neighborhood was not clearly defined within the City's administrative record. As a result of this ruling, the Court remanded the matter so that proper findings could be made, and so that the neighborhood could be more clearly defined. Therefore, staff is now back before the City Council for reconsideration of the denial of a request for a two-lot subdivision at 735 Cabrillo Place.

BASIS FOR RECOMMENDATION:

Though staff has previously supported approval of the requested subdivision, based upon direction from both the Planning Commission and City Council relevant to the defined neighborhood and neighborhood compatibility, staff is now recommending denial of the requested two-lot subdivision. Staff relies heavily on the policy direction provided by the Planning Commission and City Council. In this particular case, there was little or no doubt that the Planning Commission and City Council felt that this subdivision proposal was incompatible with the surrounding neighborhood, which has now been clearly defined (i.e. Tract 41) in its large lot development pattern. This broader Planning Commission and City Council policy direction translates to an administrative policy where staff generally tries to key recommendations in alignment with these defined policy expectations.

DISCUSSION: The proposed project would subdivide an existing 13,159 square foot lot into two legal lots that would be 6,002 square feet and 7,157 square feet, respectively. The project was denied by both the Planning Commission and City Council, and is now back before the City Council for reconsideration pursuant to court order.

APPEAL ISSUES:

The applicant/appellant contends that the project is consistent with the City's Zoning Ordinance, Subdivision Ordinance, General Plan, and Local Coastal Plan, and requires no variances from standards. In addition, the applicant asserts that the project is consistent with the neighborhood character and would not trigger a significant number of future subdivisions in the neighborhood.

ANALYSIS:

What follows is a definition of the neighborhood within which the proposed subdivision would occur, as well as a discussion of the proposed project's potential inconsistency with the City's Subdivision Ordinance, Zoning Ordinance, General Plan and Coastal Land Use Plan.

Neighborhood Definition:

Definition of a neighborhood is a subjective matter, the process by which is not clearly defined within the City's Subdivision Ordinance, Zoning Ordinance, General Plan or Local Coastal Plan. During staff's initial review of the subject project, staff defined the neighborhood as Tract 41, as well as adjacent tracts to the north, south, east and west. Though this definition might make sense from a locality standpoint, it does not necessarily make sense from a compatibility standpoint. There is a diverse array of housing types and lot sizes adjacent to the subject property including lots ranging in size from 2,500 square feet to 46,710, and uses ranging from single-family residences, to condominiums to trailer parks. These lot sizes and uses may be located proximate to the subject lot, but that does not necessarily make them compatible with the subject lot and its associated use.

Tract 41 was created in 1946 as defined by the original subdivision map. Tract 41 created a unique neighborhood of open site lines, open spaces and public views of the Bay and Morro Rock for the benefit of everyone, not merely the residents. The original CC&Rs for the subdivision defined the tract as a single-family residential neighborhood, where large yards and generous setbacks were required and re-subdivision of the lots was expressly prohibited. Though these CC&Rs expired on January 1, 1986, their intent is clear, and it is evident that the original subdividers of Tract 41 intended to create a unique residential neighborhood that would foster the maintenance of large lots and single-family residential development. The neighborhood characteristics of large lots, expansive yards, low-density development and open site lines defined in the CC&Rs are still visibly evident in the current development pattern of Tract 41. Given the unique nature of this tract and its divergence from the characteristics of the neighboring tracts, it appears that the correct definition for the neighborhood within which 735 Cabrillo Place is located is Tract 41.

Subdivision Ordinance:

The Subdivision Ordinance contains specific design standards that a subdivision must be consistent with in order to be approved without a variance. Specifically, a minimum interior lot size of 6,000 square feet is required for a standard subdivision. In regards to the proposed project, the existing lot is 13,159 square feet and the requested subdivision would result in two standard interior lots that would be 6,002 and 7,157 square feet, respectively. Each lot would be in compliance with the maximum depth to width ratio of 3:1 and would also be in compliance with the minimum permissible lot width of 40 feet. Since the average slope of the subject lot is less than 15%, the lots are permissible to be 6,000 square feet or greater. Any lots with average slopes of 15-20% are required to have minimum lot sizes of 10,000 square feet.

Though the requested subdivision is consistent with Subdivision Ordinance design standards as presented above, it is potentially inconsistent with standards pertinent to neighborhood compatibility. Specifically, Chapter 9, Subdivision Design of the March 2007 Subdivision Ordinance states:

The layout of streets and lots within a subdivision shall be consistent with the densities and types of uses authorized by the general plan, specific plans and zoning. The subdivision design shall also recognize the physical conditions of the site, such as slope, soil types and adjacent land use, which may further limit uses of the property. The subdivider must simultaneously consider such factors as terrain, development objectives, and options available under these regulations in order to design a subdivision which best meets the needs of those who will occupy it as well as the community as a whole.

The average lot size in the subject neighborhood (which has been defined as Tract 41) is 12,171 square feet and as is presented above, the requested lots split would result in lots that would be approximately half this size. These resulting lots would have the potential to result in development

that would not be compatible with neighboring uses because each lot would have smaller contiguous yard area and more dense development, which would change the character of the neighborhood. In addition, the development of these lots could potentially result in degradation of views of the Bay and Morro Rock, which would be in conflict with the CC&Rs for the original subdivision, and would not be beneficial to the community as a whole.

Zoning Ordinance:

The Zoning Ordinance functions as an implementation tool to ensure that new development is consistent with the guiding policies and programs contained within the City's General Plan and Local Coastal Plan. What follows is a number of pertinent sections from the zoning ordinance, as well as a discussion of how the proposed lot split could be potentially inconsistent with these sections.

Section 17.24.040: The single family residential (R-1) district is intended to be applied to existing single family residential areas of the City to provide for housing which is consistent and harmonious with existing development...

The subject property is located within the City's R-1 zone district, where the development of single-family residences is permitted after obtaining a Coastal Development Permit pursuant to zoning ordinance requirements. Though the subject lot could feasibly be split and two single-family residential units constructed, this form of development would not be consistent, or harmonious with existing development within the neighborhood. The proposed project would result in lots sizes that are not consistent with the neighboring development of Tract 41 and would ultimately result in development that would not be harmonious with existing development or density pattern.

Section 17.48.190: New development shall protect and, where feasible, enhance the visual quality of the surrounding area. New development may be permitted only if the siting and design meets the following standards:

A. Protection Of Public Views

Significant public views to and along the coast are protected.

B. Natural Landform Protection

Alterations to natural landforms are minimized.

C. Compatibility

The development is visually compatible with the character of the surrounding area and any design themes adopted for the area by the City.

D. Visual Quality

Restores and enhances visual quality in visually degraded areas.

E. Scenic Area Standards

In highly scenic areas, as depicted in the Morro Bay Coastal Land Use Plan/Coastal Element, the following additional standards shall also apply:

- 1. Character: The proposed development shall be subordinate in character to its surroundings.*
- 2. Height/bulk: The height/bulk relationships in the development shall be compatible with the surrounding*

The proposed lot split has the potential to degrade the visual quality of the surrounding neighborhood by creating the potential for development that would not be consistent with existing single-family residences in the neighborhood. Of specific concern regarding this section of the zoning ordinance is item C, and the potential for incompatibility with existing neighborhood development. The proposed project would result in lots approximately one-half the size of the existing lots in Tract 41, and would ultimately result in development of single-family residences whose square footages and yard areas would not be consistent with neighboring development. As a result, the proposed lot split is inconsistent with this section of the zoning ordinance.

General Plan/Local Coastal Plan:

The General Plan and Local Coastal Plan provide the guiding framework for development within the City. What follows are pertinent excerpts and policies from the General Plan and Local Coastal Plan and a discussion of how the proposed lot split could be potentially inconsistent with these sections.

Coastal Act Policy 30251: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, and to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The proposed lot split would result in the increased potential for the blockage of scenic views, and also has the potential to result in development that would be visually incompatible with the character of the neighborhood. By creating two lots that are approximately one-half the size of the lots in the existing neighborhood, the proposed project creates the potential for inconsistent development that could degrade the scenic quality of the neighborhood.

LCP Visual Resources C, Assessment of Scenic Values: The criteria used for assessing views of the urban environment include such things as:

- (a) The enhancement of the City's character through the use of building materials and scale of structures;*

- (b) The compatibility with surrounding structures;*
- (d) The preservation of public views;*
- (e) The enhancement and definition of the City's image;*
- (f) The uniqueness of the City's image.*

This quote from the City's Local Coastal Plan indicates that compatibility is a fundamental element for assessing scenic views. Therefore, any resulting incompatibility has the potential to degrade scenic views, which is not consistent with the documents that guide development within the City. As a result, since the proposed project has the potential to result in incompatible development within Tract 41, it would be considered inconsistent with this section of the City's Local Coastal Plan.

LCP Visual Resources C.4.a, Morro Heights Area: A mixed residential area that is visually appealing primarily because of landscaping and rural character.

The subject property is located within the Morro Heights area, which is considered a scenic area of the City as a result of the existing landscaping and rural nature of the development. The proposed project would result in increased urbanization in the subject neighborhood, which is inconsistent with the rural nature of the Morro Height Area. In addition, the proposed lot split would reduce contiguous yard area, which has the potential to decrease the amount of landscaping on the site and create inconsistency with the character of the neighborhood.

LCP Visual Resources C.6, Protection of Neighborhood Character: One of the priorities of the Coastal Act is the protection of the character of the community and its neighborhoods. Morro Bay recognizes the need to preserve the unique character of its varied neighborhoods and to create a higher visual environment within them.

Preservation of neighborhood character is a fundamental goal of the City's Local Coastal Plan, as is evident in this excerpt from that document. As discussed previously, the subject property is located within a neighborhood where the average lot size is in excess of 12,000 square feet, and as a result, the creation of two lots of approximately 6,000 and 7,000 square feet, respectively, would result in incompatible development sites within this neighborhood. As a result, the proposed project is inconsistent with Local Coastal Plan discussions pertinent to the preservation of neighborhood character.

LCP Policy 12.06: New development... shall include as appropriate the following: a. Height/bulk relationships compatible with the character of surrounding areas or compatible with neighborhoods...

Though the proposed project does not include development of a single-family residence, it does create the potential for the construction of a second single-family residence on a lot that currently has only one single-family residence. In addition, since second residential units are permissible in the single-family residential zone district, there is potential for the development of two residential

dwelling units, which would increase the density on the site and impact the rural character of this neighborhood. This increased development potential creates the opportunity for the development of a new single-family residence that would be potentially inconsistent with the height and bulk of neighboring development, which would result in development that would be incompatible with the existing neighborhood character.

General Plan, Land Use, Open Space and Conservation Elements B.4.a Virtually all new residential development opportunities are through in-fill within the existing City boundaries....This places considerable emphasis on ensuring that new projects fit well with the established neighborhoods.

The proposed development is infill in nature, and since the resulting lots would be approximately one-half of the size of the average lot in Tract 41, the subject project would not fit well within the established neighborhood and would result in incompatible development.

General Plan, Land Use, Open Space and Conservation Elements B.4.b.10: The proper design of residential development is especially critical where a parcel of land has features that are to be preserved and the buildable portion of the parcel is reduced accordingly.

The subject project would result in decreased buildable area on the existing lot by splitting it into two separate lots. In doing so, the amount of contiguous open space that can be preserved on the lot is reduced and the current open and expansive feel that is present in the neighborhood would be highly degraded. The project's potential for decreased open space is inconsistent with this section of the General Plan.

General Plan, LU 12.2: The City will create incentives for encouraging greater open space with developments.

The preservation of useable open space is a fundamental theme that is repeated in many of the City's guiding documents, including the General Plan. The proposed lot split would result in decreased potential for useable open space as the result of the potential for development of a new single-family residence, and would be inconsistent with this policy from the City's General Plan.

CONCLUSION: Staff relies heavily on the policy direction provided by the Planning Commission and City Council. In this particular case, there was little or no doubt that the Planning Commission and City Council felt that this subdivision proposal was incompatible with the surrounding neighborhood, which has now been clearly defied (i.e. Tract 41) in its large lot development pattern. As determined previously by the Planning Commission and City Council, the requested subdivision is inconsistent with the City's Zoning Ordinance, Subdivision Ordinance, General Plan and Local Coastal Plan because it would create two lots that are inconsistent in size with the neighborhood within which the project site is located and the project creates the potential for development of a new single-family residence that would change the

character of the neighborhood. Since the proposed project cannot be found consistent with the aforementioned City regulations, staff is recommending that the City Council deny the project and adopt revised findings that support denial of the project, and that clearly define the neighborhood and characteristics that make this area a unique and worth preserving as supported by the goals and policies of the City.

ATTACHMENTS:

- A. Findings for Denial
- B. Planning Commission Staff Report of June 18, 2007
- C. Planning Commission Minutes of June 18, 2007
- D. Planning Commission Staff Report of July 2, 2007
- E. Planning Commission Minutes of July 2, 2007
- F. City Council Staff Report of August 27, 2007
- G. City Council Minutes of August 27, 2007
- H. City Council Staff Report of September 10, 2007
- I. City Council Minutes of September 10, 2007

Attachment A:
Findings for Denial

California Environmental Quality Act (CEQA)

- A. The proposed project is Statutorily Exempt from the requirements of the California Environmental Quality Act (CEQA) under section 15270, which applies to projects that are disapproved.

Subdivision Map Act Findings

- A. The proposed lot split is not consistent with the General Plan and Coastal Land Use Plan because the resulting lot sizes and shapes would not be consistent with the neighborhood character evident in the defined neighborhood of Tract 41. Specifically, the proposed lot split is inconsistent with Local Coastal Plan section Visual Resources C.4.a, Morro Heights Area, which states, "A mixed residential area that is visually appealing primarily because of landscaping and rural character," because the requested lot split would result in increased urbanization and would reduce the potential for contiguous, visually appealing landscaping and the planting of large shade trees.
- B. The design and improvement of the proposed subdivision are not consistent with the General Plan and Coastal Land Use Plan because the resulting lot sizes and shapes would not allow for an amount of open spaces that would be consistent with neighboring development. The existing lots in Tract 41 are an average of over 12,000 square feet and the requested lot split would be inconsistent with this average lot size in that the resulting lots would be approximately one-half this size. As a result, the proposed project is inconsistent with LCP section Visual Resources C.6, Protection of Neighborhood Character, which states, "One of the priorities of the Coastal Act is the protection of the character of the community and its neighborhoods. Morro Bay recognizes the need to preserve the unique character of its varied neighborhoods and to create a higher visual environment within them." The proposed lot split would degrade the character of the neighborhood by creating lots that are inconsistent in size with existing lots and would not improve the visual environment within the neighborhood.
- C. If subdivided, the site would not be physically suitable for a development type and density consistent with the neighborhood because it would allow the construction of an additional single-family residential unit, which would not be compatible with the development pattern in the neighborhood. More specifically, Chapter 9 of the Subdivision Ordinance states, "The layout of streets and lots within a subdivision shall be consistent with the densities and types of uses authorized by the general plan, specific plans and zoning. The subdivision design shall also recognize the physical conditions of the site, such as slope, soil types and adjacent land use, which may further limit uses of the property. The subdivider must simultaneously consider such factors as terrain, development objectives, and options available under these regulations in order to design a subdivision which best meets the needs of those who will occupy it as well as the community as a whole." The proposed subdivision is not consistent with this section of the

subdivision ordinance because it would increase the density of development within the neighborhood and would be inconsistent with the rural character of the Morro Heights area and would not best meet the needs of the community as a whole as it would degrade the character of Tract 41

- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because the site has been previously disturbed and does not provide habitat for fish and wildlife.
- E. The design of the subdivision and improvements may not cause serious public health problems; however, the subdivision would result in substantially smaller lots than the lots created as a result of the subdivision of Tract 41. The requested subdivision would ultimately allow development that is inconsistent with the neighborhood pattern. More specifically, the requested subdivision would be inconsistent with Section 17.48.190 of the Zoning Ordinance that states, "New development shall protect and, where feasible, enhance the visual quality of the surrounding area." By creating the potential for increased density and decreased contiguous yard space, the proposed subdivision would degrade the visual quality of the neighborhood.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because any new residential development would all be on private property.

Coastal Development Permit Finding

- A. The project is not consistent with applicable provisions of the certified Local Coastal Program because the proposed subdivision would not maintain the character of the neighborhood and anticipated buildout would not complement the existing development. More specifically, the proposed subdivision would be inconsistent with Zoning Ordinance Section 17.24.040 that states, "The single family residential (R-1) district is intended to be applied to existing single family residential areas of the City to provide for housing which is consistent and harmonious with existing development" – The potential for increased density on the site is not consistent with existing development patterns in the neighborhood and would not result in a harmonious addition to the neighborhood.
- B. The proposed subdivision would be inconsistent with Local Coastal Plan Policy 12.06, that states "New development" shall include as appropriate the following: a. Height/bulk relationships compatible with the character of surrounding areas or compatible with neighborhoods" – because it creates the the potential for the construction of a second single-family residence on a lot that currently has only one single-family residence. This increased development potential creates the opportunity for the development of a new single-family residence that would be potentially inconsistent with the height and bulk of neighboring development, which would result in development that would be incompatible with the existing neighborhood character.

- C. The proposed subdivision would be inconsistent with the following section of the General Plan: Land Use, Open Space and Conservation Elements B.4.a, that states, "Virtually all new residential development opportunities are through in-fill within the existing City boundaries". This places considerable emphasis on ensuring that new projects fit well with the established neighborhoods. The proposed subdivision would result in two lots that are approximately one-half the size of the average lot size in the neighborhood that would not fit in well within the existing neighborhood.

Attachment B:
Planning Commission Staff Report of June 18, 2007

Attachment C:
Planning Commission Minutes of June 18, 2007

Attachment D:
Planning Commission Staff Report of July 2, 2007

Attachment E:
Planning Commission Minutes of July 2, 2007

Attachment F:
City Council Staff Report of August 27, 2007

Attachment G:
City Council Minutes of August 27, 2007

Attachment H:
City Council Staff Report of September 10, 2007

Attachment I:
City Council Minutes of September 10, 2007



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 15, 2008

FROM: MIKE PRATER, PLANNING MANAGER

SUBJECT: CONCEPT PLAN APPROVAL FOR THE EMBARCADERO
CONFERENCE CENTER LOCATED AT 801-833 EMBARCADERO, UPO-
212

RECOMMENDATION: Staff recommends the City Council approve the Mitigated Negative Declaration and conditionally approve the Concept Plan.

FISCAL IMPACT: The applicant has paid the processing fees. The potential fiscal impact associated with this project could be significant by expanding the community's traditional tourist season beyond the peak summer months for meetings and conferences throughout the full year.

SUMMARY: The applicant is proposing to demolish portions of two detached buildings on separate lease sites and remodel the structures while adding new square footage by constructing a 6,257 square foot conference center, 7,770 square foot commercial retail, 2,188 square foot restaurant, add 17 new boat slips, 8-foot lateral access, and view decks, and create two public plazaø (one on the north side of Outrigger and one on south side using dead end street of Morro Bay Blvd.) by requesting expansion of lease space in exchange for the street end to facilitate the project. The project is anticipating only partial removal of the existing buildings. The total building area is approximately 19,311 square feet with a footprint of 11,090 square feet or 65% lot coverage, which includes the street end. The applicantø are requesting the project be considered a remodel in order to retain the historic parking credits. The previous uses required 31 parking spaces for Outrigger building and 79 parking spaces for Embarcadero Grill. The new uses generate a parking demand of 197 parking spaces and various parking management strategies are proposed to offset the projects shortfall.

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 14

BACKGROUND: The Planning Commission held a public hearing on September 2, 2008 and voted 5-0 to recommend approval after adding conditions of approval. The Commissioners added the following conditions:

1. The project is required to be (Leadership in Education and Environmental Design) LEED certified.
2. Public restrooms and appropriate signage will be required during business hours.
3. Coordination with the Harbor Department regarding slip design and ease of navigation.
4. The Public Plazas are recommended via new lease area however the Commission also felt enough public benefits warranted exception if needed. The Plazas are required to be open to the public 24 hours 7 days a week. An emergency access path to facilitate Fire Department was also required.
5. Parking ó the Commission recommended the applicant secure an additional 87 parking spaces (public or private) in addition to the historical credits of 110 allowed. These additional 87 spaces should be outside of the Embarcadero public lots of Front Street and Tidelands. Better demonstration of their location and effective methods of transportation to and from these locations to the conference center and back during the event hours. The terms for any and all off-site private locations shall enter into an agreement and run with the City lease.
6. Following the implementation of the parking management strategies above a 2-year monitoring program shall be submitted by the applicant to measure the success of the program.
7. A new pick-up and drop-off located across the street within the Front Street parking area near the chessboard should be designed into the project.
8. Finally, better articulation along the South-side of the building should be considered.

The applicantø have submitted the same plans as reviewed by the Planning Commission along with the verbal commitment to revise the plans to reflect the changes requested of the Commission including noting public restrooms, emergency access, drop-off/pick-up, dock configuration (Harbor Department has concurred on the design), and changes to the southern elevation. The applicantø will present the changes in graphic form at the meeting to better illustrate the new elements. The applicants want the Council to review the same plans submitted to the Commission. In addition, the applicantø have provided additional information regarding the locations and better details regarding the parking program including a map of the parking spaces, the number of spaces available, and a commitment to have shuttle service and agreements. The applicantø are not contesting any of the added conditions however are requesting the Council accept the parking program as presented.

DISCUSSION: The project site is at the edge of the bay, on the west side of the Embarcadero between Harbor, Morro Bay Blvd. and Front Street. The applicant proposes to replace the existing restaurant and adding a floor for a conference center with new commercial lease spaces on the ground floor. The new structure will include a new lateral access way on the bay side of the lease site. In addition, 17 boat slips will be installed on the water. View corridors and photo simulations have been proposed to demonstrate the projects compliance with the Waterfront Master Plan.

Building Components

The existing buildings consist of a 3,667 square foot restaurant space with 280 square feet of outdoor dining, one retail space of 1,510 square feet, and 1,510 square feet of storage/office space above the retail portion within the Outrigger building. The Embarcadero Grill (once the Fish Bowl) consists of 4,282 square foot restaurant within two floors with an additional 1,266 square feet of kitchen area. Retail space is in front of the restaurant with 792 square feet along with 982 square feet of storage/office space and an apartment above of 532 square feet.

The applicant proposes to demolish most of the site, however retaining a large portion of the structure, and replace the site with the same uses on the ground floor while adding a conference center upstairs. The first floor would consist of 1,371 square-feet of restaurant space, which is a large reduction of over 6,500 square feet to create only one restaurant rather than two. The retail space will increase to 7,770 square feet up from 2,300 square feet.

Public Plazas

Two public plazas will be created on either side of the building to create or maintain public view corridors and seating areas or potential outdoor fairs. The second floor will be all new construction consisting of 6,560 square feet of conference and small office space. The conference space will allow for various breakout configurations to maximize its potential use to accommodate approximately 400 guests. The building will be two-stories with a request to increase the height to 25 feet above average natural grade. The water portion of the site will include a public lateral accessway and new gangways and ADA lift for 17 new finger tie docks while replacing the free public dock for recreational vessels.

Parking

Since the project proposes to replace many of the existing uses (i.e. restaurant, commercial retail spaces and office space), there is no additional impact to parking than what exists now in the replacement of these uses. However, the added conference space and new boat slips generate more parking demand (87 spaces) and should be evaluated and measures put in place to ensure no significant impact occurs. The Planning Commission added a condition that requires the applicant to secure these 87 parking spaces during the times of any events conducted in the facility (i.e. weekdays and weekends during peak and non-peak season times including occasions when another event is held within the City).

Building Height and Views

The Waterfront Master Plan (WMP) requires that public views be protected and enhanced by new development. The applicant is proposing a 25-foot high structure that will not significantly decrease views of the Bay. The WMP requires a 30% view corridor for lots greater than 50 feet in width. The project complies with view corridor requirements. The proposed project will incorporate amenities such as a public restrooms, plazas with benches, architecturally interesting building the will meet LEED certification, widening of the sidewalk and public pedestrian access through the site and along the water.

The applicant is requesting permission to extend the maximum building height to allow 25-foot maximum height that is permitted by the guidelines provided there is a public benefit provided by the project and that the overall viewshed characteristics will be improved or at a minimum not diminished from the public viewing locations.

CONCLUSION: This project can be found consistent with the waterfront design guidelines with offsetting public benefits and the project's potential impacts can be reduced to less than significant levels through incorporation of a mitigation-monitoring plan. The applicant has agreed to incorporate the mitigation-monitoring plan into the project and fully comply with its mandates. 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 with incorporation of recommended conditions.

EXHIBIT A: FINDINGS

UP0-212, A request to demolish the existing Outrigger & Embarcadero Grill Restaurants and construct a mixed-use project with the first floor as restaurant, retail commercial and the second floor consisting of conference center.

California Environmental Quality Act (CEQA)

A. That for purposes of the California Environmental Quality Act, Case No. UP0-212 is subject to a Mitigated Negative Declaration based on Aesthetics, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Noise, and Transportation/Circulation issues present on the property. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration.

Conditional Use Permit Findings

- B. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the mixed use commercial retail and conference building is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.
- C. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the mixed use commercial retail and conference building will provide additional public benefit and mitigations to limit noise or parking disturbances.
- D. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the mixed use commercial retail and conference building is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.

Waterfront Master Plan Findings

- E. The proposed project makes a positive contribution to the visual accessibility to the bay and rock while increasing retail and tourist activity during non-peak seasons by offering conference facilities:
 - a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project does not exceed the maximum height allowed and interesting articulation breaks up the bulk and scale.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public courtyard, providing architectural interest that fits with the Embarcadero area, incorporating a (35) foot wide view corridor adjacent to the building, and including public restrooms.

- 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 recreational fishing/boating operations.
- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the new building will open up to the passing pedestrian via large entry doors and public plazas.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of vertical and horizontal siding, vertical windows with wood sills and shutters, and metal seam roof with planter boxes and decorative paving to enhance the plazas.
- 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 horizontal and vertical articulation, and the public will be invited into the space via new public courtyards.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar 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

- F. 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, and lot coverage standards.

Architectural Consideration

- G. 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

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated September 22, 2008 for the projects depicted on the attached plans labeled "Exhibit C" dated September 15, 2008 and on file with the Public Services Department, as modified by these conditions of approval.
2. **Changes:** Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
3. **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.
4. **Compliance with Conditions:** By issuance of building permits for the proposed use or development, the owner or designee accepts and agrees to comply with 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.
5. **Compliance with Morro Bay Standards:** 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 Zoning Ordinance, Beach Street Specific Plan, certified Coastal Land Use plan and General Plan for the City of Morro Bay.
6. **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. 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.
8. 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.
9. Screening of Equipment/Utility Meters/Fencing: No roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be located on the rooftop. Prior to building permit issuance, the approved location shall be shown on the project plans to illustrate no equipment can be seen.
10. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.
11. 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 Planning & Building. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 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.
12. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
13. 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 Planning & Building.
14. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.

PLANNING CONDITIONS

15. **Colors and Materials**: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials. All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
16. **Signage**: Prior to installation of any sign on-site, a sign program shall be approved by the Director in conformance with MBMC Chapter 17.68.
17. **Soils Report**: Prior to building permit issuance, the applicant shall provide all updated and project-specific soils and geology reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

PUBLIC WORKS CONDITIONS

18. A portion of the project site is located within FEMA designated 100-year flood zone and is subject to the requirements of MBMC 14.72 Flood Damage Prevention, and it appears that the structure and the attendant utilities meet the requirements for protection from flooding. The following Items shall be provided:
 - a. Indicate the finished floor elevation on the construction plans.
 - b. Pre Construction and Final Elevation Certificate prepared by a registered civil engineer or licensed land surveyor shall be provided prior to final occupancy (Note this requirement on the construction Plans).
 - c. Pay the Floodplain Development Fee of \$171 prior to building permit issuance.
19. **Frontage Improvements**: An encroachment permit is required for the installation of the driveway approach and curb, gutter and sidewalk replacement. Encroachment permits can be obtained from the City of Morro Bay Public Services at 955 Shasta.
 - a. The Embarcadero frontage shall have a minimum clear 8 feet wide smooth concrete sidewalk per City standards (B-5) as modified by Planning commission to allow 8 feet wide. Exposed aggregate shall not be used, as it doesn't meet City standards.
 - b. The existing Driveway approaches shall be removed and repaved per item a. above
20. Provide water quality treatment for the runoff resulting from a **two year storm event** either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.

- a. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be performed by a Registered Civil Engineer and submitted with the building permit application.
21. Show the location of the Fire Department connection and the back flow prevention device.
22. Indicate on the construction plan the location of all the proposed utility connections; sewer, gas, water, phone, power, etc.
23. Conduct a video inspection of the conditions of existing sewer lateral from point of connection to main connection, for City approval, prior to connection. Submit DVD to City collection system personnel. Repair or replace as required to prohibit inflow/infiltration.
24. A sewer backwater valve shall be installed on site to prevent backflow of sewage due to a blockage or maintenance of the municipal sewer main. Indicate on the plans.
25. Prepare a Sediment and Erosion control plan.

FIRE DEPARTMENT CONDITIONS

26. Building and Address Identification: Approved address numbers shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall clearly contrast with their background. The characters shall be a minimum of 5" high with a ½ " stroke.
27. Prior to final occupancy the applicant shall submit an 8-1/2" x 11" reduced copy of the floor plan and site plan for updating Fire Departments response books
28. Fire Extinguishers: The minimum fire-extinguisher requirement shall be one portable, wall-mounted for each retail space in such locations so that maximum floor travel distance does not exceed 75' to the nearest extinguisher from any portion of the building with a maximum of 3,000 square feet of floor area surveyed. Fire extinguishers listed above, will be required on site during construction.
29. Automatic Fire-Alarm Systems: Sprinkler systems shall be installed in accordance with Morro Bay Municipal Code Section 14.60.200, in all new structures along the waterfront in compliance with appropriate Uniform Building Code Standards, regardless of area separation or where required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.
30. Refuse Containers: Trash enclosures must comply with the 1994 Uniform Fire Code Article 1103.2.2. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall

not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines.

31. Fire Alarms: For fire alarm systems employing automatic Fire detectors or waterflow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
32. An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm to alert the occupants shall be provided in the interior of the building in a normally occupied location. Action of the alarm shall be as set forth in UBC Standard N0. 9-1.

ENVIRONMENTAL CONDITIONS

33. BIOLOGICAL RESOURCES

- a. Prior to the issuance of a building permit, an approved otter watcher shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and otter watcher shall specifically encourage and empower the otter watcher to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit.
- b. To avoid impacts, all work that disturbs the ocean floor (i.e., installation of pilings) shall be overseen and monitored by the project biologist.
- c. All docks shall be lowered in placed (following assembly) from the existing building site or by water, as stated in the Section 10 authorization from the Army Corp of Engineering.

34. HAZARDS/HAZARDOUS MATERIALS:

- a. Treated wood waste that is a) hazardous waste under California law, b) is not a RCRA-TWW, and c) not from electric, gas, or telephone service (not utility exempt) is eligible for the provisions of HSC sections 25150.7 & 25150.8. TWW may be disposed only in hazardous waste landfills or qualified solid waste landfills.
- b. Treated wood waste that is not hazardous under California law may be disposed at a non-hazardous landfill according to the authorization and provisions of the landfill.

35. HYDROLOGY/WATER QUALITY:

- a. Pilings shall be constructed of steel or pre-poured concrete and shall be implanted into the ocean floor with a pile driver, as opposed to jetting. In the past, Coastal Development Permit

applications issued by the California Coastal Commission have required the following additional mitigation measures. The applicant shall also comply with these conditions, as required or modified by the Coastal Commission. With this mitigation, the project would not have the potential to have significant water quality impacts.

- 1 Material Containment. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering the harbor or any other state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into the harbor or other state waters. A designated staging area shall be used for refueling equipment and vehicles, mixing and storing materials, debris collection and disposal, and containing runoff from any materials that may be used or stockpiled during the project. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. For any work on or beneath fixed wharf decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris.

Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills.

Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained.

- 2 Piling Installation Procedures. Piling installation will be performed in accordance with Department of Fish and Game recommendations. Generally, the new pilings shall be installed according to the method that results in the least disturbance of bottom sediments. All piles will be driven into place with a pile driver. Disturbed sediments shall be contained with a flexible skirt surrounding the driven pile.
- 3 Procedures for Concrete Work. If pile installation, or any other portion of the operations and maintenance program, requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the harbor or other state waters:
 - a. Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increases in the pH of adjacent waters; or,
 - b. The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California

Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment.

- c. In each case involving such concrete pours in or near the harbor or other state waters, a separate wash out area shall be provided for concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the harbor or other state waters, nor into storm drains or gutters which empty into such bodies of water.

36. LAND USE AND PLANNING

- a. If the City does not wish to re-allocate the Morro Bay Blvd. street end to merge with lease site 86 and 86W to facilitate this project, then a list of public benefits must be listed to offset the lot coverage requirement. This measure does not include the use of the street end as a public plaza. The City may use the tidelands property as deemed fit however, in order for the conference center project to meet all standards (particular lot coverage) then the area must become part of the lease site boundary.
- b. The finger slip number 18 shall be removed or modified to allow the neighboring lease to continue to gain access to the existing dock.

37. NOISE

- a. No amplified outdoor noise shall be allowed.
- b. Noise decibels greater than 65db at the property line shall be reduced based on an acoustical engineers evaluation but should include measures such as triple pane windows, added insulation, or chalking, the use of acoustical tiles, wall boards or sound attenuating materials.
- c. An acoustical sound engineer shall confirm the best measures to achieve the 65db level intended.

38. TRANSPORTATION/CIRCULATION

- a. The applicantø shall secure the agreements with Bank of America and Rabobank or other private lots to maintain an additional 73 parking spaces.
- b. The applicantø shall work with nearby hotel owners to make arrangements for accommodations during events. This shall include documenting and requesting at least one month in advance to any event which hotels/motels were contacted and the number of rooms available.
- c. For events that generate more than 100 guests the applicant shall utilize valet parking or equivalent, at the Convention Center's expense.
- d. For events greater than 175 guests the applicant shall contribute to ensure the City Trolley service or other available transportation means is running including during non-seasonal times.
- e. If the applicant fail to follow the mitigation measures than the administrative citation process shall be followed to enforce the permit, which includes written notice, escalating fines, and permit modification or revoking the permit.
- f. If the City decides the strategies outlined in the report, measures listed herein, or PMP do not

provide enough assurances to off set the parking demand than the City shall decide on the number of parking spaces the applicant shall pay into the In-Lieu-Fund.

PLANNING COMMISSION CONDITIONS

39. The project is required to be LEED certified.
40. Public restrooms and appropriate signage will be required during business hours.
41. Coordination with the Harbor Department regarding slip design and ease of navigation.
42. The Public Plazas are recommended via new lease area however the Commission also felt enough public benefits warranted exception if needed. The Plazas are required to be open to the public 24 hours 7 days a week. An emergency access path to facilitate Fire Department was also required.
43. Parking ó the Commission recommended the applicant secure an additional 87 parking spaces (public or private) in addition to the historical credits of 110 allowed. These additional 87 spaces should be outside of the Embarcadero public lots of Front Street and Tidelands. Better demonstration of their location and effective methods of transportation to and from these locations to the conference center and back during the event hours. The term for any and all off-site private locations shall enter into an agreement and run with the lease.
44. Following the implementation of the parking management strategies above a 2-year monitoring program shall be submitted to measure the success of the program.
45. A new pick-up and drop-off located across the street within the Front Street parking area near the chessboard should be designed into the project.
46. Finally, better articulation along the South-side of the building should be considered.



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 16, 2008

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Status Report on the AGP Contract and Consideration of Providing Web Streaming of Council Meetings

RECOMMENDATION:

Staff recommends the City Council receive and file the status report.

FISCAL IMPACT:

There is no fiscal impact to receiving and filing the status report.

DISCUSSION:

At the June 8, 2008 meeting, Council approved a month to month extension of the Video Production Services and Local Government Channel Insertion Point Management Agreement with AGP Video. In addition, Council directed staff to return at the September 22 meeting with an update on negotiations of a new agreement with AGP Video as it pertains to upgrading the channel insertion point, camera system automation and web streaming of Council meetings.

The City Manager, City Attorney and Management Analyst met with AGP Video in August to discuss options and information needed from AGP Video to bring to the Council for consideration. AGP Video indicated information pertaining to the scope of work and cost estimate for upgrading the insertion point equipment, camera system automation and web streaming would be submitted in the first couple weeks of September.

As of the date this staff report is being prepared, AGP Video has not submitted their proposal to the City in time for consideration at the September 22 Council meeting. Once AGP Video has submitted their proposal, staff will bring the matter to Council for consideration at the earliest available meeting date.

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 1