

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING TUESDAY, JANUARY 13, 2015 VETERANS MEMORIAL HALL - 6:00 P.M. 209 SURF ST., MORRO BAY, CA

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS

- Bicycle Friendly Community Award Presentation

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

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

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

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

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON DECEMBER 2, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON DECEMBER 8, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON DECEMBER 9, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON DECEMBER 9, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON DECEMBER 18, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC SERVICES)

RECOMMENDATION: Receive and file.

A-7 APPROVAL OF FEE WAIVER REQUEST FROM CENTRAL COAST WOMEN FOR FISHERIES (CCWF) FOR PROCESSING OF A CONDITIONAL USE PERMIT ASSOCIATED WITH THE PLACEMENT OF A PUBLICLY DEDICATED FISHERMAN'S MEMORIAL STATUE IN THE AREA ADJACENT TO TARGET ROCK; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution 01-15 approving the fee waiver request.

A-8 UPDATE ON 2009 – 2011 AUDIT OF LEASE SITE REVENUES CONTRACT AND REQUEST FOR ADDITIONAL FUNDING; (ADMINISTRATIVE SERVICES/HARBOR)

RECOMMENDATION: Approve an additional \$20,000 in funding to complete the Harbor lease site audits currently underway.

A-9 ACCEPTANCE OF QUIT CLAIM DEEDS FROM DYNEGY MORRO BAY, LLC (“DYNEGY”); (CITY ATTORNEY)

RECOMMENDATION: Accept the Quit Claim Deeds from Dynegy conveying property to the City.

A-10 APPROVAL OF RESOLUTION 02-15 FOR THE ASSIGNMENT AND ASSUMPTION OF LEASE SITE 144/144W LOCATED AT 1287 EMBARCADERO FROM CHARLES AND SANDRA MARCIEL (DBA: M&M REFRIGERATION) TO MORRO BAY OYSTER COMPANY, LLC; (HARBOR)

RECOMMENDATION: Adopt Resolution 02-15.

B. PUBLIC HEARINGS

B-1 APPEAL OF PLANNING COMMISSION DECISION TO DENY THE APPEAL OF THE DIRECTOR’S DECISION TO DENY A ONE YEAR TIME EXTENSION REQUEST OF PARKING EXCEPTION PERMIT ADO-075 FOR THE PROPERTY LOCATED AT 1000 RIDGEWAY (APPELLANT: REED ADAMSON, PROPERTY OWNER); (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution 03-15 denying the appeal of Planning Commission’s decision to deny the appeal of the Public Services Director/Planning Manager’s decision to deny the time extension request for Permit No. ADO-075 (Parking Exception).

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES

C-1 WATER RECLAMATION FACILITY (WRF) PROJECT UPDATE; INCLUDING REVIEW OF PROPOSED NEXT STEPS; (PUBLIC SERVICES)

RECOMMENDATION: Council review the information and provide further direction, as necessary.

C-2 DISCUSSION AND DIRECTION ON EXPIRING LEASE AT LEASE SITE 62/62W (KRUEGER/KAYAK HORIZONS); (HARBOR)

RECOMMENDATION: Council consider the alternatives presented and provide staff direction.

- C-3 REVIEW OF REQUIREMENTS FOR THE SALE AND ULTIMATE DEVELOPMENT OF CITY-OWNED VACANT LOT ON THE CORNER OF CORAL AVENUE AND SAN JACINTO STREET (CLOISTERS LOT); INCLUDING LOCAL COASTAL PLAN AMENDMENT, MODIFICATION OF THE COASTAL COMMISSION ISSUED COASTAL DEVELOPMENT PERMIT AND POTENTIAL REPROCESSING OF A SUBDIVISION MAP; (PUBLIC SERVICES)

RECOMMENDATION: Council review the information and provide staff direction to proceed with processing of an LCP amendment and an amendment to the Coastal Commission CDP that will potentially add residential density to the subject property.

- C-4 ADOPTION OF ORDINANCE NO. 591 AMENDING SECTION 3.40.060 OF THE MORRO BAY MUNICIPAL CODE REGARDING THE CITY'S RECOVERY OF COSTS RELATING TO DRIVING, BOATING OR FLYING INCIDENTS WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance No. 591 after reading the title only and waiving further reading.

D. NEW BUSINESS

- D-1 REVIEW AND APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN THE CENTRAL COAST CONCERNED MOUNTAIN BIKERS, INC. AND THE CITY OF MORRO BAY FOR THE CONSTRUCTION, REPAIR AND MAINTENANCE OF THE LITTLE MORRO CREEK ROAD BIKE PARK; (RECREATION & PARKS)

RECOMMENDATION: Review and approve the Memorandum of Understanding (MOU) between the City and the Central Coast Concerned Mountain Bikers Inc. (CCCMB) for the construction, repair and maintenance of the Little Morro Creek Road Bike Park.

- D-2 CITY COUNCIL ANNUAL MEETING SCHEDULE – 2015; (ADMINISTRATION)

RECOMMENDATION: Consider the alternatives and adopt a meeting schedule for calendar year 2015, and discuss the Joint City Council and Planning Commission meetings.

- D-3 APPOINTMENT OF MAYOR PRO TEMPORE AND APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (CITY COUNCIL)

RECOMMENDATION: Appoint Councilmember Noah Smukler as Mayor Pro Tempore as well as appoint Representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2015.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION.

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

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

MINUTES - MORRO BAY CITY COUNCIL /
PLANNING COMMISSION
JOINT SPECIAL MEETING – DECEMBER 2, 2014
MORRO BAY VETERAN’S HALL – 9:00 A.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Noah Smukler	Councilmember
	Robert Tefft	Planning Commission Chair
	Katherine Sorenson	Commissioner
	Richard Sadowski	Commissioner
	Michael Lucas	Commissioner
	Gerald Luhr	Commissioner
STAFF:	David Buckingham	City Manager
	Rob Livick	Public Services Director
	Scot Graham	Planning Manager
	Cindy Jacinth	Associate Planner
	Joan Gargiulo	Contract Planner
	Rick Sauerwein	Capital Projects Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons established a quorum of the City Council and called the meeting to order.

Chair Tefft established a quorum of the Planning Commission and called the meeting to order.

PUBLIC COMMENT RE: ITEMS ON THE AGENDA

Barbara Doerr is pleased that we are doing this as well as announced it to the public. The highest priority in the community is to do something about the closed power plant site. It has the most economic benefit as well. She hopes the outcome of this is fluid and not set in stone. She hopes that there is more opportunity to shape key issues than just “voting with a token”. This community needs more than tourist serving; we need to nurture new high tech businesses as part of our plan. We also need to think of what we can do for our community in a recreational element. Make this a multi-generational community. Public input is critical.

Steve McElvaine, with Rancho Colina, would like to consider the annexation of their area sometime in the future. What they can offer the City is affordable housing. They can also offer the opportunity for more RV sites.

Barry Brannin spoke on the infrastructure in Morro Bay. Unless we have water and a wwtp facility that is adequate, we are wasting our time. We need to control our future and to do that

we need a piece of property. We could “flag annex” the Rancho Colina property which will take the County out of it and we go ahead with the plans for the plant there.

Lynda Merrill wanted to say that she hoped that planning was a part of this workshop. We need to think in terms of “does it fit?” We need guidelines for bulk and scale.

The public comment period was closed.

SPECIAL MEETING AGENDA ITEM:

I. CITY OF MORRO BAY GENERAL PLAN/LOCAL COASTAL PROGRAM UPDATE

Jamie Hill, Chis Reeve, Tammy Seale and Nora DeCuir with PMC conducted/facilitated the workshop.

The public comment period was reopened.

Barbara Doerr, in listening to everybody, it really seems you should be establishing your General Plan Advisory Commission immediately. It will bring people together, get them involved and get them excited. When you establish your GPAC, think about excluding Councilmembers and Planning Commissioners from the group, they will have the power to make the ultimate decision. We need balance for all citizens, young and old alike.

John Sayers encouraged you to reach out to the younger generation possibly via teachers working this thru curriculum in the middle and high schools.

The public comment period was closed.

II. ADJOURNMENT

Mayor Irons adjourned the meeting at 2:25p.m.

Chair Tefft adjourned the meeting at 2:25p.m.

Recorded by:

Jamie Boucher
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – DECEMBER 8, 2014
MORRO BAY VETERAN’S HALL – 7:00 P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	David Buckingham	City Manager
	Joe Pannone	City Attorney
	Jamie Boucher	City Clerk
	Dana Swanson	Deputy City Clerk
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Eric Endersby	Harbor Director
	Rob Livick	Public Services Director
	Steve Knuckles	Fire Chief

ESTABLISH QUORUM AND CALL TO ORDER

IV. PUBLIC COMMENT RE: ITEMS ON THE AGENDA

Garry Johnson apologized that Nancy was unable to attend the night’s meeting; she is up north caring for her daughter. On her behalf, he thanked the citizens and staff for all their support these last 10 years.

Ken Vesterfelt thanked both Nancy Johnson and George Leage for a great job. He congratulated those that were elected.

Robert Davis thanked George Leage for supporting our bike bridge. Over the last 4 years, George never wavered in his support. He thanked Nancy Johnson for supporting the library; she encouraged a special place be planned for teens which has been put into place.

Cathy Novak has known George Leage for over 30 years and she stated that he’s always had Morro Bay in his heart; she thanked him and appreciates all he has done. She went to say what a wonderful Councilmember Nancy Johnson was; she was also a member of the Planning Commission, Public Works Advisory Board and many, many committees.

Keith Taylor thanked both George Leage and Nancy Johnson for their unwavering support of the Fire Department over the years. He knows they don’t do it for publicity or pats on the back; they just do it because it’s right. He wishes the new Council nothing but success.

Susan Stewart really appreciates what both George Leage and Nancy Johnson have brought to the table. Nancy walks the streets, checks in with businesses and George is always checking in on the Embarcadero.

Nicole Dorfman's son stated he was pleased with the election results.

The public comment period was closed.

V. COMMENTS BY CURRENT MAYOR AND COUNCILMEMBERS

VI. PRESENTATION OF PLAQUES TO COUNCILMEMBER NANCY JOHNSON AND COUNCILMEMBER GEORGE LEAGE

City Manager thanked both Councilmembers Nancy Johnson (Garry Johnson in her stead) and Leage for their service and presented them with plaques.

VII. OATH OF OFFICE AND PRESENTATION OF CERTIFICATES OF ELECTION TO MAYOR JAMIE IRONS, COUNCILMEMBER JOHN HEADDING AND COUNCILMEMBER MATT MAKOWETSKI

City Clerk gave the incoming Mayor and Councilmembers the Oath of Office, presenting them with Certificates of Election.

VIII. COMMENTS BY RE-ELECTED MAYOR AND COUNCILMEMBERS

ADJOURNMENT

The meeting adjourned at 8:01p.m.

Recorded by:

Jamie Boucher
City Clerk

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
DECEMBER 9, 2014
CITY HALL CONFERENCE ROOM – 5:00 P.M.

AGENDA NO: A-3

MEETING DATE: 1/13/2015

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	John Headding	Councilmember
	Matt Makowetski	Councilmember
	Noah Smukler	Councilmember
STAFF:	David Buckingham	City Manager
	Joe Pannone	City Attorney
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons called the meeting to order at 4:00pm.

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

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for public comments for items only on the agenda.

Nancy Bast read a letter urging the Council to direct the City Attorney to withdraw the City's Objection to the Tentative Statement of Decision. It is her feeling that the community is supportive of that action.

Nicole Dorfman read a letter respectfully requesting the Council instruct the City Attorney to file with the Court a withdrawal of the City of Morro Bay's Objections to Proposed Statement of Decision. The court's decision in question states that an EIR would need to be conducted prior to development per CEQA requirements.

Dorothy Cutter requested Council uphold Judge Crawford's decision to require an EIR.

Nick Franco, District Superintendent of California State Parks supports working with/continuing the relationship/partnership with the City. He feels that would be healthy for the community. He hopes to work together in the RFP process. He would like to see the Marina and Café operate separately. With an operating agreement, revenues can stay local which is preferable.

Bob Fowler spoke representing MMBS, LLC, who has an application in to renegotiate the terms of their lease at 124-128/124W-128W. They have put in their first phase of docks at the cost of \$400,000. They are getting ready to start phase #2 and are looking to finance that at approximately \$400,000. They are requesting two fifteen year extensions, the first for phase #2 and the other for landside improvements. The extra time on their lease will help them with their ability to acquire financing.

The public comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 GOVERNMENT CODE SECTION 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

- Property: Lease Site 105.1W-105.2W, Degarimore's Central Coast Marine Fuel and Ice, 1099 Embarcadero
Agency Negotiators: Joseph W. Pannone, City Attorney and Eric Endersby, Harbor Director
Property Negotiators: Michael and Orietta Degarimore
Under Negotiation: Lease Negotiations, Price and Terms of Payment
- Property: Lease Site 124-128/124W-128W, Morro Bay Landing, 1215 Embarcadero
Agency Negotiators: Joseph W. Pannone, City Attorney and Eric Endersby, Harbor Director
Property Negotiators: MMBS, Inc/Robert Fowler
Under Negotiation: Lease Negotiations, Price and Terms of Payment
- Property: Morro Bay State Park Marina
Agency Negotiators: Joseph W. Pannone, City Attorney and Eric Endersby, Harbor Director
Property Negotiators: California Department of Parks and Recreation
Under Negotiation: State Park Marina Operating Agreement, Terms of Agreement

CS-2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

- Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9.: 1 Matter

CS-3 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

- Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: Save the Park et al v. City of Morro Bay with Real Party in Interest Daniel Reddell et al., CV 120085

The City Council recessed the Closed Session to the conclusion of the regular City Council meeting. The City Council reconvened to Open Session.

ADJOURNMENT

The Closed Session was reconvened and adjourned at 11.45p.m; Council adjourned with no further action.

Recorded by:

Jamie Boucher
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – DECEMBER 9, 2014
VETERAN’S MEMORIAL HALL – 6:00P.M.

AGENDA NO: A-4 MEETING DATE: <u>1/13/2015</u>
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PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	John Heading	Councilmember
	Matt Makowetski	Councilmember
	Noah Smukler	Councilmember
STAFF:	David Buckingham	City Manager
	Joe Pannone	City Attorney
	Jamie Boucher	City Clerk
	Dana Swanson	Deputy City Clerk
	Rob Livick	Public Services Director
	Joe Woods	Recreation & Parks Director
	Eric Endersby	Harbor Director
	Susan Slayton	Administrative Services Director
	Scot Graham	Planning Manager

ESTABLISH QUORUM AND CALL TO ORDER – the meeting was called to order at 6:00pm.
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT

City Attorney Joe Pannone reported that with regards to the Closed Session Items, the Council did not take any reportable action pursuant to the Brown Act. The City Council recessed the Closed Session to the conclusion of the regular City Council meeting. The City Council reconvened to Open Session.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS

- Update on the Progress of the LEAP Program

City Manager David Buckingham stated that the City is planning a pilot parklet which will be located on the west side of Main Street between Harbor and Morro Bay Blvd; it will be using 2 parking spaces, will be low cost and will last for 6 months. This will go towards downtown revitalization and make the area more pedestrian friendly.

Don Maruska presented gave a status update on the progress of LEAP. He reviewed the strategic framework objectives and the focus areas. He went over the results of the 1st workshop – the November 19th Kickoff Workshop where the focus was on “who has a stake in the Morro Bay Economy”- residents, business owners, City government, educators, future residents, young people, absentee property owners, non-profit representatives, County, visitors, non-tourism related businesses, employees of businesses and fishermen; “what are the hopes for the Morro Bay Economy?” – this time it will work, retaining authenticity of community, more engagement

and collaboration, get key resources to help, strategy or vision for each segment of the City (Embarcadero, MB Blvd, North MB), more diverse tax base (green jobs), head of household jobs, achieve a healthy balance, affordable housing for workforce, fiscally thriving for next 50 years, commercial beautification of properties, attraction for businesses to come to Morro Bay by creating an environment that encourages business, more attractions for residents, clear assessment of challenges and strengths, organized and sustained resource that identifies commercial and retail parcels, boost business attitude, develop lasting infrastructure, and brand Morro Bay; “what issues need attention to fulfill these hopes?” – clear civic center, re-education in the city so that residents and others see benefits of a thriving economy, no “shelving”, more inviting entrances into Morro Bay, sustain the effort. He presented some draft LEAP Program Action Initiatives to include expediting processing for targeted businesses, assessing fiber optic connectivity opportunities, revitalizing and linking business districts to boost activity, reinvent events to better serve residents, businesses and visitors, promote environmental assets of the area for residents and visitors to enjoy and to expand business and tourism results, create inventory of commercial properties and their features to expand and attract targeted businesses, install a pilot parklet in business district to offer community spaces for residents and visitors to enjoy and stimulate business activity, reassess business incubator and enhance local business building efforts, and outreach to attract businesses. The next step is a LEAP Workshop for Merchants, Businesses, Tourism and Community Members being held on Wednesday, January 21st from 6-830pm at the Veteran’s Hall.

PUBLIC COMMENT

“Dead Air” Dave Sozinho gave the Morro Bay business spot. He informed the public about the best kept secret in Morro Bay – 97.3, The Rock. They have been on the air for 6+ months; they are an eclectic group of 54 air personalities. They serve everybody as best they can, are a 501(c)3 non-profit organization, everybody is a volunteer – nobody gets paid, they operate solely on donations. They are looking for business people to sponsor time and/or programs. They would also like to serve the community in promoting events.

Robert Davis spoke representing the County Bicycle Advisory Committee; they are updating the County Bikeway Plan and are asking for the City’s help and input. Their current goals are to connect communities, close gaps, break down barriers to bicycle commuting and prioritize projects that will accomplish those. Their list of projects to build in the next 20 years include the Morro Bay to Cayucos connector and the Chorro Valley Trail (SLO to Morro Bay) They also want to provide more bicycle parking.

Doug Claassen with Morro Dunes RV spoke on Item C-3 – consenting to the inclusion of the City to the SLO County TMD. He wasn’t happy that the RV Parks are being included in the TMD whether they like it or not. He has questions he wants addressed to Visit SLO. In our immediate area, there are only 4 Morro Bay parks that collect TOT, private parks don’t – for example, Morro Bay State Parks and Oceano Dunes don’t collect TOT, will they be involved or get advertising? He said it’s frustrating to do business, continually being asked to pay for things; he doesn’t feel this is a fair playing field. He hopes the RV Parks will be left out.

Arlene Orman with Bay Pines Travel Trailer Park knows that 1% doesn’t mean much but they are already at a 10% disadvantage compared to the State and County Parks. If there is any marketing or advertising done for RV Parks – will they benefit? She didn’t have the opportunity

to participate in the talks as RV Parks weren't invited. She feels this is taxation without representation.

Chanel Channing spoke on behalf of the Morro Bay 4th Committee. It is their hope to have fireworks on New Year's Eve and only need \$5,000 to make it happen. The goal is for the barge to be centrally located at the midpoint of the bay. They feel this will bring a trickledown effect to local businesses; events are the engine of Morro Bay. She urged people to drop off donations at the Library or to City Hall.

Trina Daugherty announced the upcoming Eco Rotary Event: Re-gifting for the Holidays Social and Silent Auction at the Morro Bay Community Center. The event is taking place on Thursday, December 11th from 6-8pm and monies raised helps fund their many community and international projects. She reminded us of the Hazardous Waste dropoff facility at the Treatment Plant which is open on Saturdays from 11am-3pm. IWMA has a website that lists items you can drop off to the center.

The public comment period was closed.

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON NOVEMBER 6, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON NOVEMBER 12, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON NOVEMBER 12, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 ADOPT PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING NOVEMBER, 2014 AS "NATIONAL HOSPICE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-5 ADOPT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD IN THE CITY OF MORRO BAY ON THE 4TH DAY OF NOVEMBER, 2014; DECLARING THE RESULTS THEREOF, AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 78-14.

A-6 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC SERVICES)

RECOMMENDATION: Receive and file.

A-7 REVIEW AND ADOPT DRAFT FUNDING RECOMMENDATIONS FOR THE 2015 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM; (PUBLIC SERVICES)

RECOMMENDATION: Adopt draft funding recommendations for the 2015 Community Development Block Grant (CDBG) funds and forward recommendations to the San Luis Obispo County Board of Supervisors for inclusion with the other draft funding requests from the Urban County Consortium.

A-8 APPROVAL OF AMENDMENT #1 TO CONTRACT SERVICES AGREEMENT WITH ALESHIRE & WYNDER, LLP FOR CITY ATTORNEY SERVICES; (ADMINISTRATION)

RECOMMENDATION: Approve Amendment #1 as presented.

A-9 APPROVAL OF AN AMENDMENT TO THE CONTRACT WITH DAVID BUCKINGHAM FOR SERVICES AS THE CITY MANAGER; (CITY ATTORNEY)

RECOMMENDATION: Approve the amendment to the contract with David Buckingham, City Manager, and authorize the Mayor to sign the contract on behalf of the City.

A-10 ANNUAL REPORT ON UNFUNDED LIABILITIES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Receive and file.

A-11 AMENDING RESOLUTION NO. 42-14, "ADOPTING THE 2014/15 FISCAL YEAR OPERATING BUDGETS," AND ADOPTION OF RESOLUTION NO. 79-14, REVISING SECTION 6 TO READ "CITY COUNCIL APPROVAL IS REQUIRED FOR ANY PROPOSED INCREASE TO THE NUMBER OF PERS BENEFITTED BUDGETED POSITIONS HIRED"; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 79-14, amending Section 6. of Resolution No. 42-14 to read "City Council approval is required for any proposed increase to the number of PERS benefitted budgeted positions hired."

A-12 APPROVAL OF AMENDED BUSINESS LICENSE TAX RATE SCHEDULE REGARDING BUSINESS LICENSES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Accept the proposed business license tax rate schedule for fiscal year 2014/15.

A-13 AUTHORIZATION TO AWARD CONTRACT FOR PROJECT NO. MB-2013-S2: MORRO CREEK MULTI-USE TRAIL AND BRIDGE PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Award the contract for the Morro Creek Multi-Use Trail and Bridge Project to CalPortland Construction of Santa Maria, CA in the amount of \$1,184,654.

The public comment period was opened for the Consent Calendar; seeing none, the public comment period was closed.

Mayor Irons pulled Item A-10 and Councilmember Heading pulled Item A-4 from the Consent Calendar.

MOTION: Councilmember Johnson moved the City Council approve Items A-1, A-2, A-3, A-5, A-6, A-7, A-8, A-9, A-11, A-12 and A-13 from the Consent Calendar as presented. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler

No's: None

A-4 ADOPT PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING NOVEMBER, 2014 AS "NATIONAL HOSPICE MONTH"; (ADMINISTRATION)

Councilmember Heading pulled the Hospice Proclamation in order to make some wording suggestions. In the third "Whereas" he suggested the following: "WHEREAS, hospice creates a compassionate atmosphere, where patients are able to **receive end of life care** with dignity..." and in the fourth "WHEREAS" he suggested adding "**pharmacists**" to the list of caregivers.

MOTION: Councilmember Heading moved the City Council approve Item A-4 with the suggested corrections. The motion was seconded by Mayor Irons and carried unanimously 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler

No's: None

A-10 ANNUAL REPORT ON UNFUNDED LIABILITIES; (ADMINISTRATIVE SERVICES)

Mayor Irons pulled this item to allow Administrative Services Director Susan Slayton the opportunity to expand on the topic. Ms. Slayton presented a history of why this report came to be; it focuses on sick leave and vacation leave accruals equating to unfunded liabilities. The City has made improvements on our unfunded liabilities and we will continue to monitor our progress. Mayor Irons feels it appropriate to tie this report to our budget process.

MOTION: Mayor Irons moved the City Council approve Item A-10 to include the change in the calendar scheduling of the item. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

Ayes: Irons, Headding, Johnson, Makowetski, Smukler

No's: None

City Manager David Buckingham will take action to encourage employees to take vacation.

B. PUBLIC HEARINGS

B-1 A00-018; REVIEW OF AMENDMENTS TO THE GENERAL PLAN AND LOCAL COASTAL PLAN NECESSARY TO IMPLEMENT STATE-MANDATED DENSITY BONUSES IN RESIDENTIAL LAND USE DISTRICTS; (PUBLIC SERVICES)

Planning Manager Scot Graham presented the staff report.

The public comment period for item B-1, regarding the General Plan (Resolution 80-14) was open; seeing none, the public comment period was closed.

The public comment period for item B-1, regarding the Local Coastal Plan (Resolution 81-14) was open; seeing none, the public comment period was closed.

MOTION: Councilmember Smukler moved approval of Resolution 80-14. The motion was seconded by Councilmember Makowetski and carried unanimously 5-0.

Ayes: Irons, Headding, Johnson, Makowetski, Smukler

No's: None

MOTION: Councilmember Smukler moved approval of Resolution 81-14. The motion was seconded by Councilmember Headding and carried unanimously 5-0.

Ayes: Irons, Headding, Johnson, Makowetski, Smukler

No's: None

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES

C-1 ADOPTION OF ORDINANCE NO. 588 AMENDING SECTION 15.04.150 OF THE MORRO BAY MUNICIPAL CODE RELATING TO COMMERCIAL FISHING VESSEL SLIP QUALIFICATIONS; (HARBOR)

Harbor Director Eric Endersby presented the staff report.

The public comment period for Item C-1 was opened; seeing none, the public comment period was closed.

MOTION: Councilmember Smukler moved approval of Ordinance 588 amending Section 15.04.150 of the Morro Bay Municipal Code relating to commercial fishing vessel slip qualifications. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler
No's: None

C-2 REQUEST FOR AUTHORIZATION TO HOLD STUDY SESSIONS REAFFIRMING, AND AS REQUIRED, REPRIORITIZING THE CITY'S 2013-2015 GOALS AND EXTENDING THEM TO JULY 2016; (ADMINISTRATION)

City Manager David Buckingham presented the staff report.

Mayor Irons stated that linking the goals to a 2 year cycle is critical.

The public comment period for Item C-2 was opened.

Robert Davis heartily agrees we need to do strategic planning which needs to start with a plan for a vision of who we need to be; we need a unifying vision that ties everything we are doing together. It can be as simple; but should drive everything we do.

Bob Keller stated we should follow the goals of the new library and Lemos Ranch – both assets to Morro Bay

The Public Comment period for Item C-2 was closed.

Councilmember Johnson stated we need to do goal setting, especially with a new City Manager. She thinks that some are just too vast, what do they really mean? She suggested that when we meet to revisit goals, we should consider setting 1 (more immediate successes), 2 (with the 2 year election cycle and 2 year budget) and 5 year goals (more long term). She isn't sure we can do this in 2 one hour sessions; maybe we can try knocking it out in one longer meeting which would also allow for public comment.

Mayor Irons stated that a 1 hour time slot limits the input we can receive and discussion we can have.

Councilmember Heading stated we have a number of new players who weren't involved in the initial goals. Staff could work behind the scenes to bring a seed document that might do a lot of the prep work such as the development of a Mission statement (what the organization is about); the vision (overall arching goal); values (filters) and then the Strategic Plan flows from that and drives the operating and capital budgets. The strategic plan also is divided into Major areas/action steps – who's responsible – by what date – and what are the outcomes expected for achieving that goal. Coming together as a team to build that process is worth the time.

Councilmember Smukler says it's important to check in on this with a new City Manager and new Councilmembers. He thinks that we have a fair amount to work off of with the existing goals – but they need to be refined. The process should inform itself and can be extended if necessary.

Councilmember Makowetski stated the groundwork is good and will be helpful in building this continuity. He agrees we need 2 two hours session in January.

MOTION: Councilmember Smukler moved staff hold two study sessions in January 2015 to affirm and, as required, reprioritize the current 10 City goals and then extend those goals through July 2016 while identifying 1-3 program elements for each goal. The motion was seconded by Councilmember Makowetski and carried unanimously 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler

No's: None

C-3 ADOPTION OF A RESOLUTION CONSENTING TO THE INCLUSION OF THE CITY OF MORRO BAY WITHIN THE PROPOSED SAN LUIS OBISPO COUNTY TOURISM MARKETING DISTRICT (SLOCTMD); (ADMINISTRATION)

Mayor Irons recused himself as he has a vacation rental.

City Manager David Buckingham presented the staff report.

Stacie Jacobs and Chuck Davison, with Visit SLO, both gave a presentation on behalf of SLOCTMD. Ms. Jacobs reviewed the information as was presented back in the TMD study session in October. It is their goal to connect all the assets the community offers which will increase overall tourism; increasing the average length of stay and ultimately bringing up the average daily rate. She then went on to compare rates and spending in the competitive set counties. The 1% assessment will create a fund of approximately \$3 million dollars that they will use towards extending the average length of stays in each city. In Morro Bay, 63.5% of revenue generating properties have committed to join. Of the TBID hotels, 51% of the properties committed, representing 72% of the rooms and 63.51% of the revenue. Of activities in the proposed assessment, this represents 53.6% of the revenue. SLOCTMD has the backing and legal requirements to move forward both in the County and in Morro Bay. The 1% fiscal impact is a marketing machine that will be used to market our City; SLOCTMD will also be returning \$44,662 to our local TBID which was their 14/15 share to Visit SLO. They reviewed the board structure will entail a 15 member Board of Directors, a Marketing Committee and an Advisory Committee.

Chuck Davison spoke to the Tourism Ecosystem, culminating in marketing to our local retail (shopping, restaurants, attractions and accommodations). The 5 Year Plan's goals are to increase demand of the SLO County destination and increase awareness of the SLO County destination. There a need to drive brand awareness as well as broaden the awareness in bigger markets.

City Manager Buckingham finished the staff report and presented staff recommendations.

The Public Comment period for Item C-3 was opened.

Brent Haugen, Executive Director of the Morro Bay Tourism Bureau urged Council not to reduce the TBID from 3% to 2%. The 18 properties signed a petition to join the TMD with the understanding that there would be a 1% increase and the Tourism board also voted with that understanding. Currently, our TOT is coming in 17.6% higher in revenue than last year and 4% above in occupancy. Reducing the TBID budget would greatly reduce the direct Morro Bay marketing efforts.

Jayne Behman, owner of Bay Front Inn, stated the City allocated \$40,000 to subsidize events and \$100,000 to operate the Visitors Center. No general fund monies have been allocated to promote Morro Bay. The entire marketing monies come from the TBID. She feels the City should put forth the funds to support the SLOCTMD. She urged Council to keep Morro Bay's combined TOT to the 13%. This can be done by reducing the TOT to 9%, keeping the TBID at 3%. Morro Bay needs its advertising dollars.

Barry Brannin said the TBID's entire focus is how to promote a few businesses in the City. There are other factors in our City. To consider using general fund monies for this purpose is totally inappropriate.

Anna Olson, manager at the Inn at Morro Bay spoke in favor of joining the TMD efforts. Over her career, she has experienced a very positive impact of these marketing partnerships, in both business growth and exposure. Individual marketing efforts can be very taxing. Being able to collaborate with larger groups proves helpful and provides a much larger impact. She urged the Council to go with the power of partnership in working with the County.

Barbara Jo Osborn asked not to change the 3% to 2% TBID, Morro Bay needs the advertising. She also urged us not to pull from the general fund. She feels that 1% is fine to add on. Her biggest concern is that somebody needs to be asking how you go from \$900,000 to \$3,000,000; she doesn't understand how something can grow that fast, she doesn't see a lot of controls. \$3 million brings a different level of staffing and different levels of accountability. She feels there are too many people on the committees, especially given that most of them have their own self interests.

Steve McElvaine, owner of Rancho Colina, stated that there is no way that this tax would have been a benefit to his development. He suggested not supporting a tax of 10% on parks.

Andy Hamp stated that you won't be able to raise the County TOT that way; State Parks won't pay TOT or the assessment; there are a total of 1200 properties being assessed including B&B's, hotels/motels, vacation rentals and RV Parks. Of those, there are only 4 Morro Bay RV Parks, 3 in Pismo and 1 in Paso Robles will fall under the assessment. There are 26 others – those in the County and unincorporated areas that won't be assessed. If State Parks and County Parks don't pay, advertising for them should disappear as well. The RV park position would be to vote no.

JP Patel was part of the initial task force for the TMD. There are a lot of hoteliers that saw cities having to cut back on promotion monies. He feels the long term vision for their industry has to be looked at as a whole – countywide. In order to bring the demand and the business here, everybody has to work together. He is hopeful that now we can build a countywide branding effort.

Jay Jamieson, RV Park owner from Pismo Beach, stated that Pismo is a place you may only stay a day. This fits their marketing program - to cooperate as the goal is to extend stays. He feels strongly in the County effort; he likes their branding efforts. He wants to be relevant in relation to other lodging partners, being able to have a seat and be able to speak.

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

Councilmember Smukler stated that some of the key objectives and goals of this process, which can be related to our local TBID include the need and interest to increase marketing and awareness of MB, drive more competitiveness here, provide a stronger utilization of what we have, and to be better organized. Our early investment into our TBID was money well spent and one he would not want to see end. We will holding SLOTMD accountable and asking, “was this worth it?” He thinks that this will allow us to look at market analysis and see where we could be most effective with our dollars. This collaborative effort should help and improve our returns. He realizes it’s uncomfortable for RV Parks and vacation rentals but doesn’t feel that will change a tourist’s mind. He feels this is a risk that is worth taking; he wants to see us keep our 3% active.

Councilmember Makowetski is looking at this concept holistically. In looking at the bottom line, it’s irrefutable that this marketing is working. He understands the resistance from RV Parks but likes the 5 year sunset provision; if it doesn’t go well we can back out of it. He likes looking at the votes of the hoteliers and of the TBID, the numbers speak for themselves; he is in favor of moving forward with this.

Councilmember Headding stated that our economic engine is primarily dependent on tourism. He reviewed a report done in 2008 which indicated that we were one of the lowest TOT communities and of those that came here, they didn’t spend much money – ie: we weren’t converting dollars into sales tax. He thinks there are a tremendous number of advantages to joining: improve strategic planning abilities; increase accountability for results; improve our ability to market this area to people, both nationally and internationally, with greater disposable income; the collective brain trust is advantageous to us locally; we gain economies of scale; and there are a number of examples where this has been done and has worked very well. He doesn’t feel we should reduce the 3%, he doesn’t feel the 1% will have an impact on anybody’s stay. He feels if we are left out, we will have significant problems. We do need to have a plan in place to hold them accountable for results.

Councilmember Johnson stated that our economy is heavily dependent on tourism. She thinks that although there are groups that have valid concerns, it is in our best interest to try and fill our beds. This may also encourage owners to upkeep their properties. She realizes it isn’t perfect for our RV Parks. She will support Morro Bay joining the TMD; as a small city, we always need to look at regionalization of options.

MOTION: Councilmember Headding moved adoption of Resolution 82-14 consenting to the inclusion of the City of Morro Bay to the proposed San Luis Obispo County Tourism Marketing District (SLOCTMD). The motion was seconded by Councilmember Makowetski and carried 4-0-1 with Mayor Irons and carried 4-0-1 with Mayor Irons recusing himself.

Ayes: Headding, Johnson, Makowetski, Smukler

No’s: None

Recused: Irons

C-4 REVIEW OF FINAL REPORT FOR NEW WATER RECLAMATION FACILITY PROJECT COMPARATIVE SITE ANALYSIS: REGIONAL CMC FACILITY VS. RANCHO COLINA, INCLUDING NEW INFORMATION REGARDING COST AND DESIGN BASED ON CAROLLO ENGINEERS’ DETAILED EVALUATION OF THE

CMC SITE AND BY MKN ASSOCIATES FOR THE RANCHO COLINA SITE; BY JOHN F RICKENBACH CONSULTING WITH THE ADOPTION OF RESOLUTION 77-14 STATING THE CITY'S PREFERENCE FOR NEW WRF SITE LOCATION; (PUBLIC SERVICES)

Public Services Director Rob Livick introduced John Rickenbach who presented the progress to date on site comparisons. He summarized tonight's goals: summarize Council direction; summarize report findings; focus on updates since the 11/12/14 preliminary report; present Carollo report for CMC site; and make recommendations for next steps. The purpose of the report is to respond to Council direction; compare CMC and Rancho Colina as regional options; provide preliminary conceptual cost comparisons; update previous information; provide input from WRFCAC; and facilitate a recommendation about the most appropriate site. Key conclusions from the report are as follows: Rancho Colina is the better overall site; CMC site faces major logistical challenges; CMC site costs substantially more; Rancho Colina is preferred by Coastal staff; the 5 year goal is not achievable at CMC; and, there is more flexibility in reclamation options at Rancho Colina. The key updates since the November report include: coordinated with CSD, CDCR, RWQCB and the County; CMC capacity analysis completed; comparative cost analysis complete; CDCR confirms logistical steps required at CMC; Coastal staff supports Rancho Colina site; and WRFCAC conditionally recommends Rancho Colina 8-1. Regarding interagency coordination at the CMC site: the City and CSD staff coordinated with CDCR; CDCR confirmed it would retain ownership of onsite facilities; the County would operate a regional facility at CMC; City/CSD would be responsible for offsite pipelines; an interagency framework and facilities master plan would be needed before CDCR can vet the concept with State Public Works and GSA. It would take the CDCR up to 2 year to even get to the point of a "yes" or "no" answer. The cost estimates are as follows: CMC construction (reclamation ready) = \$161 million + construction (reclamation) \$6 million = \$167 million; there will be a \$1.4 million annual operations and maintenance budget and the cost of reclaimed water will be \$22,000 afy. Rancho Colina along with CSD would cost \$74 million (reclamation ready) + \$28 million (reclamation) = \$102 million; annual operations and maintenance cost of \$1 million per year and reclaimed water would cost \$7300 afy. Rancho Colina without CSD would cost \$67 million (reclamation ready) + \$26 million (reclamation) = \$93 million; there will be \$800,000 in annual operations and maintenance and the cost of reclaimed water will be \$8400 afy. Coastal staff prefers the Rancho Colina site because there is potential for groundwater replenishment/reduced State Water reliance; it is closer to existing infrastructure; and can better implement green technologies. The WRFCAC met on December 3rd and recommended the Rancho Colina site with these conditions: if cost difference between CMC and Rancho Colina is the same or greater than was reported; if there is opportunity to evaluate possible discharge to Morro Creek; if there is an opportunity to evaluate EIR scope and approach; if potential cultural resource issues along Highway 41 can be evaluated; and if possible upstream water use can be further investigated. The next steps were discussed – if Rancho Colina is chosen: work with CSD to determine possible working framework based on common goals; begin master planning and reclamation planning phase; more fully investigate environmental issues affecting design; and develop an MOU for site acquisition. If CMC is chosen: work with CDCR, County and partner agencies; and City to support CDCR's efforts to prepare facilities master plan for internal state agency consideration.

Steve Swanback with Carollo Engineers presented the Capacity Evaluation of the CMC site. Carollo performed process and hydraulic analyses in order to be able to answer capacity

questions. This included reviewing permit requirements; developing design criteria; analyzing historical data, performing biological process modeling, performing hydraulic analysis, determining necessary improvements and finally developing cost estimates. Nitrogen and Salinity (TDS) discharge max daily limits are critical to the evaluation and drives the size and the cost. A Morro Bay/CSD potential contribution nearly doubles the flow and organic load to the CMC facility. The CMC facility has experienced historical loading in excess of their original design criteria. Hydraulic analysis identified the need for additional facilities to accommodate MB/CSD flows. The plant was not designed to expand, it was anticipated that the population served would stay static. Cost estimates represent all the components necessary for implementation to include: \$50 million without contingencies just for the treatment plant + \$12 million for brine disposal and force main and pump stations + 30% contingencies + mid-point to escalation of construction costs = a total cost estimate of \$161,484,000 million. Analysis showed that improvements to CMC more than doubled the area occupied by the existing facilities. They will need 2 more oxidation ditches and 3 clarifiers as well as new headworks. And all the processes will need expansion or upgrading. Substantial infrastructure is required to convey raw wastewater from MB / CSD WWTP site to CMC. Salinity discharge requirements have a significant impact on the overall project.

Public Services Director Rob Livick presented a modified Resolution; the “Whereas” #11 (Finding #11) needed some rewording and should now read, “...desire **to comply with its** a LCP Policy to develop a reclaimed water supply...”

Mayor Irons would like to see the WRFCAC vote of 8-1 added to the Resolution as well as add that we will be working on the MOU process with the Rancho Colina owner.

The Public Comment period for Item C-4 was opened.

Ken Harris, Executive Officer with RWQCB shared some questions. While he doesn't have an objection with CMC's \$161 million cost; he does question why there is such a huge difference between the two sites. It seems like they are close to the same project. He concluded that there isn't enough information to make a decision at this time.

Jean Pierre Wolfe, Chairman of Central Coast of the RWQCB stated that there is one area that requires consideration, when you look at recycled water use for agriculture, especially in the winter months, the amount of irrigation is minimal/nonexistent so you have to do something with the water. When you design the project, you need to consider what you going to do with that water. He cautioned us not to read too much into the Coastal Commission letter as it is a very preliminary view of the project.

Bill Martoney has come to the conclusion that this is a no brainer, CMC is off the board and the Rancho Colina site is preferable. We do have an option of Whale Rock as a back fill. It's extremely important to recycle the water.

Bob Keller supports the Rancho Colina site, its most cost effective, there are more recycling benefits, it has options, it has the least amount of regulations, we would own the site and control our own destiny and time is money – we need to move now.

Kelsey Shaffer spoke representing the local northern Chumash Tribe. She said that Rancho Colina seems to make the most sense based on cost, water rights and potential green technology. Coming from a native perspective, there are a lot of risks for environmental and cultural issues coming up. They are looking to work with us and expects all appropriate measures would be taken to avoid cultural and sensitive resources as much as possible.

The Public Comment period for Item C-4 was closed.

Councilmember Heading brought up the question of what will be the rate to the customer, one site versus the other. Mr. Livick stated the rule of thumb of rate estimating in Morro Bay is \$1/month/million dollars for residential customers. We are currently at an average of \$45/month; if we look at going to Rancho Colina alone, that could add \$67/month to that cost; if we look at going to Rancho Colina with the CSD, that could add \$50/month to that cost; going to CMC with the CSD, that could add \$107/month to that cost.

Councilmember Smukler has learned a lot from his tour at the CMC plant as well as from hearing from the CDCR representatives that there is no need for us to join; they have existing agreements and we'd have to pay fully for the upgrade as well as for maintaining and operating the pipeline. He is excited for what the flexibility the Rancho Colina option will give us whether it be technology, delivery model or additional city benefits that we could stack on as the function of the site. WRFAC's concern of identifying fatal flaws as soon as possible is important. He is willing to entertain dialogue and analysis about getting to reclamation because when we receive the reclamation benefits is when we really cash in on the investment. He's seen enough data and information to be able to make a decision tonight. This report has given us the security we need to make a strong decision.

Councilmember Makowetski likes the Rancho Colina site; cost is a big deal. Also, looking ahead, the State Water Project bond will be up in another 15 years, if we can achieve water independence, having a site that is tertiary is the type of foresight we need to have as a community. The costs with CMC would be downward spiral. We have our 5 year plan to get this done, and he feels we have enough information to move forward.

Councilmember Johnson stated we are concerned about the ratepayer. The risk of a project that costs twice as much is a socio-economic hardship and one our residents can't afford. She reminded us that the denied project was going to raise rates. We first need to put rate consideration at the top. Next, we need a permitable project. We have taken a long look at regionalization which all small communities must do. We took a serious look and at this point it doesn't make sense to move forward with a CMC option. If there is a fatal flaw with Rancho Colina, the Highway 41 corridor allows for 3 alternates sites. We need to move forward tonight with Rancho Colina.

MOTION: Mayor Irons moved to extend the meeting beyond 11:00pm. The motion was seconded by Councilmember Heading and carried unanimously 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler

No's: None

Mayor Irons can't say enough about all the work done on behalf of this project. He stated that Rancho Colina is the preferred site and we shouldn't second guess that. He is looking forward to working with Cayucos and all of the required agencies.

MOTION: Councilmember Smukler moved the Council receive the report including the new information from Carollo and MKN, and the WRFCAC recommendations, and that we make the site preference selection to continue the analysis necessary to locate the new WRF at the Rancho Colina site, and adopt Resolution 77-14 with the adjustments as sited. The motion was seconded by Mayor Irons and carried unanimously, 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler

No's: None

D. NEW BUSINESS

D-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 591 - "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY AMENDING SECTION 3.40.060 OF THE MORRO BAY MUNICIPAL CODE REGARDING THE CITY'S RECOVERY OF COSTS RELATING TO DRIVING, BOATING OR FLYING INCIDENTS WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL"; (CITY ATTORNEY)

City Attorney Joe Pannone presented the staff report.

The public comment period for Item D-1 was opened; seeing none, the public comment period was closed.

MOTION: Councilmember Johnson moved to approve for the Introduction and First Reading of Ordinance 591, introducing an Ordinance of the City Council of the City of Morro Bay amending Section 3.40.060 of the Morro Bay Municipal Code regarding the City's recovery of costs relating to driving, boating or flying incidents while under the influence of drugs or alcohol. The motion was seconded by Councilmember Heading and carried unanimously 5-0.

Ayes: Irons, Heading, Johnson, Makowetski, Smukler

No's: None

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

None

ADJOURNMENT

The meeting adjourned at 11:46 p.m.

Recorded by:

Jamie Boucher
City Clerk

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
DECEMBER 18, 2014
CITY HALL CONFERENCE ROOM – 4:30 P.M.

AGENDA NO: A-5
MEETING DATE: 1/13/2015

PRESENT: Jamie Irons Mayor
 Christine Johnson Councilmember
 John Headding Councilmember
 Matt Makowetski Councilmember (arrived at approx. 5:05)

STAFF: David Buckingham City Manager
 Joe Pannone City Attorney
 Eric Endersby Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons called the meeting to order at 4:40 p.m.

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

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for public comments for items only on the agenda; seeing none, the public comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

- Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9.: 2 Matters

CS-2 GOVERNMENT CODE SECTION 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

Property: Portions of APN No. 066-331-039 (Lila Keiser Park, Cal Poly Storage, Fisherman' Gear Storage and nearby areas)

Agency Negotiators: David Buckingham, City Manager and Joseph W. Pannone, City Attorney

Negotiating Party: Dynegy Morro Bay, LLC

Under Negotiation: Price and Terms of Payment

The City Council reconvened to Open Session.

The City Attorney reported that with regards to the Closed Session Items, the Council directed staff to pursue abatement through a receivership of the health and safety issues at 560 Errol Street.

ADJOURNMENT

The meeting adjourned at 5:55 p.m.

Recorded by:

Dana Swanson, City Clerk



AGENDA NO: A-6

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** December 29, 2014
FROM: Rob Livick, PE/PLS - Public Services Director/City Engineer
SUBJECT: Status Report of a Major Maintenance & Repair Plan (MMRP) for the Existing Wastewater Treatment Plant

RECOMMENDATION

Staff recommends this report be received and filed.

ALTERNATIVES

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

FISCAL IMPACT

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

BACKGROUND

This staff report is intended to provide an update on the development of the MMRP for the WWTP. At the February 14, 2013, JPA meeting the Council and District Board approved the development of an MMRP and made the following motion:

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

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

Staff's focus has continued to be on developing and implementing work on the MMRP projects approved for the FY14/15 budget. The adopted FY14/15 budget contains \$1.221M in funding MMRP projects. The funds represent new MMRP projects as well as roll over from the FY13/14 budget for the headworks screening project and chlorine contact tank repairs. Staff is continuing to

Prepared by: RL/BK/RS **Dept. Review:** RL

City Manager Review: _____

City Attorney's Review: _____

develop and refine the implementation schedule for projects funded in the FY 14/15 budget. This staff report includes a status report on the on-going MMRP projects.

DISCUSSION

Digester #1 Repair

The digester cleaning contractor arrived on-site on December 15 to begin the process of removing and dewatering the solids and debris from digester #1. The cleaning process is proceeding smoothly, and should be complete by the end of December. Following the cleaning process, staff has made arrangements with Earth Systems Pacific to perform non-destructive testing on the tank. Staff will be working with Mike Nunley & Associates to develop a strategy for repairing and coating the tank interior.

Headworks Influent Screening Project

The headworks influent screening project has been completed. The screens and associated equipment have been installed and are now operational. The City and District approved a Notice of Completion at their December 13 JPA meeting. As noted in previous staff reports, the new influent screens have greatly reduced the amount of debris in the downstream plant processes by removing approximately two hundred pounds of rags, plastics, and debris on a daily basis.

Chlorine Contact Basin Improvements

On October 24, plant staff received the required equipment to replace the head and idler shaft assemblies in the south portion of the chlorine contact tank. Staff has executed a contract is currently working with the contractor to find a scheduling window to complete the work in early January, weather permitting. Plant staff will also be making minor repairs to other equipment within the tank when the tank is off-line. The work will require by-passing the chlorine contact for at most a twenty-four hour period. By-passing of the tank will result in an effluent violation and the associated minimum mandatory penalty of \$3,000. During the time period the tank is off-line, staff will chlorinate and disinfect the effluent, but will not be able to dechlorinate the effluent resulting in the violation. Both staff at the Regional Water Quality Control Board and the California Department of Health Shellfish Division has been notified of our repair plans and the intent to by-pass the chlorine contact tank.

CONCLUSION

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

Central Coast Women for Fisheries Memorial Sculpture

- 2/7/2008 – RPC reviews and approves the concept of a memorial near the Harbor entrance
- 4/14/2008 – City Council reviews and approves the concept of a memorial near the Harbor entrance
- 4/9/2009 – Joint meeting of RPC & HAB to discuss establishing a committee of community members, Harbor Advisory Board members, Recreation & Parks Commission member, National Estuary Program representatives and other non-profit groups to envision a design for the Coleman/Embarcadero Area
- 9/15/2011 – RPC reviews and approves a public art proposal from the Central Coast Women for Fisheries. Motion includes grading and paving of the sculpture area; no funding source identified.
- 10/6/2011 – Harbor Advisory Board reviews and approves a public art proposal from the Central Coast Women for Fisheries.
- 1/10/2012 – City Council reviews and approves the public art proposal from the Central Coast Women for Fisheries.
- 10/22/2013 – City Council reviews the master planning process for the Northern Waterfront Improvement Plan (NWIP). A motion was made directing Staff Woods to return to the RPC with a request to review the work program along with the Master Coleman Northern Waterfront Improvement Plan and evaluate options to accomplish as much as possible with the existing parks fund and additional matching funds as available.
- 11/21/2013 – RPC conducts a mid-year review of the 2013/14 Work Program. The RPC directed staff to allocate some of the Park-In-Lieu fees for preparing the site at Target Rock to receive the sculpture.

CONCLUSION

Given that it is the intent of the CCWF to dedicate the statue to the City, effectively making it a City public art project and given that the actual cost of processing the permit application is in the \$1,000 to \$1,200 range, it is staff's recommendation to waive the fees as requested.

EXHIBITS:

Exhibit A – Resolution 01-15

Exhibit B – Novak fee waiver letter (November 13, 2014)

EXHIBIT A

RESOLUTION NO. 01-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
WAIVING PERMITTING FEES ASSOCIATED WITH THE
FISHERMAN'S MEMORIAL STATUE PROJECT**

WHEREAS, on November 13, 2014, the Central Coast Women for Fisheries (CCWF) submitted a request for waiver of the fees associated with the Conditional Use Permit application necessary for placement of the Fisherman's Memorial Statue adjacent to Target Rock; and

WHEREAS, the fees for processing the Conditional Use Permit total \$4,257.00; and

WHEREAS, the Fishermen's Memorial Statue is proposed for dedication to the City of Morro Bay making it a public art project; and

WHEREAS, the City Council wishes to encourage the donation of public art pieces to the City of Morro Bay for the enjoyment of its citizens and visitors; and

WHEREAS, the City Council on January 10, 2012 approved the Fisherman's Memorial public art project concept and location and agreed to accept the art donation; and

WHEREAS, the City Council wishes to support the Fisherman's Memorial art project by exempting City permit fees to help reduce overall project costs associated with fabrication and installation of the artwork.

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

The City Council does hereby waive the permitting fees associated with the Conditional Use Permit necessary for approval and placement of the Fisherman's Memorial Statue in the area adjacent to Target Rock.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 13th day of January, 2015 on the following vote:

AYES:

NOES:

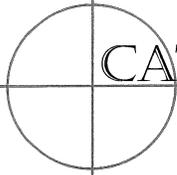
ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk



CATHY • NOVAK

consulting

November 13, 2014

Mr. Scot Graham
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RECEIVED
NOV 13 2014
City of Morro Bay
Public Services Department

RE: Central Coast Women for Fisheries statue

Dear Scot,

The Central Coast Women for Fisheries (CCWF) is relatively close to submitting an application for the statue that will be located near Target Rock off the Embarcadero. The statue pieces should be arriving in Morro Bay within the next couple of weeks and will be placed in storage until construction time.

As we have mentioned before the statue will be three bronze figures. The Mother and young girl are connected but the small boy sitting on a rock with his fishing pole will be just a few feet away.

The CCWF has been working hard over the past few years to bring this fisherman's family memorial statue to fruition. This statue will pay tribute to all the fishermen and their families that have gone out to sea over the years. The CCWF believes that this recognition to the all-important and historic fishing industry will become a welcome sight to fishermen coming home and to visitors that stroll out along the Harborwalk towards Morro Rock.

Ultimately the statue will be dedicated to the City of Morro Bay but in the interim, the CCWF is continuing to raise funds and is responsible for obtaining the necessary permits in order to accomplish their end goal which is to put the statue in place. The CCWF has raised a considerable amount of money to date however; the cost of the Conditional Use Permit at \$4,027 will be a severe financial burden on the CCWF. This will most likely result in a delay of the construction as they would need to raise additional monies to pay for all the permits.

GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING

CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

So therefore on behalf of the CCWF, I would like to respectfully request that the City waive all permitting fees associated with this project. The CCWF believes that this special endeavor warrants the request because the statue will be given to the City and is also a way of showing tribute to the fishing industry for which Morro Bay is so deeply rooted in.

Thank you for your time and consideration and please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Cathy Novak".

Cathy Novak
Project representative

cc: Central Coast Women for Fisheries



AGENDA NO: A-8

MEETING DATE: 01/13/15

Staff Report

TO: Mayor and City Council

DATE: December 31, 2014

FROM: Susan Slayton, Administrative Services Director
Eric Endersby, Harbor Director

SUBJECT: Update on 2009 – 2011 Audit of Lease Site Revenues Contract and Request for Additional Funding

RECOMMENDATION

Staff recommends the City Council increase Pressley and Associates' contract by \$20,000 to adequately complete the Harbor lease site audits currently underway.

FISCAL IMPACT

The bid from Pressley and Associates for the Lease Sites audit was \$37,500; coming in as the lowest calculable bid by \$27,800. Increasing Pressley and Associates' bid by \$20,000 still places this firm in the position of being the lowest responsible bidder.

The direct cost of auditing a lessee is charged to the lessee, in instances where their gross sales are under-reported by more than 5%. There are 64 individual business audits being conducted; results-to-date indicate that of the 1/3 of the audits completed, there has been an audit cost recovery of approximately \$6,000. This amount does not include recovery of actual percentage of rents due and associated penalties, if any. While the final recovery figures are unknown at this time, it is anticipated that a significant amount of the total audit cost, including tonight's request of \$20,000, will be recovered.

The funding for these additional monies will come from the Harbor Enterprise Fund. As previously noted, based on the audit's results-to-date, it is anticipated that a significant amount of the total audit costs will be recovered through percentage of gross under-payments and penalty amounts received. Even assuming flat revenues this year over last (last year's unaudited revenues were \$2,236,000); given this year's budgeted revenues of \$1,712,000, there should be ample excess revenues this fiscal year to support the requested increase.

BACKGROUND

On April 16, 2012, staff released a Request for Proposal for audit services on its transient occupancy tax (TOT) and lease site revenues. Submittals were received and reviewed on May 21st, and of the three

Prepared By: SS/EE

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

proposals received, Pressley and Associates was the lowest responsible bid. The other two bidders were Rolf Poprowski (\$65,300) and Municipal Auditing Services (MAS), whose bid was 40% of recovery.

On July 10, 2012, the City Council awarded a contract to Pressley and Associates to complete the TOT and Lease Site Revenue audits for the fiscal period 2009 through 2011.

Lease site audits were seriously past due, with the last audits (approximately 1/3 of our lessees) performed in 2004 for fiscal year 2002/03. The Harbor Department's Lease Management Policy stipulates compliance audits of gross revenues be performed at least every five years. It had been ten years since the last audits were executed; as such, it was staff's desire to audit all applicable lease sites over a three-year period (fiscal years 2009/10, 2010/11, and 2011/12), in order to "catch up;" a decision that was supported by the City Council with their July 2012 award of the original auditing contract.

DISCUSSION

Due to the number of leases being audited, the three year audit period, and especially the number of years since the last compliance audit was conducted, the lease sites audit process has proven to be much more involved and challenging than staff, our auditor or the lessees anticipated. Other challenges, such as the loss of historical and institutional knowledge in the Harbor Department, as well as the fact that some of our master tenants and many of our sub-tenants have never been audited, only exacerbated the situation, causing excessive time delays resulting in required extra and unplanned efforts on the auditor's part, none of which were included in the cost of the original proposal.

With only 65% of the audits complete, the auditor has informed staff that he is over budget. This contract increase will provide the necessary funding to complete the remaining audits; the auditor has agreed to assume the obligation of the current over-budget amount. Staff concurs with this approach, and believes it is the best course of action to satisfactorily complete the task.

After the current audit is completed, staff plans to audit 1/5 of our master leases (6± out of 30) every year, on an ongoing basis over revolving five year periods, thus ensuring full lease compliance auditing per the Harbor Department's Lease Management Policy, a scale that is more manageable and cost effective.

CONCLUSION

In order to complete the Harbor lease audits, staff recommends the City Council approve an additional \$20,000 in funding for Pressley and Associates. It is anticipated that based on the ultimate disposition of the audits and the amounts indicated for recovery, a significant percentage of the total cost is expected to be recovered.



AGENDA NO: A-9

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor & City Council **DATE:** January 6, 2015
FROM: Joseph W. Pannone, City Attorney
SUBJECT: Acceptance of Quit Claim Deeds from Dynegy Morro Bay, LLC (“Dynegy”)

RECOMMENDATION

Staff recommends the City Council accept the quit claim deeds from Dynegy.

ALTERNATIVES

Do not accept the quit claim deeds.

FISCAL IMPACT

The City’s land assets will increase. It is uncertain at this time what additional expenditures the City may incur with ownership of the subject property. Depending on the level of improvements requested, it is anticipated the City could expend negligible dollars for a semi-improved temporary dirt parking lot to not more than \$10,000 per year for a paved lot that receives regular seal coating and striping maintenance. In addition, wall removal and signage could cost up to \$35,000. At the higher end, the costs for a 45-space parking lot, meeting all minimum City standards, could cost \$400,000.¹ The latter would likely include at a minimum removal of the wall along Embarcadero and chain link fencing near the adjoining Front Street parking lot, new and improved directional and informational signage, and other improvements to delineate and more formalize the parking in the lot. Those expenses would be paid from the Parking In-Lieu Fund and supplemented by the General Fund. Some of the parking delineation may also be provided with the use of plastic pilings the City already owns. In addition, the City will be purchasing title insurance for the properties discussed in this report for the cost of \$2,172.00.

BACKGROUND/ DISCUSSION

The properties that are proposed to be granted to the City by Dynegy by the submitted quit claim deeds have been commonly referred to as the Triangle Property. However, since those properties are not actually triangular in shape, this report will refer to it as the “Subject Property.”

¹ In 2013 it was estimated the costs to improve a 3-acre, 180-parking space lot to the minimum City standards was \$1.2 Million, which equates to approximately \$1.6 million in today’s economy.

Prepared By: JWP

Dept Review: RL

City Manager Review: _____

City Attorney Review: JWP

Quit Claim Deeds from Dynegy

January 6, 2015

Page 2 of 2

As you know, the Subject Property consists of the “parking lot” area on the southeasterly side of the former Morro Bay Power Plant. Dynegy is obligated to convey the Subject Property pursuant to an existing agreement between Dynegy and the City. For several months in 2014, Dynegy and the City negotiated a transfer of the Subject Property and other properties in exchange for Dynegy paying less or none of the \$525,000 due to the City. Those negotiations did not reach a successful conclusion and were terminated in August, 2014. The City has received the \$525,000. The City Attorney worked with Dynegy on preparation of the subject quit claim deed. Those deeds convey to the City the interests Dynegy has in the Subject Property.

Once the quit claim deeds are accepted and recorded, City staff will commence the actions necessary to secure the Subject Property and to make improvements to the Subject Property so those properties can be used for parking to enhance the Embarcadero.

CONCLUSION

Staff recommends the City Council accept the quit claim deeds from Dynegy conveying to the City the Subject Property.

Attachment: Proposed Quit Claim Deed for the Dynegy Property
Proposed Quit Claim Deed for the PG&E Used Property

RECORDING REQUESTED BY:

CITY OF MORRO BAY

WHEN RECORDED, RETURN TO:

City of Morro Bay
Public Services Department
955 Shasta Avenue
Morro Bay, CA 93442

SPACE ABOVE THIS LINE FOR RECORDER'S USE

<p>The undersigned Grantor Declares Documentary Transfer Tax is \$0.00 (per Rev. & Tax Code §11922) Presented for recording by the City of Morro Bay</p>	<p>NO FEE FOR GOVT. AGENCY GOV. CODE 27383</p>
--	---

Portion of APN: 068-331-039

QUITCLAIM DEED

**For a Portion of Lot 1 of Lot Line Adjustment 01-97
The Triangle Parking Lot**

For valuable consideration, receipt of which is acknowledged, DYNEGY MORRO BAY, LLC, a Delaware limited liability company, formerly known as Duke Energy Morro Bay, LLC and LSP Morro Bay, LLC (“Grantor”) does hereby remise, release, and quitclaim to the CITY OF MORRO BAY, a municipal corporation of the State of California (“Grantee”), the real property, being a portion of Lot 1 of Lot Line Adjustment 01-97 recorded in Document No. 1998-010270 in the office of the County Recorder for the County of San Luis Obispo, State of California (the “Property”), more particularly described on **Exhibit A** and shown on **Exhibit B**. Exhibit A and Exhibit B are attached hereto and incorporated into this Quitclaim Deed by reference.

This quitclaim is made in conformance with Sections 66426.5 and 66428(a)(2) of the California Government Code (Subdivision Map Act), and Section 16.12.030 of the City of Morro Bay’s Municipal Code (Subdivision Ordinance), and is intended to be for public recreational use; provided, that the parties agree, Grantee can pursue other uses of the Property, as long as all required permits are obtained, including, but not limited to a Coastal Development Permit, if one is required. As such no Parcel Map is required for the creation of this “Government Lot.”

Reservations of Rights and Easements

Grantor is the owner of the adjacent real property described on **Exhibit C** (the “**Dynegy Property**”) attached hereto and incorporated into this Quitclaim Deed by reference. Grantor hereby reserves from the quitclaim of the Property to Grantee for the benefit of the Dynegy Property the following rights and easements:

1. Water Line Easement. Reserving to Grantor its existing underground water line on the Property, and an easement for this water line under the Property in the general location depicted on **Exhibit D**, titled “Existing Utility Reservations,” attached hereto and incorporated herein. Grantor’s reserved rights include the right to reconstruct, remove, maintain, and use a water line under the Property, and to replace the water line with a larger, smaller, or the same size pipeline under the Property in substantially the same location as the existing water line. Exhibit D identifies the approximate location of the existing underground water pipeline. The actual location of this water line easement shall be the actual location of the water line. Before digging, excavating, or grading the Property, Grantee shall be responsible for locating the water line and shall ensure the water line is not damaged.
2. Sewer Line Easement. Reserving to Grantor its existing underground sewer line on the Property, and an easement for this sewer line under the Property in the general location depicted on Exhibit D. Grantor’s reserved rights include the right to reconstruct, replace, remove, maintain, and use the sewer line under the Property, and to replace the sewer line with a larger, smaller, or the same size pipeline under the Property in substantially the same location as the existing water line. Exhibit D identifies the approximate location of the existing underground sewer line. The location of this sewer line easement shall be the actual location of the sewer line. Before digging, excavating, or grading the Property, Grantee shall be responsible for locating the sewer line and shall ensure that the sewer line is not damaged.
3. Fencing. Grantor reserves the right to install a fence and/or wall on the shared property borders and to install gates in the fence and/or wall. Grantor, however, shall not be obligated to install or to maintain a fence and/or wall on the shared property border.
4. Access. Reserving to Grantor an easement over, upon, and across the Property for ingress and egress from Embarcadero Road to the existing gate located on the Dynegy Property depicted on Exhibit D, and, if constructed, to any new gate that may be constructed on the property borders shared by the Dynegy Property and the Property (including to a new gate proposed to be constructed on the shared eastern border between the existing monitoring well and Embarcadero Road to provide secondary access to the Dynegy Property for pedestrian and vehicular traffic. Also reserving to Grantor right of ingress and egress to the water line easement and the sewer line easement listed in this Quitclaim Deed and to use such portions of the Property as may be reasonably necessary in to the use of any of the rights reserved by Grantor for those rights, but for only so long as reasonably necessary for that use.

Grantor’s reserved rights and easements are appurtenant to the Dynegy Property, and shall benefit the Dynegy Property and burden the Property.

Use Easement

Grantor also reserves for the benefit of the Dynegy Property a perpetual easement over the Property requiring the Property only be used for uses that are consistent and compatible with the provisions of the Morro Bay Municipal Code and the Morro Bay Local Coastal Program, as may be amended, and with appropriate approval from the California Coastal Commission, to the extent California Coastal Commission approval is required (the "Use Easement").

This Use Easement shall be appurtenant to the Dynegy Property, and shall benefit the Dynegy Property and burden the Property. Any unauthorized use of the Property shall be considered a material and unauthorized interference with Grantor's rights and easement reserved by this Quitclaim Deed and shall be removed upon demand at the sole expense of the Grantee, and Grantee's successors and assigns. The parties understand and agree Grantee may remove the existing wall along the southwesterly boundary of the Property to enhance safety for those parking on the Property.

Quitclaim Subject to Existing Restrictions

This quitclaim is made subject to those restrictions set forth in the Declaration of Covenants, Conditions and Environmental Restrictions, dated June 30, 1998, and recorded in the Official Records of the San Luis Obispo County Recorder as Document No. 1998-040838 on July 2, 1998 (the "Declaration"). Grantor incorporates its obligations under the Declaration into this Quitclaim Deed, as though fully set forth in this Quitclaim Deed. Grantee acknowledges it will be required to comply with the Declaration as if Grantee was designated as the Declarant in the Declaration.

This Quitclaim Deed is made without any representation or warranty (express or implied) or recourse against Grantor.

IN WITNESS WHEREOF, GRANTOR hereunto caused its/their name(s) to be subscribed this 3rd day of December, 2014.

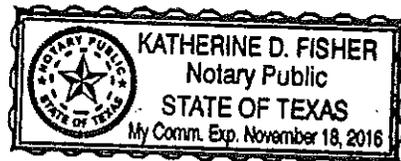
DYNEGY MORRO BAY, LLC,
a Delaware Limited Liability Company (c)

By: Martin W. Daley

STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 3rd day of December, 2014, by Martin W. Daley, Vice President of Dynegy Morro Bay, LLC.

Katherine D. Fisher
Notary Public



CITY OF MORRO BAY AGREEMENT:

The undersigned City of Morro Bay agrees to the following:

1. To accept the quitclaim of the Property subject to the terms of this Quitclaim Deed.
2. To comply with the terms of this Quitclaim Deed.
3. In the event of any violation of the terms of this Quitclaim Deed the Grantor -- in addition to any other remedies -- shall have the right to enjoin and abate the violation.
4. In the event any part of this Quitclaim Deed is determined to be unenforceable, the remainder of the terms of the Quitclaim Deed will nevertheless remain valid and enforceable.
5. The terms of this Quitclaim Deed shall be enforceable against all subsequent owners of the Property, and shall run with the land.

CITY OF MORRO BAY

By: _____
JAMIE IRONS, Mayor of the City of Morro Bay

Date: _____

CERTIFICATE OF ACCEPTANCE

This is to certify the interest in real property conveyed by Quitclaim Deed dated _____, 2014 from Dynegy Morro Bay, LLC to City of Morro Bay, a municipal corporation, is hereby accepted by order of the City Council on _____, 2015, and the Grantee consents to recordation hereof by its duly authorized officer.

JAMIE L. IRONS, Mayor

DANA SWANSON, City Clerk

EXHIBIT A
Legal Description

That portion of Lot 1 of Lot Line Adjustment 01-97, MBAL 97-239 in the City of Morro Bay, County of San Luis Obispo recorded February 26, 1998 as Document No. 1998-010270 , records of San Luis Obispo County, California described as follows;

Beginning at a 1" iron pipe with aluminum cap stamped "LS4868" as shown on Record of Survey filed September 14th, 1998 in Book 77 of Records of Survey at Page 26, lying along the northeast line of Embarcadero Street and at the southwesterly terminus of course labeled "North 53° 52' 05" West" and having a length of "684.13" feet and running thence from said 1" iron pipe

1. North 53° 52' 05" West, along said northwest line of Embarcadero Street, 19.81 feet; thence
2. North 36° 10' 31" East, 338.34 feet; thence
3. South 27° 46' 14" East, 206.60 feet; thence
4. South 62° 13' 46" West, 19.08 feet; thence
5. South 27° 46' 14" East, 19.82 feet; thence
6. North 62° 13' 46" East, 19.08 feet; thence
7. South 49° 44' 47" East, 76.20 feet; thence
8. South 24° 12' 50" East, 164.01 feet to a point on the southerly boundary of said Lot 1, (said point lying South 89° 11' 34" West 109.62 feet from a Lead and Tag stamped "LS 4868" as shown on said Record of Survey); thence
9. South 89° 11' 34" West, along the southerly boundary of said Lot 1, a distance of 253.11 feet to a 1" iron pipe in a well monument on said northeast line of Embarcadero Street; thence
10. North 53° 52' 05" West, along said northeast line of Embarcadero Street, 200.00 feet to the Point of **Beginning**.

The above-described parcel contains 88,347 square feet or 2.028 acres of land, more or less and is graphically shown on Exhibit B attached hereto and made a part hereof.

* * *

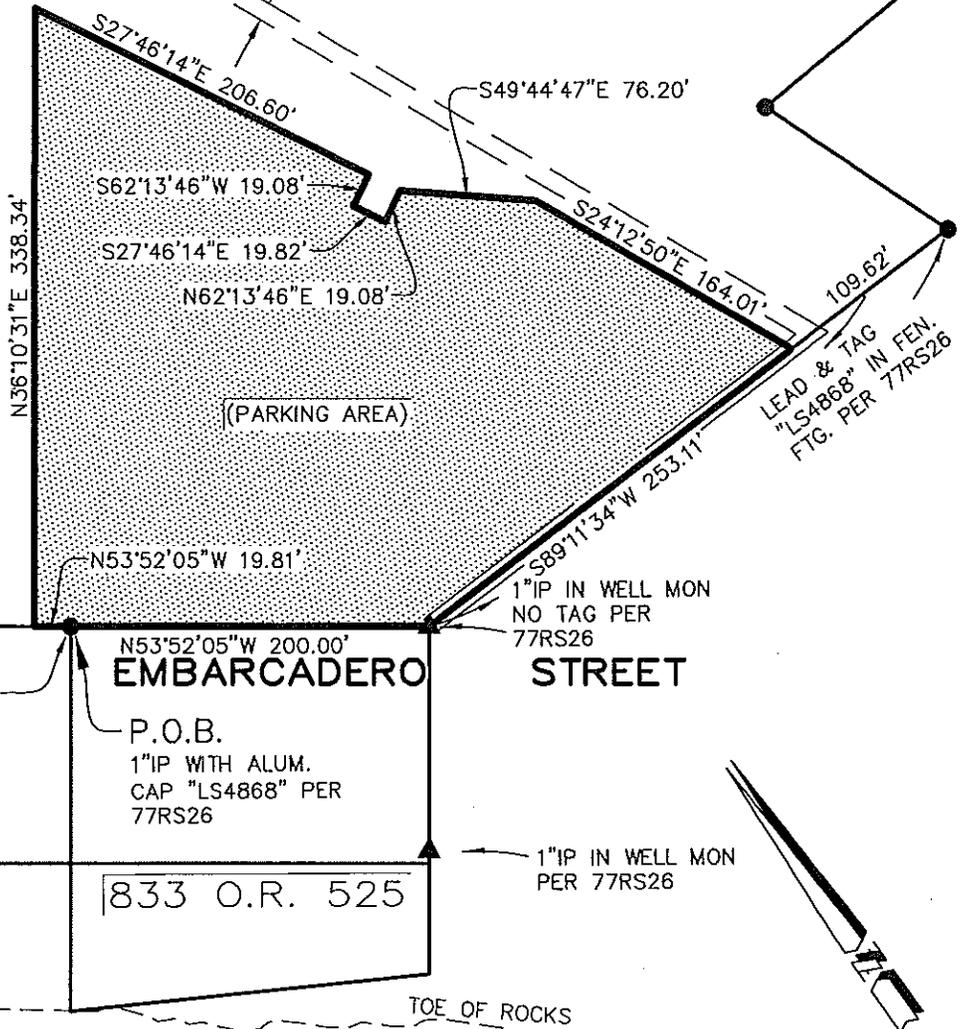


EXHIBIT "B"

MORRO BAY
POWER PLANT

LOT 1 - LLA 01-97
MBAL 97-239
DOC No. 1998-010270

10' WIDE SEWER EASEMENT
PER VOL. 3052, PG. 112



PACIFIC OCEAN

SCALE 1"=100'

N:\2011\11-146 Morro Bay Power Plant - ON GROUND\C3d2013\Morro Bay - Dynegy Plant - MBS AREA 4 NEW 2014-07-17.dwg, EXHIBIT B, Jul 21, 2014 8:34am, rellison



MICHAEL B. STANTON, PLS 5702
3563 SUELDO ST. UNIT Q
SAN LUIS OBISPO, CA 93401
805-594-1960

DYNEGY POWER PLANT
MORRO BAY

JOB NO. 11-146

EXHIBIT C
Legal Description
Dynegy Property

Lot 1 of Lot Line Adjustment 01-97, MBAL 97-239 in the City of Morro Bay, County of San Luis Obispo recorded February 26, 1998 as Document No. 1998-010270 , records of San Luis Obispo County, California,

EXCEPTING THEREFROM the following;

Beginning at a 1" iron pipe with aluminum cap stamped "LS4868" as shown on Record of Survey filed September 14th, 1998 in Book 77 of Records of Survey at Page 26, lying along the northwest line of Embarcadero Street and at the southwesterly terminus of course labeled "North 53° 52' 05" West" and having a length of "684.13" feet and running thence from said 1" iron pipe

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5. South 27° 46' 14" East, 19.82 feet; thence
6. North 62° 13' 46" East, 19.08 feet; thence
7. South 49° 44' 47" East, 76.20 feet; thence
8. South 24° 12' 50" East, 164.01 feet to a point on the southerly boundary of said Lot 1, (said point lying South 89° 11' 34" West 109.62 feet from a Lead and Tag stamped "LS 4868" as shown on said Record of Survey); thence
9. South 89° 11' 34" West, along the southerly boundary of said Lot 1, a distance of 253.11 feet to a 1" iron pipe in a well monument on said northwest line of Embarcadero Street; thence
10. North 53° 52' 05" West, along said northwest line of Embarcadero Street, 200.00 feet to the Point of **Beginning**.

* * *



10/20/2014 3:38 PM

M:\14-054 Dynegy Power Plant - Morro Bay\Legal Descriptions\Dynegy EXHIBIT C - total minus triange.docx

RECORDING REQUESTED BY:

CITY OF MORRO BAY

WHEN RECORDED, RETURN TO:

City of Morro Bay
Public Services Department
955 Shasta Avenue
Morro Bay, CA 93442

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned Grantor Declares
Documentary Transfer Tax is \$0.00
(per Rev. & Tax Code §11922)
Presented for recording by the City of Morro Bay

**NO FEE FOR GOVT. AGENCY
GOV. CODE 27383**

Portion of APN: 068-331-039

QUITCLAIM DEED

**For a Portion of Lot 1 of Lot Line Adjustment 01-97
The Triangle Parking Lot**

For valuable consideration, receipt of which is acknowledged, DYNEGY MORRO BAY, LLC, a Delaware limited liability company, formerly known as Duke Energy Morro Bay, LLC and LSP Morro Bay, LLC ("Grantor") does hereby remise, release, and quitclaim to the CITY OF MORRO BAY, a municipal corporation of the State of California ("Grantee"), the real property, being a portion of Lot 1 of Lot Line Adjustment 01-97 recorded in Document No. 1998-010270 in the office of the County Recorder for the County of San Luis Obispo, State of California (the "Property"), more particularly described on **Exhibit A** and shown on **Exhibit B**. Exhibit A and Exhibit B are attached hereto and incorporated into this Quitclaim Deed by reference.

This quitclaim is made in conformance with Sections 66426.5 and 66428(a)(2) of the California Government Code (Subdivision Map Act), and Section 16.12.030 of the City of Morro Bay's Municipal Code (Subdivision Ordinance), and is intended to be for public recreational use; provided, that the parties agree, Grantee can pursue other uses of the Property, as long as all required permits are obtained, including, but not limited to a Coastal Development Permit, if one is required. As such no Parcel Map is required for the creation of this "Government Lot."

Reservations of Rights and Easements

Grantor is the owner of the adjacent real property described on **Exhibit C** (the “**Dynegy Property**”) attached hereto and incorporated into this Quitclaim Deed by reference. Grantor hereby reserves from the quitclaim of the Property to Grantee for the benefit of the Dynegy Property the following rights and easements:

1. Water Line Easement. Reserving to Grantor its existing underground water line on the Property, and an easement for this water line under the Property in the general location depicted on **Exhibit D**, titled “Existing Utility Reservations,” attached hereto and incorporated herein. Grantor’s reserved rights include the right to reconstruct, remove, maintain, and use a water line under the Property, and to replace the water line with a larger, smaller, or the same size pipeline under the Property in substantially the same location as the existing water line. Exhibit D identifies the approximate location of the existing underground water pipeline. The actual location of this water line easement shall be the actual location of the water line. Before digging, excavating, or grading the Property, Grantee shall be responsible for locating the water line and shall ensure the water line is not damaged.
2. Sewer Line Easement. Reserving to Grantor its existing underground sewer line on the Property, and an easement for this sewer line under the Property in the general location depicted on Exhibit D. Grantor’s reserved rights include the right to reconstruct, replace, remove, maintain, and use the sewer line under the Property, and to replace the sewer line with a larger, smaller, or the same size pipeline under the Property in substantially the same location as the existing water line. Exhibit D identifies the approximate location of the existing underground sewer line. The location of this sewer line easement shall be the actual location of the sewer line. Before digging, excavating, or grading the Property, Grantee shall be responsible for locating the sewer line and shall ensure that the sewer line is not damaged.
3. Fencing. Grantor reserves the right to install a fence and/or wall on the shared property borders and to install gates in the fence and/or wall. Grantor, however, shall not be obligated to install or to maintain a fence and/or wall on the shared property border.
4. Access. Reserving to Grantor an easement over, upon, and across the Property for ingress and egress from Embarcadero Road to the existing gate located on the Dynegy Property depicted on Exhibit D, and, if constructed, to any new gate that may be constructed on the property borders shared by the Dynegy Property and the Property (including to a new gate proposed to be constructed on the shared eastern border between the existing monitoring well and Embarcadero Road to provide secondary access to the Dynegy Property for pedestrian and vehicular traffic. Also reserving to Grantor right of ingress and egress to the water line easement and the sewer line easement listed in this Quitclaim Deed and to use such portions of the Property as may be reasonably necessary in to the use of any of the rights reserved by Grantor for those rights, but for only so long as reasonably necessary for that use.

Grantor’s reserved rights and easements are appurtenant to the Dynegy Property, and shall benefit the Dynegy Property and burden the Property.

Use Easement

Grantor also reserves for the benefit of the Dynegy Property a perpetual easement over the Property requiring the Property only be used for uses that are consistent and compatible with the provisions of the Morro Bay Municipal Code and the Morro Bay Local Coastal Program, as may be amended, and with appropriate approval from the California Coastal Commission, to the extent California Coastal Commission approval is required (the "Use Easement").

This Use Easement shall be appurtenant to the Dynegy Property, and shall benefit the Dynegy Property and burden the Property. Any unauthorized use of the Property shall be considered a material and unauthorized interference with Grantor's rights and easement reserved by this Quitclaim Deed and shall be removed upon demand at the sole expense of the Grantee, and Grantee's successors and assigns. The parties understand and agree Grantee may remove the existing wall along the southwesterly boundary of the Property to enhance safety for those parking on the Property.

Quitclaim Subject to Existing Restrictions

This quitclaim is made subject to those restrictions set forth in the Declaration of Covenants, Conditions and Environmental Restrictions, dated June 30, 1998, and recorded in the Official Records of the San Luis Obispo County Recorder as Document No. 1998-040838 on July 2, 1998 (the "Declaration"). Grantor incorporates its obligations under the Declaration into this Quitclaim Deed, as though fully set forth in this Quitclaim Deed. Grantee acknowledges it will be required to comply with the Declaration as if Grantee was designated as the Declarant in the Declaration.

This Quitclaim Deed is made without any representation or warranty (express or implied) or recourse against Grantor.

IN WITNESS WHEREOF, GRANTOR hereunto caused its/their name(s) to be subscribed this day of _____, 2014.

DYNEGY MORRO BAY, LLC,
a Delaware Limited Liability Company

By: _____

CITY OF MORRO BAY AGREEMENT:

The undersigned City of Morro Bay agrees to the following:

1. To accept the quitclaim of the Property subject to the terms of this Quitclaim Deed.
2. To comply with the terms of this Quitclaim Deed.
3. In the event of any violation of the terms of this Quitclaim Deed the Grantor – in addition to any other remedies – shall have the right to enjoin and abate the violation.
4. In the event any part of this Quitclaim Deed is determined to be unenforceable, the remainder of the terms of the Quitclaim Deed will nevertheless remain valid and enforceable.
5. The terms of this Quitclaim Deed shall be enforceable against all subsequent owners of the Property, and shall run with the land.

CITY OF MORRO BAY

By: _____
JAMIE IRONS, Mayor of the City of Morro Bay

Date: _____

CERTIFICATE OF ACCEPTANCE

This is to certify the interest in real property conveyed by Quitclaim Deed dated _____, 2014 from Dynegy Morro Bay, LLC to City of Morro Bay, a municipal corporation, is hereby accepted by order of the City Council on _____, 2015, and the Grantee consents to recordation hereof by its duly authorized officer.

JAMIE L. IRONS, Mayor

DANA SWANSON, City Clerk

EXHIBIT "A"
Legal Description
ADDED AREA

That portion of Lot 1 of Lot Line Adjustment 01-97, MBAL 97-239 in the City of Morro Bay, County of San Luis Obispo recorded February 26, 1998 as Document No. 1998-010270 , records of San Luis Obispo County, California described as follows;

Commencing at a 1" iron pipe with aluminum cap stamped "LS4868" as shown on Record of Survey filed September 14th, 1998 in Book 77 of Records of Survey at Page 26, lying along the northwest line of Embarcadero Street and at the southwesterly terminus of course labeled "North 53° 52' 05" West" and having a length of "684.13" feet and running thence from said 1" iron pipe

1. North 53°52'05" West, along said northwest line of Embarcadero Street, 19.81 feet; thence
2. North 36°10'31" East, 338.34 feet to the **True Point of Beginning**; thence
3. South 27°46'14" East, 206.60 feet; thence
4. South 62°13'46" West, 19.08 feet; thence
5. South 27°46'14" East, 19.82 feet; thence
6. North 62°13'46" East, 19.08 feet; thence
7. South 49°44'47" East, 76.20 feet; thence
8. North 24°12'50" West, 321.39 feet; thence
9. South 36°10'31" West, 53.93 feet to the **True Point of Beginning**.

The above-described parcel contains 0.25 acres more or less and is graphically shown on Exhibit "B" attached hereto and made a part hereof.

* * *



Michael B. Stanton, PLS5702

Date

9/24/2014

9/24/2014 2:16 PM

M:\14-054 Dynegy Power Plant - Morro Bay\Legal Descriptions\Dynegy EXHIBIT A - Area 4 ADD.docx

EXHIBIT "B"

MORRO BAY
POWER PLANT

LOT 1 - LLA 01-97
MBAL 97-239
DOC No. 1998-010270

S36°10'31"W 53.93' 10' WIDE SEWER EASEMENT
PER VOL. 3052, PG. 112

T.P.O.B.

S27°46'14"E 206.60'
N24°12'50"W 321.39'

S62°13'46"W 19.08'

S27°46'14"E 19.82'

N62°13'46"E 19.08'

S49°44'47"E 76.20'

109.62'

LEAD & TAG
"LS4868" IN FEM.
FTG. PER 77RS26

N36°10'31"E 338.34'

N53°52'05"W 19.81'

1"IP IN WELL MON
NO TAG PER
77RS26

130'
ROAD
RESERVATION
PER 833 OR 525

N53°52'05"W 684.13'

EMBARCADERO STREET

P.O.C.
1"IP WITH ALUM.
CAP "LS4868" PER
77RS26

1"IP IN WELL MON
PER 77RS26

833 O.R. 525

TOE OF ROCKS

PACIFIC OCEAN

SCALE 1"=100'

M:\14-054 Dynegy Power Plant - Morro Bay\C3d2013\Morro Bay - Dynegy Plant - MBS AREA 4 NEW 2014-07-17.dwg, EXHIBIT ADDED AREA, Sep 24, 2014 2:20pm, rellison



MICHAEL B. STANTON, PLS 5702
3563 SUELDO ST. UNIT Q
SAN LUIS OBISPO, CA 93401
805-594-1960

DYNEGY POWER PLANT
MORRO BAY

JOB NO. 11-146

**EXHIBIT C
Legal Description
For the Property**

Lot 1 of Lot Line Adjustment 01-97, MBAL 97-239 in the City of Morro Bay, County of San Luis Obispo recorded February 26, 1998 as Document No. 1998-010270 , records of San Luis Obispo County, California,

EXCEPTING THEREFROM the following;

Beginning at a 1" iron pipe with aluminum cap stamped "LS4868" as shown on Record of Survey filed September 14th, 1998 in Book 77 of Records of Survey at Page 26, lying along the northwest line of Embarcadero Street and at the southwesterly terminus of course labeled "North 53° 52' 05" West" and having a length of "684.13" feet and running thence from said 1" iron pipe

1. North 53°52'05" West, along said northwest line of Embarcadero Street, 19.81 feet; thence
2. North 36°10'31" East, 392.27 feet; thence
3. South 24°12'50" East, 485.40 feet to a point on the southerly boundary of said Lot 1, (said point lying South 89° 11' 34" West 109.62 feet from a Lead and Tag stamped "LS 4868" as shown on said Record of Survey); thence
4. South 89°11'34" West, along the southerly boundary of said Lot 1, a distance of 253.11 feet to a 1" iron pipe in a well monument on said northwest line of Embarcadero Street; thence
5. North 53°52'05" West, along said northwest line of Embarcadero Street, 200.00 feet to the Point of **Beginning**.

* * *




Michael B. Stanton, PLS5702

10-27-2014
Date



AGENDA NO: A-10

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council

DATE: January 5, 2015

FROM: Eric Endersby, Harbor Director

SUBJECT: Approval of Resolution 02-15 for the Assignment and Assumption of Lease Site 144/144W located at 1287 Embarcadero from Charles and Sandra Marciel (dba: M&M Refrigeration) to Morro Bay Oyster Company, LLC

RECOMMENDATION

Staff recommends the Council approve Resolution 02-15, for the Assignment and Assumption of Lease Site 144/144W, located at 1287 Embarcadero.

ALTERNATIVES

No alternatives are proposed by staff.

FISCAL IMPACT

There is no fiscal impact to this action.

BACKGROUND

Lease Site 144/144W is owned by Charles and Sandra Marciel, dba M&M Refrigeration, under a 13-year lease executed in 2012. This lease was negotiated and executed after the tenants agreed to complete interior plumbing and electrical upgrades, exterior painting and roofing, repairs to the dock gangway and replacement of windows. The Marciels met the July, 2014 deadline to complete the upgrades. The lease also allows the tenant the option to extend the term of the lease for a maximum of 20 years based on the completion of reconstruction of additional waterside improvements to include extending the existing dock the full length of the leased area. The lease stipulates the specific term of the extension will be determined after a Conditional Use Permit is approved and a detailed cost estimate for the improvements provided.

Morro Bay Oyster Company, LLC, (MBOC) currently subleases a portion of lease site 144/144W operating a nursery and deprivation tanks for oysters and oyster seed production. If the lease is assigned to MBOC, their intent is to expand their operation utilizing the additional area for office space, a workshop for production assembly as well as for development of a tank system to hold market-ready product for wholesale distribution. Retail sales and/or direct-to-the-public sales are a possibility for the future.

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: _____

DISCUSSION

The Marciels have applied for an Assignment and Assumption of their lease agreement to MBOC as both parties are currently in escrow for the sale of the site. The application fee and all documents necessary for the assignment are submitted. The current lease agreement for lease site 144/144W stipulates that any assignment of the lease must be by Resolution of the City Council.

This lease site is located in the Measure D commercial and recreational fishing-dependent area. As aquaculture and mariculture are classified as commercial fishing, staff deems oyster production and sales in compliance with Measure D.

CONCLUSION

Both the Marciels and MBOC are tenants/subtenants in good standing and have a solid track record of lease management. Staff is recommending approval of Resolution 02-15 for the assignment and assumption of Lease Site 144/144W from the Marciel's to MBOC.

RESOLUTION NO. 02-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ASSIGNING LEASE SITE 144/144W LOCATED AT 1287 EMBARCADERO
TO THE MORRO BAY OYSTER COMPANY, LLC**

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

WHEREAS, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as City Tidelands leases and properties; and

WHEREAS, since 1983, Charles and Sandra Marciel, doing business as M&M Refrigeration, have been the lessees of Lease Site 144/144W and are tenants in good standing; and

WHEREAS, the Morro Bay Oyster Company, LLC are currently subtenants at Lease Site 144/144W and are also tenants in good standing; and

WHEREAS, Charles and Sandra Marciel are selling their Master Lease and have applied for assignment of the Master Lease for Lease Site 144/144W to the Morro Bay Oyster Company, LLC, and both parties are currently in escrow on said property.

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

1. Said Assignment and Assumption Agreement approval is contingent upon successful closing of escrow between Charles and Sandra Marciel, dba M&M Refrigeration and the Morro Bay Oyster Company, LLC; and
2. The Mayor is hereby authorized to execute said Assignment and Assumption Agreement as approved by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of January, 2015 on the following vote:

AYES:

NOES:

ABSENT:

Jamie L. Irons, Mayor

ATTEST:

Dana Swanson, City Clerk



AGENDA NO: B-1
MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor & City Council **DATE:** January 5, 2015

FROM: Scot Graham, Planning Manager

SUBJECT: Appeal of Planning Commission decision to deny the appeal of the Director’s decision to deny a one year time extension request of Parking Exception Permit ADO-075 for the property located at 1000 Ridgeway (Appellant: Reed Adamson, property owner)

RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 03-15 denying the Appellant’s appeal of the Planning Commission decision to deny appeal of the Public Services Director’s decision to deny the Time Extension request for Permit No. ADO-075 (Parking Exception) located at 1000 Ridgeway Avenue. Denial will not prevent the applicant from seeking a new permit when a project is actually proposed for the property.

ALTERNATIVE(S)

The City Council may move to uphold the appeal thereby reversing the Planning Commission’s denial, and upon the appropriate findings, approve an extension of time not to exceed one year for the parking exception. The City Council may also exercise its discretion not to hear the matter as there is currently no legal requirement for it to hear the appeal. Finally, the City Council may want to direct Staff to return with proposed amendments to the Morro Bay Municipal Code to clarify an appeal process for Parking Exception Permits.

FISCAL IMPACT

None.

SUMMARY:

On October 17, 2012 the Planning Commission approved a parking exception (Permit ADO-075) allowing an 11-foot garage setback where 20-foot is required. The Parking Exception Permit was a standalone approval and was valid for a period of two years. The owner submitted a time extension request on September 4, 2014 and the Planning Manager, as the authorized designee of the Public Services Director, issued a denial of the request on September 5, 2014. The owner submitted an appeal of the denial on September 15, 2014 and

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

the Planning Commission subsequently denied the appeal on November 4, 2014. The owner appealed the Planning Commission denial on November 14, 2014.

BACKGROUND:

On October 17, 2012, the Planning Commission approved a parking exception request from Reed and Carol Adamson. The Parking Exception Permit (ADO-075) is contained in the November 4, 2014 Planning Commission staff report as Exhibit 1 and is attached as Exhibit G.

The Parking Exception Permit allowed an 11-foot garage setback where 20-foot would typically be required by the Morro Bay Municipal Code. The site plan associated with the approval is attached as Exhibit B. The Parking Exception permit was valid for a period of two years and was due to expire on October 17, 2014.

After receiving approval of the Parking Exception permit, the Adamson's submitted a Coastal Development Permit application for construction of a new single family residence at 1000 Ridgeway, which made use of the parking exception. The Coastal Development Permit was eventually denied by the City Council, on appeal from the Planning Commission, on August 12, 2014. As the Parking Exception Permit is a separate approval, it was unaffected by the Council denial of the Coastal Development Permit and was valid until the permit expiration date.

Without qualifying construction, etc., the approval of the Parking Exception Permit automatically would become null and void within two years. The Parking Exception Permit did provide for a process that would allow for up to two extensions of one year each (See Exhibit H). However, any extension required a three step process. First, the applicant had to make a written request. Second, the Public Services Director "may" exercise discretion whether to proceed with granting an extension. Third, the Public Services Director could only grant an extension upon finding "the project" complies with all applicable provisions of the Morro Bay Municipal Code, General Plan, and Local Coastal Program Land Use Plan in effect at the time of the extension request. Absent each of these three steps, the permit would automatically become null and void.

The applicant's representative, Cathy Novak, submitted a time extension request for the Parking Exception on September 4, 2014 (See Exhibit C). The Planning Manager, on behalf of the Public Services Director, reviewed the Time Extension request and issued a denial letter on September 5, 2014 (See Exhibit D).

There is no requirement to provide any grounds for denying the extension, as whether to grant the extension was entirely within the discretion of the Public Services Director. Regardless, reasons were provided to the applicant for denial, which included: 1) The applicant did not have an active application for development of the site submitted with the City (i.e. there was no "project"); and 2) development of the site could easily be achieved without the parking exception (i.e., there was no need). In other words, not only did the Director have independent discretion to deny the extension, but he could also not make the necessary findings required for an extension as there was no "project" to assess to see if it was in compliance with the law. Additionally, the site could accommodate development

without an exception to the development standards, and if necessary, the applicant could still submit an application for a parking exception in the future for development of the site.

Reed Adamson submitted an appeal of the denial on September 15, 2014, apparently under Morro Bay Municipal Code section 17.60.130. However, unlike use permits the Code does not clearly provide for an appeal process to the Planning Commission and City Council for Parking Exception permits. Staff has brought this matter forward on a one-time-basis to give the City Council the option of hearing this appeal and directing staff to return with proposed amendments to the Morro Bay Municipal Code to clarify an appeal process for Parking Exception Permits. The appeal form and grounds for appeal letter can be viewed as part of the Planning Commission staff report (See Exhibit G).

DISCUSSION:

On November 4, 2014, the Planning Commission adopted Resolution No. 26-14 denying the appeal and upholding staff's denial of the Time Extension request. See PC Resolution No. 26-14 attached as Exhibit E.

Reed Adamson filed an appeal of the Planning Commission denial on November 14, 2014. The appeal form and grounds for appeal letter are attached as Exhibit F.

The following section states the appellant's grounds for the appeal with a statement formulated by staff that examines each appeal point.

Appellant Reed Adamson's grounds for appeal of the Time Extension denial:

Appeal Point 1.

The Planning Commission received testimony on November 4, 2014 regarding the Adamsons' appeal of the Planning Manger's decision to deny the time extension request. At the hearing, the Planning Commission was told its staff report noted on page one, that the exception remains unaffected by the Council's denial of Coastal Development Permit No. CP0-408, and therefore, remains valid. However on page 3 of the staff report, the time extension request was denied because the parking exception was associated with the project that was denied. These findings contradict one another, as well as previous staff findings:

- On October 17, 2012 the Planning Commission determined that the project was consistent with City codes and regulations and adopted findings for approval. No other action to determine whether this project is consistent has been taken, nor have the applicable codes and regulations been modified in such a way that would make this project inconsistent.
- At the March 5, 2014 Commission meeting, Commissioner Lucas specifically asked Planning Commission staff for clarification on whether the parking issue had been resolved. Director Livick responded that the appeal period had expired, noting the plans presented relating to Coastal Development Permit No. CP0-408 were not part of the parking exception, and therefore, were not related to any development on the property. Again, this contradicts the staff's findings presented at the hearing on November 4, 2014.

Staff Response 1:

The Parking Exception Permit was approved prior to and separate from the Coastal Development Permit for construction of the actual house. Therefore, the eventual decision rendered by the City Council, denying the Coastal Development Permit for construction of the new home, had no bearing on the separate Parking Exception Permit. In other words, the parking exception remained in effect.

Next, the original approval of the permit does not mandate an automatic extension on the same grounds. Indeed, the conditions of the Parking Exception Permit make clear a valid extension requires two steps be taken by the Director. First, the Public Services Director “may” exercise discretion whether to proceed with granting an extension. The time extension and amount of time granted are neither automatic, nor do they require any findings regarding consistency. If he chooses not to exercise this discretion, the extension can be denied on that ground alone - or the Director could simply not act on the extension and let the Parking Extension Permit become null and void by its own terms.

Second, the Public Service Director could only grant an extension upon finding that the “project” complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of extension request. As discussed above, the parking exception was originally associated with a project that was denied for failure to comply with the City’s General Plan and Local Coastal Plan policies related to neighborhood compatibility. At the time of the extension request, the applicant did not have an active application for development of the site submitted with the City (i.e. there was no “project” for the site). Not only did the Director have independent discretion to deny the extension, but he could also not make the necessary findings required for an extension as there was no “project” to assess to see if it was in compliance with the law.

As a final note, the site can accommodate development without an exception to the development standards, and if necessary, the applicant could still submit an application for a parking exemption in the future for development of the site.

Appeal Point 2:

Also at the hearing on November 4, 2014, the Adamsons questioned the Planning Commission regarding adequacy of timing for both notice and determination pursuant to Morro Bay Municipal Code section 17.60.130, which provides in part:

“Any aggrieved person, including the applicant, may appeal the decision of the director to the planning commission in writing within ten (10) days. The fee for such an appeal shall be set by the city council. Upon receipt of such appeal, the planning commission shall render its decision not more than forty days after the close of the hearing.”

As discussed above, the hearing for the Adamsons’ appeal of the Manager’s denial of the time extension for Parking Exception Permit No. AD0-075 took place on November

4, 2014 – more than forty (40) days from the date the Adamsons filed their appeal (September 15, 2014). The Planning Commission failed to offer any response to this issue.

Staff Response 2:

Parking exceptions are not subject to Section 17.60.130 of the zoning code, and are instead subject to Chapter 17.44 (Parking, Driveway and Loading Facilities). In contrast, section 17.60.130 of the zoning applies to “**Appeals of actions on use permits and variances**” as follows:

17.60.130 - Appeals of actions on use permits and variances.

A. Appeal of a Director's Decision. Any aggrieved person, including the applicant, may appeal the decision of the director to the planning commission in writing within ten (10) days. The fee for such an appeal shall be set by the city council. Upon receipt of such appeal, the planning commission shall render its decision not more than forty days after the close of the hearing. Further appeals to the city council may also be pursued in accordance with the sections.

B. Appeal of Planning Commission Decision. Any aggrieved person, including the applicant, may appeal the decision of the planning commission to the city council writing within ten days. The fee for such an appeal shall be set by the city council. Upon receipt of such appeal, the city council shall render its decision not more than forty days after the close of the hearing.

C. Action at a Public Hearing. Upon receipt of such appeal, the city council shall set the matter for public hearing; said hearing shall be held within sixty days following such receipt, notice thereof to be given as provided by law. Notice shall also be given to the planning commission which shall submit a report to the city council setting forth the reasons for the action taken by the planning commission. Such report shall be submitted in writing or by representation at the hearing.

The **parking exception** was granted as a standalone permit and is not therefore subject to section 17.60.130 of the zoning code, as it is neither a use permit nor variance.

The parking exception section of the zoning ordinance is found in section 17.44.050 and does not contain language that specifically allows for time extensions, appeals of a staff decisions on time extensions, nor does it provide timeframes for when appeals should be heard. See section 17.44.050 below:

- **17.44.050 - Exceptions.**

A. Exceptions. The director or the planning commission may grant exceptions to the limitations of this chapter subject to appropriate conditions adopted with a user permit and upon a finding that:

1. Special Circumstances. The exceptions will not constitute a grant of a special privilege inconsistent with the driveway or parking limitations upon other properties in the vicinity and the reduced parking or alternative to the parking design standards of this chapter will be adequate to accommodate on the site all parking needs generated by the use;

2. *Health, Safety or General Welfare.* The exception will not adversely affect the health, safety or general welfare of persons working or residing in the vicinity and that no traffic safety problems will result from the proposed modification of parking standards;

3. *Applicant's Full Enjoyment.* The exception is reasonably necessary for the applicant's full enjoyment of uses similar to those upon the adjoining real property.

B. Open Tandem Parking. Open tandem parking space for residential single-family uses may be permitted for existing developed properties where a second adjacent space is not feasible, or on lots of forty feet or less in width.

Lastly, even if one were to apply the timeframes noted in section 17.60.130 (variances and use permits), the City actions to date would be in compliance. The appellant misinterprets the aforementioned code section to mean there is a requirement to hear the appeal within 40-days of the City “receiving” the appeal. The code section actually states that the Planning Commission shall render its decision within 40 days of the Planning Commission’s “close of the hearing” on the item. Given that the Planning Commission rendered its decision at the November 4, 2014 hearing, this requirement was met.

Appeal Point 3:

The Planning Commission’s denial of the Adamsons’ appeal pursuant to Resolution PC 26-14 adopted on November 4, 2014 inaccurately concludes that since there is not an active development application and the site can accommodate a conforming garage, there is no compelling reason to extend the previously issued Parking Exception Permit. This is simply not the case, as admitted in the Planning Commission’s own staff findings. There is no factual basis to conclude that Parking Exception Permit No. AD0-075 fails to conform to the Municipal Code, LCP and General Plan.

Staff Response 3:

Regardless if there is a “project”, it is still completely within the authority of the Director to deny the time extension based on his discretion. Even so, appellants have not shown an active “project” for the property that is in compliance with the governing laws – which is a mandatory finding for any extension. Although no grounds are required, the Director’s exercise of discretion is valid as i) there is no current “project” for the property submitted to the City; ii) the property can accommodate development without an exception to the development standards; iii) a decision on a parking exception based on an actual house design can more fully assess whether such an exception is warranted, and is good planning practice; iv) if necessary, the applicant could still submit an application for a parking exemption in the future for development of the site.

Appeal Point 4:

The City of Morro Bay has historically granted time extensions to numerous other projects. The denial of this request is a major deviation from its policy to grant extensions, especially in light of the fact that the City of Morro Bay has taken more than nine months to review and provide a final determination on the Adamsons' Coastal Development Permit No. CP0-408. The Adamsons have expended substantial time and resources trying to conform to the City of Morro Bay's vague and inconsistent findings so that they may proceed with construction of their retirement home on their property. The unreasonable and unnecessary delays caused by the City are sufficient to warrant an extension of Parking Exception Permit No. AD0-075.

Mr. and Mrs. Adamson respectfully request that the City Council consider all the efforts the Adamsons have made, and to understand that it is fair and reasonable for the City of Morro Bay to grant this appeal and provide an extension for Parking Exception Permit No. AD0-075.

Staff Response 4:

The parking exception is not actually a "project," nor was it approved in association with a development application. It is a more significant deviation from standard City practice was the fact that the parking exception was processed and approved without an associated development application. In almost every instance, parking exception requests are processed concurrent with actual project applications or use permit requests.

The fact that the development application – for a completely separate permit - was in process for 9 months has nothing to do with the time extension request, especially since the Parking Exception Permit had already been approved. The project proposed by the Coastal Development Permit was ultimately denied. The sole issue is whether denial of the extension request for the Parking Exception Permit was warranted, and there is no deviation from a City policy regarding "extensions" under the circumstances found here.

CONCLUSION:

The Appellant is requesting that the City Council overturn the Planning Commission's decision to deny the appeal and uphold the Director's denial of a time extension request for a parking exception, originally approved in October 2012. Time extension requests are a discretionary action approved by the Director and, in this instance, the extension was also not warranted under the circumstances. Specifically:

1. An extension requires an active "project." The former project proposed at 1000 Ridgeway was denied on appeal by the City Council, and the applicant has not submitted an application for another project.
2. Future development of the site could accommodate a garage with conforming setback, thereby negating the need for a parking exception.

EXHIBITS:

Exhibit A – Resolution 03-15

Exhibit B – Parking Exception Site Plan

Exhibit C – Novak Time Extension Request

Exhibit D – Planning Manager denial letter

Exhibit E – PC Resolution 26-14

Exhibit F – Appeal Form and Grounds for Appeal letter

Exhibit G – Planning Commission, November 4, 2014 Staff report

Exhibit H – Parking Exception Permit ADO-075

EXHIBIT A

RESOLUTION NO. 03-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S
DENIAL OF AN APPEAL AND UPHOLDING THE DIRECTOR'S DECISION
TO DENY A TIME EXTENSION REQUEST FOR
PARKING EXCEPTION ADO-075 AT 1000 RIDGEWAY AVENUE**

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

WHEREAS, on October 17, 2012, the Planning Commission approved a parking exception reducing the garage setback to 11 feet where 20 feet is required (ADO-075); and

WHEREAS, Parking Exception Permit ADO-075 ("Permit") was valid for a period of two years and would automatically become null and void on October 14, 2014; and

WHEREAS, Cathy Novak, acting as representative for Reed Adamson, submitted a 1-year time extension request on September 4, 2014; and

WHEREAS, the conditions of approval for the Permit provide the Public Services Director "may" exercise discretion whether to proceed with granting an extension; and

WHEREAS, if he chose to exercise his discretion, the conditions for the Permit only allow the Planning Services Director to grant an extension upon finding "the project" complies with all applicable provisions of the Morro Bay Municipal Code, General Plan, and Local Coastal Program Land Use Plan in effect at the time of the extension request; and

WHEREAS, at all times since the time of the request for an extension there have been no pending application or approved entitlements for a "project" to develop the property located at 1000 Ridgeway Avenue on file with the City;

WHEREAS, the property located at 1000 Ridgeway Avenue can be developed without a Parking Exception Permit; and

WHEREAS, denial of the application for extension would not preclude the owner from seeking another such permit at some future date when a development project was actually filed with the City; and

WHEREAS, as designee of the Planning Services Director, the Planning Manager denied the time extension request on September 5, 2014 based on these and other grounds; and

WHEREAS, Reed Adamson submitted an appeal of the denial on September 15, 2014;
and

WHEREAS, the Planning Commission of the City of Morro Bay, on November 4, 2014 adopted Resolution 26-14 denying the appeal and upholding of the Planning Manager's decision to deny a time extension request for parking exception (Permit ADO-075).

WHEREAS, the appellant, Reed Adamson, on November 14, 2014 filed an appeal of the Planning Commission action denying the appeal of the Planning Manager's decision to deny the time extension of Permit ADO-075.

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the City Council has duly considered all evidence, whether written or oral, including without limitation, the testimony of the appellant, interested parties, written petitions, consultants, City staff and all written and oral evaluations and recommendations by staff, presented at the January 13, 2015 hearing.

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

Section 1: Findings. Based upon all the evidence, the Council makes the following findings:

California Environmental Quality Act (CEQA)

1. Pursuant to the California Environmental Quality Act Guidelines Section 15270, CEQA does not apply to projects that are disapproved or denied by the approval body.

Time Extension Request Denial

1. The Planning Service's Director had independent discretion to deny the extension, he was not required to grant the extension even if the findings required by the Permit could be made, and without affirmative approval by the Director the Permit would automatically become null and void by its own terms.
2. As of the time of the extension request there have been no pending applications or approved entitlements for a "project" to develop the property located at 1000 Ridgeway Avenue on file with the City. As such, an extension was also not warranted as the Director could not find there was a "project" that would comply with all applicable provisions of the Morro Bay Municipal Code, General Plan, and Local Coastal Program Land Use Plan as required by the Permit.
3. The property located at 1000 Ridgeway Avenue can be developed without a Parking Exception Permit.

4. Denial of the extension would not preclude the approval of a future Parking Exception Permit. A parking exception can be resubmitted along with any future application for development of the subject lot, if so desired.

Section 2. Action. The City Council does hereby uphold Planning Commission's denial of the appeal, thereby upholding the Planning Services Director's decision to deny the Time Extension request for Parking Exception ADO-075.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 13th day of January, 2015 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

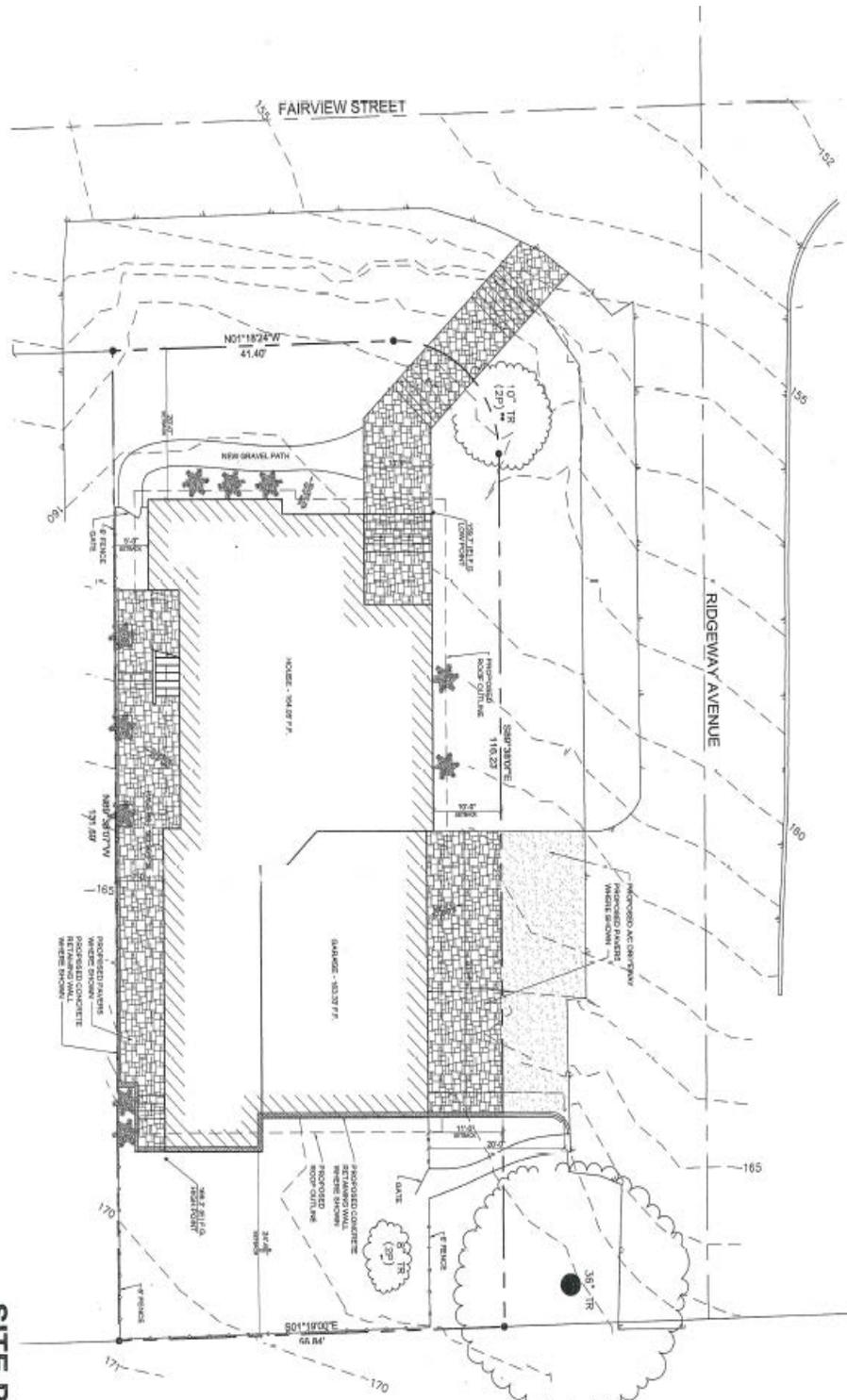
JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

Exhibit B

Parking Exception Site Plan



SITE PLAN



Exhibit C

CATHY • NOVAK

consulting

RECEIVED

SEP 04 2014

City of Morro Bay
Public Services Department

September 4, 2014

Mr. Scot Graham
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RE: Parking Exception Permit time extension

Dear Scot,

On behalf of Mr. Reed Adamson, I would like to respectfully request a one year time extension for Parking Exception Permit, AD0-075 at 1000 Ridgeway.

The parking exception permit allows for two administrative extensions up to one additional year each so therefore I would like to request an extension until October 17, 2015.

Thanks for your time and consideration in this matter. Please let me know if you have any questions.

Sincerely,



Cathy Novak
Project Representative

*Paid 00
\$145.*

cc: Mr. Reed Adamson

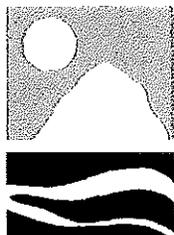
GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING

CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

Exhibit D



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6261

www.morro-bay.ca.us

September 5, 2014

Cathy Novak
PO Box 296
Morro Bay, CA 93443

SUBJECT: Denial of One year time extension request for Parking Exception Permit, AD0-075 at 1000 Ridgeway

Dear Cathy:

The City of Morro Bay Planning Division is in receipt of your letter dated September 4, 2014 in which you request that the city grant a one year time extension for Parking Exception Permit AD0-075 for the property at 1000 Ridgeway. As you are aware the City Council, on August 12, 2014, denied the Coastal Development Permit for construction of a new single family residence at this location (CP0-408). Given that the City does not have an active development application and given that the project site can easily accommodate a conforming garage, staff sees no compelling reason to extend the previously issued parking exception.

By this letter, and for the reasons stated above, the time extension request is hereby denied.

The expectation moving forward is that any future submittal for redevelopment of the subject lot include a design that does not necessitate a parking exception. However, if the owner is still interested in requesting a parking exception for the subject property, then it should be accompanied by an application for development of the site. Other than under very rare circumstances, the Planning Division will no longer support requests for parking exceptions that are not otherwise accompanied by an actual development application.

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
595 Harbor Street

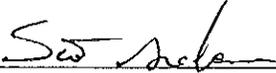
POLICE DEPT.
870 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way

September 5, 2014
Page 2

Should you have any questions regarding the information provided in this letter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scot Graham", is written over a horizontal line.

Scot Graham
Planning Manager
City of Morro Bay

cc: Reed Adamson, property owner

RESOLUTION NO. PC 26-14

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION DENYING THE APPEAL AND UPHOLDING STAFF'S DENIAL OF A TIME EXTENSION REQUEST FOR PARKING EXCEPTION ADO-075 AT 1000 RIDGEWAY AVENUE.

WHEREAS, on October 17, 2012, the Planning Commission approved a parking exception reducing the garage setback to 11 feet where 20 feet is required (ADO-075); and

WHEREAS, Parking Exception Permit ADO-075 was valid for a period of two years and due to expire on October 14, 2014; and

WHEREAS, Cathy Novak, acting as representative for Reed Adamson submitted a 1-year time extension request on September 4, 2014; and

WHEREAS, City Staff denied the time extension request on September 5, 2014; and

WHEREAS, Reed Adamson submitted an appeal of Staff's denial on September 15, 2014; and

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Community Center, 1000 Kennedy Way, Morro Bay, California, on November 4, 2014, for the purpose of considering an appeal filed against Staff's denial of a time extension request for Project ADO-075; and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, whether written or oral, including without limitation, the testimony of the appellant, interested parties, written petitions, consultants, City staff and all written and oral evaluations and recommendations by staff, presented at the November 4, 2014 hearing.

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

Section 1: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA)

1. Pursuant to the California Environmental Quality Act Guidelines Section 15270, CEQA does not apply to projects that are disapproved or denied by the approval body.

Time Extension Request Denial

1. The Time Extension request is being made in furtherance of a Parking Exception that is no longer associated with an active development application.

2. The justification for a parking exception should be accompanied by an actual development application to provide rationalization for the exception requested. Without an actual live application, the parking exception can no longer be justified.
3. A parking exception can be resubmitted along with any future application for development of the subject lot, if so desired.

Section 2. Action. The Planning Commission does hereby uphold Staff's decision denying the appeal and denying the Time Extension request for Parking Exception ADO-0075.

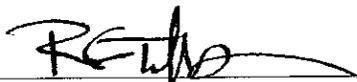
PASSED AND ADOPTED by the Morro Bay Planning Commission, upon motion of Commissioner Luhr and seconded by Commissioner Sorenson at a regular meeting thereof held on this 4th day of November, 2014 on the following vote:

AYES: Lucas, Sorenson, Tefft, Luhr and Sadowski

NOES: None

ABSENT: None

ABSTAIN: None



Robert Tefft, Chairperson

ATTEST



Rob Livick, Planning Secretary

The foregoing resolution was passed and adopted this 4th day of November, 2014.

RECEIVED

Exhibit F

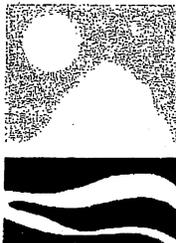
NOV 14 2014

RECEIVED

NOV 13 2014

City of Morro Bay

Public Services Department



CITY OF MORRO BAY

Public Services Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6577

APPEAL FORM

REGISTRATION
CITY OF MORRO BAY

In CCC Appeals Jurisdiction?

- YES - No Fee
 NO - Fee Paid: Yes No

Project Address being appealed: 1000 Ridgeway	
Appeal from the decision or action of (governing body or City officer): <input type="checkbox"/> Administrative Decision <input checked="" type="checkbox"/> Planning Commission <input type="checkbox"/> City Council	
Appeal of action or specific condition of approval: Appeal of Planning Commission action to deny the appeal for the parking exception permit time extension at 1000 Ridgeway.	
Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision): ADO-075	
Date decision or action rendered: November 4, 2014	
Grounds for the appeal (attach additional sheets as necessary): See attached sheet.	
Requested relief or action: Approve Parking Exception Permit (#ADO-075) time extension for project and disregard the decision of the Planning Commission to the contrary.	
Appellant (please print): Reed Adamson	Phone: (661) 201-6120
Address: 1504 Thornlake Drive, Bakersfield, CA 93312	
Appellant Signature:	Date: 11/12/14

FOR OFFICE USE ONLY

Accepted by:	Date appeal filed:
Appeal body:	Date of appeal hearing:

Grounds for Appeal of Planning Commission Decision – Parking Exception Time Extension for 1000 Ridgeway

November 12, 2014

Summary

Mr. and Mrs. Reed Adamson are the applicants. They now appeal the decision of the Morro Bay City Planning Commission's decision to deny their appeal of the Planning Commission Manager's decision to deny a time extension for Parking Exception Permit No. AD0-075.

They own the single-family residence and property located at 1000 Ridgeway. An application for a Parking Exception Permit was submitted and approved by the Planning Commission on October 17, 2012, permit # AD0-075.

This permit granted Mr. and Mrs. Adamson a reduced garage setback from twenty (20) feet to eleven (11) feet for land described in the staff report dated October 10, 2012, for the project depicted on plans dated August 30, 2012 on file with the Public Services Department. The project as presented met all applicable requirements under the Morro Bay Municipal Code, and was consistent with all programs and policies contained in the certified Local Coastal Program Land Use Plan (LCP) and General Plan for the City of Morro Bay.

The Parking Exception Permit issued by the City of Morro Bay is a separate permit from the development plans that were later submitted to the City for permission to demolish the existing single family residence and reconstruct a new single family residence on the property.

The development plan for the single family home was initially approved, as evidenced by a Coastal Development Permit No. CP0-408, issued on December 20, 2013. The approval of this project was appealed to the Planning Commission. Subsequently, Mr. and Mrs. Adamson made significant revisions to the plans and design of the single family home project to satisfy any potential concerns by the Planning Commission and members of the public. Thereafter, the Planning Commission denied this project, as revised, by adopting Resolution No. 54-14. Mr. and Mrs. Adamson then appealed to the City Council for Morro Bay, which approved the Resolution on August 12, 2014. A Notice of Final Action was issued by the City of Morro Bay on or about August 20, 2014. Mr. and Mrs. Adamson requested records from the City on August 29, 2014 pursuant to Code of Civil Procedure §1094.6(c)-(d), but have yet to receive any response. The project is not within the jurisdiction of the California Coastal Commission; therefore, the Adamson's have exhausted their administrative remedies and intend to file a petition for writ of administrative mandamus with the San Luis Obispo County Superior Court upon receipt of the requested records from the administrative proceedings, if not sooner.

Conclusion as to Why the Time Extension Should be Approved

The Parking Exception Permit was granted to run with the land at 1000 Ridgeway based

upon future plans to be submitted to the City of Morro Bay. This permit has given the property entitlements for a reduction in the garage setback, and the holders of the Permit the ability to apply for up to two (2) one-year extensions. This is the first application for an extension of the Parking Exception Permit.

The above described extensions may be granted "upon a finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request." (Standard Conditions No. 2.)

The Planning Commission received testimony on November 4, 2014 regarding the Adamsons' appeal of the Planning Manger's decision to deny the time extension request. At the hearing, the Planning Commission was told its staff report noted on page one, that the exception remains unaffected by the Council's denial of Coastal Development Permit No. CP0-408, and therefore, remains valid. However on page 3 of the staff report, the time extension request was denied because the parking exception was associated with the project that was denied. These findings contradict one another, as well as previous staff findings:

- On October 17, 2012 the Planning Commission determined that the project was consistent with City codes and regulations and adopted findings for approval. No other action to determine whether this project is consistent has been taken, nor have the applicable codes and regulations been modified in such a way that would make this project inconsistent.
- At the March 5, 2014 Commission meeting, Commissioner Lucas specifically asked Planning Commission staff for clarification on whether the parking issue had been resolved. Director Livick responded that the appeal period had expired, noting the plans presented relating to Coastal Development Permit No. CP0-408 were not part of the parking exception, and therefore, were not related to any development on the property. Again, this contradicts the staff's findings presented at the hearing on November 4, 2014.

Also at the hearing on November 4, 2014, the Adamsons questioned the Planning Commission regarding adequacy of timing for both notice and determination pursuant to Morro Bay Municipal Code section 17.60.130, which provides in part:

"Any aggrieved person, including the applicant, may appeal the decision of the director to the planning commission in writing within ten (10) days. The fee for such an appeal shall be set by the city council. Upon receipt of such appeal, the planning commission shall render its decision not more than forty days after the close of the hearing."

As discussed above, the hearing for the Adamsons' appeal of the Manager's denial of the time extension for Parking Exception Permit No. AD0-075 took place on November

4, 2014 – more than forty (40) days from the date the Adamsons filed their appeal (September 15, 2014). The Planning Commission failed to offer any response to this issue.

The Planning Commission's denial of the Adamsons' appeal pursuant to Resolution PC 26-14 adopted on November 4, 2014 inaccurately concludes that since there is not an active development application and the site can accommodate a conforming garage, there is no compelling reason to extend the previously issued Parking Exception Permit. This is simply not the case, as admitted in the Planning Commission's own staff findings. There is no factual basis to conclude that Parking Exception Permit No. AD0-075 fails to conform to the Municipal Code, LCP and General Plan.

The City of Morro Bay has historically granted time extensions to numerous other projects. The denial of this request is a major deviation from its policy to grant extensions, especially in light of the fact that the City of Morro Bay has taken more than nine months to review and provide a final determination on the Adamsons' Coastal Development Permit No. CP0-408. The Adamsons have expended substantial time and resources trying to conform to the City of Morro Bay's vague and inconsistent findings so that they may proceed with construction of their retirement home on their property. The unreasonable and unnecessary delays caused by the City are sufficient to warrant an extension of Parking Exception Permit No. AD0-075.

Mr. and Mrs. Adamson respectfully request that the City Council consider all the efforts the Adamsons have made, and to understand that it is fair and reasonable for the City of Morro Bay to grant this appeal and provide an extension for Parking Exception Permit No. AD0-075.



AGENDA NO: B-1

MEETING DATE: November 4, 2014

Staff Report

TO: Planning Commissioners **DATE:** November 4, 2014

FROM: Scot Graham, Planning Manager

SUBJECT: Appeal of a staff denial for a one year time extension request of permit ADO-075; parking exception allowing a reduced garage setback of 11 feet where 20 feet is required, for the property located at 1000 Ridgeway. The parking exception was approved by the Planning Commission on October 17, 2012 and was valid for a period of 24 months.

RECOMMENDATION:

Staff recommends the Planning Commission deny the appeal and uphold staff's denial of the Time Extension request for Permit No. ADO-075 (Parking Exception) located at 1000 Ridgeway Avenue.

APPELLANT: Reed Adamson

AGENT: Novak Consulting (Cathy Novak)

APN: 066-246-006

BACKGROUND: On October 17, 2012, the Planning Commission approved a parking exception request from Reed and Carol Adamson. The Parking Exception permit (ADO-075) is attached as Exhibit 1 and allowed for an 11-foot garage setback where 20'-foot was required. The site plan associated with the approval is attached as Exhibit 2. The Parking Exception permit is valid for a period of two years and was due to expire on October 17, 2014.

After receiving approval of the Parking Exception permit, the Adamson's submitted a Coastal Development Permit application for construction of a new single family residence at 1000 Ridgeway, which made use of the parking exception. The Coastal Development Permit was eventually denied by the City Council, on appeal from the Planning Commission, on August 12, 2014. The City Council Resolution denying the project is attached as Exhibit 3. The Parking Exception remains unaffected by the Council denial of the Coastal Development Permit and therefore remains valid until the permit expiration date.

Prepared By: SG

Department Review:

DISCUSSION:

The applicant's representative, Cathy Novak, submitted a time extension request for the Parking Exception on September 4, 2014 (See Exhibit 4). Staff reviewed the Time Extension request and issued a denial letter on September 5, 2014 (See Exhibit 5).

Staff denied the time extension request for two reasons: 1. The City no longer has an active application for development of the site due to the Council upholding the Planning Commission denial of project CPO-408, 2. Development of the site could easily be achieved without the parking exception. The basic thought process behind the denial was that any future application for development of the site should include a design that does not necessitate exceptions to the required development standards.

Reed Adamson submitted an appeal of staff's denial on September 15, 2014. The appeal form and Grounds for Appeal letter are attached as Exhibit 6.

The following section states the appellant's grounds for the appeal with a statement formulated by staff that examines the validity and comprehensiveness of each appeal point.

Appellant Reed Adamson's grounds for appeal of the Time Extension denial:

Appeal Point 1.

The Parking Exception Permit was granted to run with the land at 1000 Ridgeway based upon future plans to be submitted to the City of Morro Bay. This permit has given the property entitlements for a reduction in the garage setback, and the holders of the Permit the ability to apply for up to two (2) one-year extensions. This is the first application for an extension of the Parking Exception Permit.

The above described extensions may be granted "upon a finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request." (Standard Conditions No. 2.)

The Planning Manager's denial of the time extension inaccurately concludes that since there is not an active development application and that the site can accommodate a conforming garage, there is no compelling reason to extend the previously issued Parking Exception Permit. There is, however, no factual basis to conclude that the project (parking exception) does not conform to the Municipal Code, LCP and General Plan.

Staff response 1:

Parking Exception condition of approval 2 includes language indicating that the parking exception approval is good for a period of two years (See Exhibit 1) and that a time extension

“May” be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of extension request. The operative word in condition 2 is “May”, meaning the Director at his discretion can choose to approve the time extension request if the project complies with all applicable provisions of the City’s land use policies. Compliance with City Land Use policies is the minimum finding necessary to approve the time extension request. The time extension is not automatic, nor is the Director mandated to approve the request. The term “May” simply grants the Director the option of approving the time extension or allowing the permit to expire.

In this particular instance, the decision was made to deny the time extension request because the parking exception was associated with a project that was denied for failure to comply with the City’s General Plan and Local Coastal Plan policies related to neighborhood compatibility (see Exhibit 3). Given that the City does not have a current development application associated with the property at 1000 Ridgeway, and given that the site could likely be developed in a manner that does not necessitate any type of parking exception, Staff felt it prudent to deny the time extension request.

Appeal Point 2:

On October 17, 2012 the Planning Commission determined that the project was consistent with City codes and regulations and adopted findings for approval. No other action to determine whether this project is consistent has been taken, nor have the applicable codes and regulations been modified in such a way that would make this project inconsistent.

Staff Response 2:

The Planning Commission originally approved the project finding it consistent with City codes and policies. This point is not disputed nor was lack of consistency with City policies cited as the reason for staff denial of the time extension request. Again, compliance with the City land use documents/regulations is the minimum necessary finding for any City issued permit approval.

Appeal Pointe 3:

In addition, the City of Morro Bay has historically granted time extensions to numerous other projects. The denial of this request is a major deviation from its policy to grant extensions, especially in light of the fact that the City of Morro Bay has taken more than nine months to review and provide a determination on the Coastal Development Permit No. CP0-408 to demolish one sing-family home to build another. That in itself has created a significant delay in allowing the project to proceed in a timely fashion, and therefore, necessitates this request for an extension.

Mr. and Mrs. Adamson respectfully request that the Planning Commission consider all the efforts they have made, and to understand that it is fair and reasonable for for the City of Morro Bay to grant the extension based upon the forgoing.

Staff Response 3:

The City has traditionally granted time extension requests for projects, when filed in a timely manner. The parking exception is not actually a project, nor was it approved in association with a development application. Arguably, a more significant deviation from standard City practice, was the fact that the parking exception was processed and approved without an associated development application. In almost every instance, parking exception requests are processed in concurrent with actual project applications or use permit requests.

The fact that the development application was in process for 9 months has little to do with the time extension request. The project was ultimately denied. Had the development application been processed concurrently with the parking exception, as is typically the case, the parking exception would have been denied along with the project.

CONCLUSION:

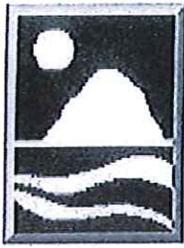
The Appellant is requesting that the Planning Commission overturn Staff's denial of a time extension request for a parking exception approved back in back in October of 2012. Time extension requests are a discretionary actions approved by the Director and in this instance Staff did not feel that the extension was warranted. The time extension was denied for the following two reasons:

1. The actual project proposed at 1000 Ridgeway was recently denied on appeal by the City Council. Therefore the parking exception was a standalone permit without benefit of an associated project. Parking exceptions are not typically processed without an associated development application and as such staff denied the time extension request.
2. The site could easily accommodate a garage with conforming setback, thereby negating the need for a parking exception.

EXHIBITS:

- Exhibit 1 – Parking Exception Permit AD0-075
- Exhibit 2 – Parking Exception Site Plan
- Exhibit 3 – Council Resolution 54-14, Denying project
- Exhibit 4 – Novak Time Extension Request Letter
- Exhibit 5 – Staff Time Extension Denial Letter
- Exhibit 6 – Appeal Form and Grounds for Appeal
- Exhibit 7 – Resolution 26-14

Exhibit 1



City of Morro Bay

Public Services Department
955 Shasta Ave
Morro Bay, CA 93442
(805) 772-6261
www.morro-bay.ca.us

FILE COPY

October 18, 2012

Site Address: 1000 Ridgeway Avenue

APN: 066-246-006

Permit Number: AD0-075

Project

Description: Parking exception to construct a garage with a reduced garage setback of 11 feet

Dear Reed and Carol Adamson:

On October 17, 2012, the City of Morro Bay Planning Commission reviewed and approved your request for a Parking Exception. The Parking Exception is subject to conditions, which are specified in the attached conditions of approval.

The Morro Bay Municipal Code provides for an appeal of the action by the Planning Commission within ten (10) days of adoption and anyone wishing to appeal may do so in writing by delivering such letter to the office of the City Clerk. There is a fee for processing appeals, which are not coastal permits within the appeals jurisdiction of the California Coastal Commission.

Please also find enclosed the Notice of Exemption for your project. The City of Morro Bay no longer files notices of exemptions. You may file the Notice of Exemption with the County Clerk's office located in the County Government Building in San Luis Obispo. The filing fee is \$50.00.

Section 15062 (d) of The California Environmental Quality Act (CEQA) provides:

"The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply."

Sincerely,

Rob Livick
Director Public Services Department

By:

Cindy Jacowitz

Enclosures: Permit, Acceptance of Conditions, Notice of Exemption, Findings & Conditions of Approval

Copy to: Ruel Czach, Architect



City of Morro Bay

Public Services Department
955 Shasta Ave
Morro Bay, CA 93442
(805) 772-6261
www.morro-bay.ca.us

Parking Exception Permit

This approval is conditional and is valid only if the Conditions of Approval are met and only after the applicable appeal period. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

Your property is located in the City of Morro Bay Jurisdiction and *there is an appeal period of ten (10) calendar days* within which your permit is appealable to the City Council.

PROJECT DESCRIPTION:

PERMIT NUMBER: AD0-075

SITE ADDRESS: 1000 RIDGEWAY

APN: 066-246-006

APPLICANT: REED AND CAROL ADAMSON

APPROVED BY: PLANNING COMMISSION

DATE APPROVED: 10-17-2012

CEQA DETERMINATION:

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: 10-29-2012

ATTEST: Cindy Smith DATE: 10-18-2012

**THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A
BUILDING PERMIT OR A COASTAL DEVELOPMENT PERMIT**

APPLICANT'S ACCEPTANCE
OF
CONDITIONS OF APPROVAL

CASE NO. AD0-075
SITE LOCATION: 1000 RIDGEWAY
APPLICANT NAME: REED AND CAROL ADAMSON
APPROVAL BODY: PLANNING COMMISSION
DATE OF ACTION: 10-17-2012

I, Carol Adamson / Reed Adamson the undersigned, have read and
(APPLICANT'S NAME - PLEASE PRINT)

reviewed the conditions of approval imposed by the Approval Body in its action

approving Case Number: AD0-075

I UNDERSTAND AND ACCEPT SAID CONDITIONS AND AGREE TO FULLY COMPLY WITH THEM.

Carol Adamson / Reed Adamson 10/17/12
APPLICANT'S SIGNATURE DATE

**CITY OF MORRO BAY
NOTICE OF EXEMPTION**

TO: San Luis Obispo Co. Clerk
County Government Center
San Luis Obispo CA 93401

Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

FROM: City of Morro Bay
Public Services Department
955 Shasta Avenue
Morro Bay, CA 93442

Project Title: _____

Project Location - Specific: 1000 Ridgeway

Project Location - City: Morro Bay County: San Luis Obispo

Description of Project:
Parking Exception to construct a garage with a reduced garage setback of 11 feet.

Name of Public Agency Approving the Project: CITY OF MORRO BAY

Name of Person or Agency Carrying Out Project: Reed and Carol Adamson

Exempt Status: (Check One)

Reasons why project is exempt:

- Ministerial (Sec. 21080(b)(1); 15268);
- Categorical Exemption: _____
Type and Section Number: 15303, Class 3
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Declared Emergency (Sec. 21080(b)(3); 15269(a)) Statuary Exemption Code No. _____

Lead Agency: City of Morro Bay

Contact Person: Cindy Jacinth Telephone: 805-772-6577

Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Certification:

I hereby certify that the public agency has made the above finding and that the project is categorically exempt from CEQA.

Signature: _____ Title: Asst. Planner Date: 10-18-2012

EXHIBIT A

FINDINGS

SITE: 1000 RIDGEWAY STREET

PROJECT DESCRIPTION: Parking Exception #AD0-043 is Applicant's request to construct a garage with a reduced garage setback of 11 feet rather than the required 20 feet setback.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

- A. Pursuant to the California Environmental Quality Act the project is categorically exempt pursuant Section 15303, Class 3 for new construction or conversion of small structures. The exemption provides for accessory structures including garages.

PARKING EXCEPTION FINDINGS

- A. **Special Circumstances.** The exception will not constitute a grant of a special privilege inconsistent with the driveway or parking limitations upon other properties in the vicinity and the reduced parking or alternative to the parking design standards of this chapter will be adequate to accommodate on the site all parking needs generated by the use. *The proposed setback is consistent with other properties on this block which have varying reduced garage setbacks. The proposed driveway and proposed garage will be adequate to accommodate the on-site parking needs; therefore it is not a grant of special privilege.*
- B. **Health, Safety or General Welfare.** The exception will not adversely affect the health, safety or general welfare of persons working or residing in the vicinity and that no traffic safety problems will result from the proposed modification or parking standards. *There will be no adverse effect because this is a dead-end street with no through traffic going past the Applicants' home. In addition, the floor plans submitted at this time provide for a 3 car garage which exceeds the minimum parking requirements.*
- C. **Applicant's Full Enjoyment.** The exception is reasonably necessary for the applicant's full enjoyment of uses similar to those upon the adjoining real property. *The parking exception is reasonably necessary to accommodate the Applicant's future plans for development of a single-family residence on the site. Additionally, it would allow the Applicant to construct a garage large enough to accommodate for their two cars plus storage to ensure they have sufficient room to park vehicles inside and not outside where the coastal air can cause their vehicles to deteriorate and accumulate dirt.*

EXHIBIT B

CONDITIONS OF APPROVAL

SITE: 1000 RIDGEWAY STREET

PROJECT DESCRIPTION: Parking Exception #AD0-075 to construct a garage with a reduced garage setback of 11 feet rather than the required 20 feet setback.

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated October 10, 2012, for the project depicted on plans dated August 30, 2012 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:

Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) 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, (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges that City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Compliance with Morro Bay Standards: This projects shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.
8. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

PLANNING CONDITIONS

1. The garage shall have an automatic rolling type garage door opener.
2. In no case shall vehicles parked in the driveway encroach on the paved travelled right of way.

Exhibit 2 Parking Exception Site Plan

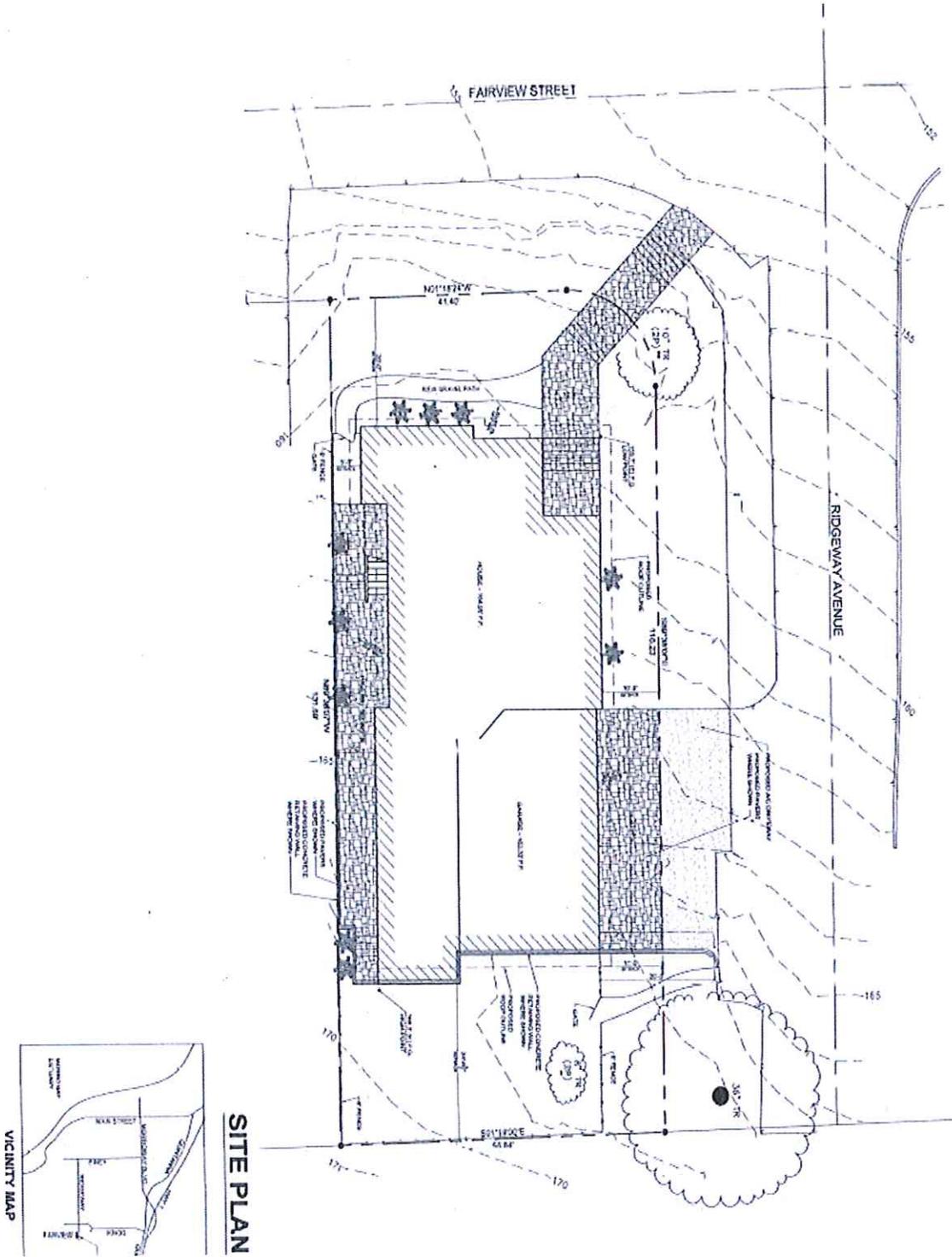


EXHIBIT 3

RESOLUTION NO. 54-14

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
TO DENY THE APPEAL AND UPHOLD THE PLANNING COMMISSION
DENIAL OF COASTAL DEVELOPMENT PERMIT (CP0-408) FOR THE
DEMOLITION OF THE EXISTING RESIDENCE AND CONSTRUCTION OF A NEW
TWO STORY SINGLE-FAMILY RESIDENCE AT 1000 RIDGEWAY AVENUE**

WHEREAS, on June 3, 2014, the Morro Bay Planning Commission held a duly noticed public hearing to consider an appeal filed on December 30, 2013 for Administrative Coastal Development Permit #CP0-408, for the demolition of an existing 1,649 square foot house and construction of a new two-story single-family residence proposed as revised to be a 3,725 square foot home with a 1,142 square-foot garage/workshop and 317 square feet of upper deck and lower porch located at 1000 Ridgeway ("Project"); and

WHEREAS, on June 17, 2014, the Morro Bay Planning Commission adopted Resolution 15-14 with findings for denial of Coastal Development Permit #CP0-408; and

WHEREAS, on June 25, 2014 an appeal was filed to the City Council on the Planning Commission denial of Coastal Development Permit #CP0-408 specifically requesting the Council approve Coastal Development Permit #CP0-408 as revised and overturn the Planning Commission decision ("Appeal"); and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the City Council has duly considered all evidence, whether written or oral, including without limitation, the testimony of the appellant, the applicant, interested parties, written petitions, consultants, City staff and all written and oral evaluations and recommendations by staff, presented at Planning Commission hearings and the City Council hearing.

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

Section 1: Findings. Based upon all the evidence, the Council makes the following findings:

California Environmental Quality Act (CEQA)

1. Pursuant to the California Environmental Quality Act Guidelines Section 15270, CEQA does not apply to projects that are disapproved or denied by the approval body.

Coastal Development Permit Findings for Denial

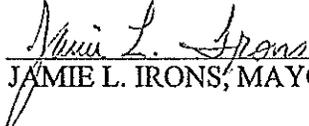
1. The Project, as proposed, is not in conformance with the General Plan and Local Coastal Program because it is not consistent with the Zoning Ordinance Section 17.48.190 which implements the General Plan and is part of the Local Coastal Program. Specifically,

- a. The Project, as proposed, is not visually compatible with the character of the surrounding neighborhood in terms of bulk, size, and scale.
2. The Project, as proposed, is not consistent with the Land Use Element Policy LU-15 which states, "The present human scale and leisurely, low-intensity appearance of Morro Bay should be maintained through careful regulation of building height, location and mass."

Section 2. Action. The City Council does hereby deny the Appeal and approves the Planning Commission's decision to deny Coastal Development Permit #CP0-408.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 12th day of August, 2014 on the following vote:

AYES: Irons, C. Johnson, Smukler
NOES: N. Johnson, Leage
ABSENT: None
ABSTAIN: None



JAMIE L. IRONS, MAYOR

ATTEST


JAMIE BOUCHER, City Clerk

Exhibit 4

CATHY • NOVAK

consulting

RECEIVED

SEP 04 2014

City of Morro Bay
Public Services Department

September 4, 2014

Mr. Scot Graham
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RE: Parking Exception Permit time extension

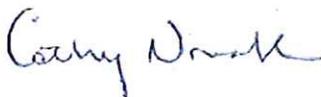
Dear Scot,

On behalf of Mr. Reed Adamson, I would like to respectfully request a one year time extension for Parking Exception Permit, AD0-075 at 1000 Ridgeway.

The parking exception permit allows for two administrative extensions up to one additional year each so therefore I would like to request an extension until October 17, 2015.

Thanks for your time and consideration in this matter. Please let me know if you have any questions.

Sincerely,



Cathy Novak
Project Representative

*Paid 00
\$45.*

cc: Mr. Reed Adamson

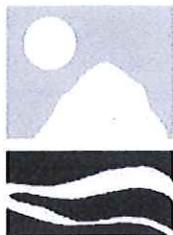
GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING

CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

Exhibit 5



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6261

www.morro-bay.ca.us

September 5, 2014

Cathy Novak

PO Box 296

Morro Bay, CA 93443

SUBJECT: Denial of One year time extension request for Parking Exception Permit, AD0-075 at 1000 Ridgeway

Dear Cathy:

The City of Morro Bay Planning Division is in receipt of your letter dated September 4, 2014 in which you request that the city grant a one year time extension for Parking Exception Permit AD0-075 for the property at 1000 Ridgeway. As you are aware the City Council, on August 12, 2014, denied the Coastal Development Permit for construction of a new single family residence at this location (CP0-408). Given that the City does not have an active development application and given that the project site can easily accommodate a conforming garage, staff sees no compelling reason to extend the previously issued parking exception.

By this letter, and for the reasons stated above, the time extension request is hereby denied.

The expectation moving forward is that any future submittal for redevelopment of the subject lot include a design that does not necessitate a parking exception. However, if the owner is still interested in requesting a parking exception for the subject property, then it should be accompanied by an application for development of the site. Other than under very rare circumstances, the Planning Division will no longer support requests for parking exceptions that are not otherwise accompanied by an actual development application.

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
595 Harbor Street

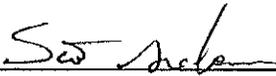
POLICE DEPT.
870 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way

September 5, 2014
Page 2

Should you have any questions regarding the information provided in this letter, please do not hesitate to contact me.

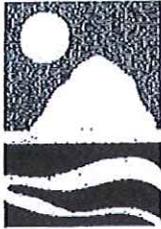
Sincerely,



Scot Graham
Planning Manager
City of Morro Bay

cc: Reed Adamson, property owner

Exhibit 6



CITY OF MORRO BAY

Public Services Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6577

APPEAL FORM

In CCC Appeals Jurisdiction?

YES - No Fee
 NO - Fee Paid Yes No

Project Address being appealed: 1000 Ridgeway	
Appeal from the decision or action of (governing body or City officer): <input checked="" type="checkbox"/> Administrative Decision <input checked="" type="checkbox"/> Planning Commission <input type="checkbox"/> City Council	
Appeal of action or specific condition of approval: Appeal of Planning Manager's action to deny the time extension for the Parking Exception Permit for 1000 Ridgeway.	
Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision): Time extension for Parking Exception Permit ADO-075	
Date decision or action rendered: September 5, 2014	
Grounds for the appeal (attach additional sheets as necessary): See attached sheet.	
Requested relief or action: Approve Parking Exception Permit (#ADO-075) time extension request for one year and disregard the decision of the Planning Manager, acting on behalf of the Public Services Director, to the contrary.	
Appellant (please print): Reed Adamson	Phone: (661) 201-6120
Address: 1504 Thornlake Drive, Bakersfield, CA 93312	
Appellant Signature:	Date: September 15, 2014

FOR OFFICE USE ONLY	
Accepted by:	Date appeal filed: 9-15-14
Appeal body:	Date of appeal hearing:

Grounds for Appeal – Parking Exception Time Extension

1000 Ridgeway

September 2014

Summary

Mr. and Mrs. Reed Adamson are the applicants. They own the single family residence and property located at 1000 Ridgeway. An application for a Parking Exception Permit was submitted and approved by the Planning Commission on October 17, 2012, permit # AD0-075.

This permit granted Mr. and Mrs. Adamson a reduced garage setback from twenty (20) feet to eleven (11) feet for land described in the staff report dated October 10, 2012, for the project depicted on plans dated August 30, 2012 on file with the Public Services Department. The project as presented met all applicable requirements under the Morro Bay Municipal Code, and was consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

The Parking Exception Permit issued by the City of Morro Bay is a separate permit from the development plans that were later submitted to the City for permission to demolish the existing single family residence and reconstruct a new single family residence on the property.

The development plan for the single family home was initially approved, as evidenced by a Coastal Development Permit No. CP0-408, issued on December 20, 2013. The approval of this project was appealed to the Planning Commission. Subsequently, Mr. and Mrs. Adamson made significant revisions to the plans and design of the single family home project to satisfy any potential concerns by the Planning Commission and members of the public. Thereafter, the Planning Commission denied this project, as revised, by adopting Resolution No. 54-14. Mr. and Mrs. Adamson then appealed to the City Council for Morro Bay, which approved the Resolution on August 12, 2014. The project is not within the jurisdiction of the California Coastal Commission; therefore, the Adamsons have exhausted their administrative remedies and intend to file a petition for writ with the San Luis Obispo County Superior Court.

Conclusion as to Why the Time Extension Should be Approved

The Parking Exception Permit was granted to run with the land at 1000 Ridgeway based upon future plans to be submitted to the City of Morro Bay. This permit has given the property entitlements for a reduction in the garage setback, and the holders of the Permit the ability to apply for up to two (2) one-year extensions. This is the first application for an extension of the Parking Exception Permit.

The above described extensions may be granted "upon a finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request." (Standard Conditions No. 2.)

The Planning Manager's denial of the time extension inaccurately concludes that since there is not an active development application and that the site can accommodate a conforming garage, there is no compelling reason to extend the previously issued Parking Exception Permit. There is, however, no factual basis to conclude that the project (parking exception) does not conform to the Municipal Code, LCP and General Plan.

On October 17, 2012 the Planning Commission determined that the project was consistent with City codes and regulations and adopted findings for approval. No other action to determine whether this project is consistent has been taken, nor have the applicable codes and regulations been modified in such a way that would make this project inconsistent.

In addition, the City of Morro Bay has historically granted time extensions to numerous other projects. The denial of this request is a major deviation from its policy to grant extensions, especially in light of the fact that the City of Morro Bay has taken more than nine months to review and provide a determination on the Coastal Development Permit No. CP0-408 to demolish one sing-family home to build another. That in itself has created a significant delay in allowing the project to proceed in a timely fashion, and therefore, necessitates this request for an extension.

Mr. and Mrs. Adamson respectfully request that the Planning Commission consider all the efforts they have made, and to understand that it is fair and reasonable for for the City of Morro Bay to grant the extension based upon the forgoing.

Exhibit 7

RESOLUTION NO. PC 26-14

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION DENYING THE APPEAL AND UPHOLDING STAFF'S DENIAL OF A TIME EXTENSION REQUEST FOR PARKING EXCEPTION ADO-075 AT 1000 RIDGEWAY AVENUE.

WHEREAS, on October 17, 2012, the Planning Commission approved a parking exception reducing the garage setback to 11 feet where 20 feet is required (ADO-075); and

WHEREAS, Parking Exception Permit ADO-075 was valid for a period of two years and due to expire on October 14, 2014; and

WHEREAS, Cathy Novak, acting as representative for Reed Adamson submitted a 1-year time extension request on September 4, 2014; and

WHEREAS, City Staff denied the time extension request on September 5, 2014; and

WHEREAS, Reed Adamson submitted an appeal of Staff's denial on September 15, 2014; and

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Community Center, 1000 Kennedy Way, Morro Bay, California, on November 4, 2014, for the purpose of considering an appeal filed against Staff's denial of a time extension request for Project ADO-075; and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, whether written or oral, including without limitation, the testimony of the appellant, interested parties, written petitions, consultants, City staff and all written and oral evaluations and recommendations by staff, presented at the November 4, 2014 hearing.

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

Section 1: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA)

1. Pursuant to the California Environmental Quality Act Guidelines Section 15270, CEQA does not apply to projects that are disapproved or denied by the approval body.

Time Extension Request Denial

1. The Time Extension request is being made in furtherance of a Parking Exception that is no longer associated with an active development application.

2. The justification for a parking exception should be accompanied by an actual development application to provide rationalization for the exception requested. Without an actual live application, the parking exception can no longer be justified.
3. A parking exception can be resubmitted along with any future application for development of the subject lot, if so desired.

Section 2. Action. The Planning Commission does hereby uphold Staff's decision denying the appeal and denying the Time Extension request for Parking Exception ADO-0075.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 4th day of November, 2014 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Tefft, Chairperson

ATTEST

Rob Livick, Planning Secretary

The foregoing resolution was passed and adopted this 4th day of November, 2014.

ATTACHMENT C TO 2-28-14 STAFF MEMO



City of Morro Bay

Public Services Department
 955 Shasta Ave
 Morro Bay, CA 93442
 (805) 772-6261
 www.morro-bay.ca.us

FILE COPY

October 18, 2012

Site Address: 1000 Ridgeway AvenueAPN: 066-246-006Permit Number: AD0-075

Project

Description: Parking exception to construct a garage with a reduced garage setback of 11 feet

Dear Reed and Carol Adamson:

On October 17, 2012, the City of Morro Bay Planning Commission reviewed and approved your request for a Parking Exception. The Parking Exception is subject to conditions, which are specified in the attached conditions of approval.

The Morro Bay Municipal Code provides for an appeal of the action by the Planning Commission within ten (10) days of adoption and anyone wishing to appeal may do so in writing by delivering such letter to the office of the City Clerk. There is a fee for processing appeals, which are not coastal permits within the appeals jurisdiction of the California Coastal Commission.

Please also find enclosed the Notice of Exemption for your project. The City of Morro Bay no longer files notices of exemptions. You may file the Notice of Exemption with the County Clerk's office located in the County Government Building in San Luis Obispo. The filing fee is \$50.00.

Section 15062 (d) of The California Environmental Quality Act (CEQA) provides:

"The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply."

Sincerely,

Rob Livick
 Director Public Services Department

By:

Enclosures: Permit, Acceptance of Conditions, Notice of Exemption, Findings & Conditions of Approval

Copy to: Ruel Czach, Architect

ATTACHMENT C TO 2-28-14 STAFF MEMO



City of Morro Bay

Public Services Department
955 Shasta Ave
Morro Bay, CA 93442
(805) 772-6261
www.morro-bay.ca.us

Parking Exception Permit

This approval is conditional and is valid only if the Conditions of Approval are met and only after the applicable appeal period. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

Your property is located in the City of Morro Bay Jurisdiction and *there is an appeal period of ten (10) calendar days* within which your permit is appealable to the City Council.

PROJECT
DESCRIPTION:

PERMIT NUMBER: AD0-075

SITE ADDRESS: 1000 RIDGEWAY

APN: 066-246-006

APPLICANT: REED AND CAROL ADAMSON

APPROVED BY: PLANNING COMMISSION

DATE APPROVED: 10-17-2012

CEQA
DETERMINATION:

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: 10-29-2012

ATTEST: *Cindy Smith* DATE: 10-18-2012

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT OR A COASTAL DEVELOPMENT PERMIT

ATTACHMENT C TO 2-28-14 STAFF MEMO

APPLICANT'S ACCEPTANCE OF CONDITIONS OF APPROVAL

CASE NO. AD0-075

SITE LOCATION: 1000 RIDGEWAY

APPLICANT NAME: REED AND CAROL ADAMSON

APPROVAL BODY: PLANNING COMMISSION

DATE OF ACTION: 10-17-2012

I, Carol Adamson / Reed Adamson the undersigned, have read and
(APPLICANT'S NAME - PLEASE PRINT)

reviewed the conditions of approval imposed by the Approval Body in its action

approving Case Number: AD0-075

I UNDERSTAND AND ACCEPT SAID CONDITIONS AND AGREE TO FULLY COMPLY WITH THEM.

Carol Adamson / Reed Adamson
APPLICANT'S SIGNATURE

10/22/12
DATE

ATTACHMENT C TO 2-28-14 STAFF MEMO

CITY OF MORRO BAY NOTICE OF EXEMPTION

TO: San Luis Obispo Co. Clerk
County Government Center
San Luis Obispo CA 93401

Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

FROM: City of Morro Bay
Public Services Department
955 Shasta Avenue
Morro Bay, CA 93442

Project Title: _____

Project Location - Specific: 1000 Ridgeway

Project Location - City: Morro Bay County: San Luis Obispo

Description of Project:
Parking Exception to construct a garage with a reduced garage setback of 11 feet.

Name of Public Agency Approving the Project: CITY OF MORRO BAY

Name of Person or Agency Carrying Out Project: Reed and Carol Adamson

Exempt Status: (Check One)

Reasons why project is exempt:

- Ministerial (Sec. 21080(b)(1); 15268); Categorical Exemption: _____
Type and Section Number: 15303, Class 3
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Declared Emergency (Sec. 21080(b)(3); 15269(a)) Statuary Exemption Code No. _____

Lead Agency: City of Morro Bay

Contact Person: Cindy Jacinth Telephone: 805-772-6577

Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Certification:

I hereby certify that the public agency has made the above finding and that the project is categorically exempt from CEQA.

Signature: _____ Title: Asst. Planner Date: 10-18-2012

ATTACHMENT C TO 2-28-14 STAFF MEMO

EXHIBIT A

FINDINGS

SITE: 1000 RIDGEWAY STREET

PROJECT DESCRIPTION: Parking Exception #AD0-043 is Applicant's request to construct a garage with a reduced garage setback of 11 feet rather than the required 20 feet setback.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

- A. Pursuant to the California Environmental Quality Act the project is categorically exempt pursuant Section 15303, Class 3 for new construction or conversion of small structures. The exemption provides for accessory structures including garages.

PARKING EXCEPTION FINDINGS

- A. Special Circumstances. The exception will not constitute a grant of a special privilege inconsistent with the driveway or parking limitations upon other properties in the vicinity and the reduced parking or alternative to the parking design standards of this chapter will be adequate to accommodate on the site all parking needs generated by the use. *The proposed setback is consistent with other properties on this block which have varying reduced garage setbacks. The proposed driveway and proposed garage will be adequate to accommodate the on-site parking needs; therefore it is not a grant of special privilege.*
- B. Health, Safety or General Welfare. The exception will not adversely affect the health, safety or general welfare of persons working or residing in the vicinity and that no traffic safety problems will result from the proposed modification or parking standards. *There will be no adverse effect because this is a dead-end street with no through traffic going past the Applicants' home. In addition, the floor plans submitted at this time provide for a 3 car garage which exceeds the minimum parking requirements.*
- C. Applicant's Full Enjoyment. The exception is reasonably necessary for the applicant's full enjoyment of uses similar to those upon the adjoining real property. *The parking exception is reasonably necessary to accommodate the Applicant's future plans for development of a single-family residence on the site. Additionally, it would allow the Applicant to construct a garage large enough to accommodate for their two cars plus storage to ensure they have sufficient room to park vehicles inside and not outside where the coastal air can cause their vehicles to deteriorate and accumulate dirt.*

ATTACHMENT C TO 2-28-14 STAFF MEMO

EXHIBIT B

CONDITIONS OF APPROVAL

SITE: 1000 RIDGEWAY STREET

PROJECT DESCRIPTION: Parking Exception #AD0-075 to construct a garage with a reduced garage setback of 11 feet rather than the required 20 feet setback.

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated October 10, 2012, for the project depicted on plans dated August 30, 2012 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:

Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) 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, (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.

ATTACHMENT C TO 2-28-14 STAFF MEMO

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges that City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Compliance with Morro Bay Standards: This projects shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.
8. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

PLANNING CONDITIONS

1. The garage shall have an automatic rolling type garage door opener.
2. In no case shall vehicles parked in the driveway encroach on the paved travelled right of way.



AGENDA NO: C-1

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 5, 2015
FROM: Rob Livick, PE/PLS - Public Services Director/City Engineer
SUBJECT: Water Reclamation Facility (WRF) Project Update; Including Review of Proposed Next Steps

RECOMMENDATION

Staff recommends the City Council review information regarding the current status and proposed next steps regarding the development of a WRF project proposal for the Rancho Colina site and for the City Council to provide any further direction as necessary.

ALTERNATIVES

No alternatives are recommended.

FISCAL IMPACT

The following is a summary of the existing contracts with specialty consultants used to assist in the WRF site selection.

<i>JFR Consulting – Site Selection/Project Management Assistance</i>	
Original Contract	\$117,256
Amendment #1	\$76,129
Amendment #2	\$91,336
Amendment #3	\$23,147
Total Contract	\$307,868
<i>Kestrel Consulting – Assessment Funding</i>	
Contract Amount	\$20,530
<i>Larry Walker and Associates – Permitting Constraints</i>	
Original Contract	\$24,970
Amendment #1	\$5,100
Total Contract	\$30,070
<i>Cleath-Harris Associates – Stream Flow Augmentation</i>	
Contract Amount	\$7,500
Amendment #1	\$6,500
Amendment #2	\$4,000
Total Contract	\$18,000
<i>Carollo Engineers – CMC Capacity, Siting Evaluation and Cost Estimate (Proposed to be Reimbursed by RWQCB using SEP Funds)</i>	
Total Contract	\$101,945
Total Consultant Contract Amount	\$478,413

Prepared by: RL Dept. Review: RL/RS/BK

City Manager Review: _____

City Attorney's Review: _____

The estimated cash-flow needs would be \$2 Million in 2015 and \$2.7 Million in 2016, in order to complete the Facilities Master Plan, Environmental Review and preparation of the bridging documents (30-percent design) so the project can be put out for an alternative delivery method, *i.e.* design build by late 2017. A water and sewer rate study is currently in progress to evaluate sewer rates that will be needed to achieve success in the project and meet that cash-flow need. In addition, periodic increases are likely to be needed once the new WRF is operational.

BACKGROUND/DISCUSSION

Since January 2013, the City has progressed towards the development of a WRF on a new site as illustrated in Attachment 1. That effort culminated on December 9, 2014, with the City Council expressing its preference for the site known as Rancho Colina for the development of the new WRF. On December 11, 2014, at the Joint meeting with the Cayucos Sanitary District, both the City Council and the Cayucos Sanitary District (CSD) agreed to move forward with the next steps with Rancho Colina as the preferred site.

Factors influencing the decision regarding site selection have been detailed in the report prepared by John F. Rickenbach (JFR), with technical information provided by MKN & Associates, Carollo Engineers, Larry Walker and Associates, Cleath-Harris Geologists and Kestrel Consulting, and was presented to the City Council at their December 2014 meeting.

The final JFR report made a compelling argument the optimal site for the benefit of Morro Bay and our CSD partners, is the Rancho Colina site. With a total project cost for California Men's Colony (CMC) doubling the Rancho Colina estimate, the proposed site at Rancho Colina appears to be the viable option. The next step in the process is to begin the Facilities Master Planning and Environmental Review for the preferred project location. The information and knowledge gained through studying the CMC site was not for naught, as it will be used in the environmental document as part of the required alternative analysis.

Included in this report is the draft project schedule. That schedule is the most current one available at the time of this report. Modifications to the schedule are required and include adjustments due to the delay of the final Carollo report and the Council preference decision occurring on December 9, 2014, and acknowledgement final property acquisition cannot occur until the environmental review process is complete and certified. Also, additions to the schedule include the LAFCO process and schedule impacts due to accommodating the Joint CSD/City Council meetings.

Proposed Next Steps

1. Work with the CSD on an agreement for the next phase of the project development on the Rancho Colina Site for the Facilities Master Planning and Environmental Review phases including:
 - a. Defining of the roles of the City and CSD in the review the work of technical consultants.

- b. Establishes a cost sharing formula for the future expenditures.
 - c. Consider reimbursement due to both parties for work performed since January 2013 based upon the formula established in item b.
 - d. Considers what the ultimate relationship is between the two agencies including consideration of a customer/service provider relationship.
2. Extend the contract with JFR for project management/facilitation, initial environmental and engineering work needed to fully develop the scope required for Facilities Master Plan (FMP) and Environmental Review. The project management effort will include schedule updates, coordination with staff and technical consultants, document review, report preparation and presentations, as appropriate and other tasks, as necessary.
 3. Engage the expertise of geotechnical/hydrogeological consultant that can further define any geotechnical site constraints and explore the details of groundwater recharge in the Morro valley.
 4. Coordinate with Coastal Commission, LAFCO and San Luis Obispo County regarding the annexation of the WRF site and permit coordination.
 5. Engage consultant(s) to review cultural, biological and other environmental issues in advance of the formal environmental process to mitigate or eliminate any unknown potentially fatal flaws.
 6. Develop an agreement with the Rancho Colina property owner for the purchase of the required property for the proposed WRF. It should be noted the actual purchase cannot be completed until after the environmental document is certified.
 7. With the assistance of the project management team, develop Request for Proposals for the development of a FMP for the proposed new WRF.
 8. Work with the JFR and CSD team to develop Request for Proposals for the Environmental Review (pursuant to CEQA and potentially NEPA) for the proposed new WRF. The Environmental Review consultant should be brought in during the development of the project description in the FMP process.

CONCLUSIONS

In order to have the new WRF operational within the time frame established in Morro Bay City Council Resolution 17-14, it is critical the project team stays engaged in the process and continues to move forward with the items listed above as next steps. To that end, it would behoove the City (and CSD) to continue to work with its existing consultant team JFR and MKN & Associates since they have the background and experience to help deliver a successful project.

ATTACHMENTS

1. Timeline of WRF events
2. Preliminary Cashflow Analysis from JFR Consulting report dated May 8, 2014
3. Draft Project Schedule

Date	Action
<i>January 13, 2015</i>	<i>City Council to review "Next-Steps" and provide direction to Staff.</i>
<i>January 8, 2015</i>	<i>Staff presentation of the "Next-Steps" to the City Council and CSD Board</i>
<i>December 11, 2014</i>	<i>Staff presented to the City Council and the CSD Board of Directors the Final JFR report, including the CMC evaluation by Carollo Engineers. The csd Board of Directors concured that based on the information presented that the Rancho Colina site appeared the most viable and cost effective.</i>
<i>December 9, 2014</i>	<i>City Council meets to review the Final JFR report, including the CMC evaluation by Carollo Engineers. The City Council expresses their preference for Rancho Colina as their preferred site for the New WRF. The cost estimates indicated that the CMC site was nearly double that of the Rancho Colina site.</i>
<i>December 8, 2014</i>	<i>Corollo Engineers releases their Technical Morandum regarding CMC WWTP capacity and necessary facility expansion to accommodate increase flows from City and CSD.</i>
<i>December 8, 2014</i>	<i>Meeting between MBNEP and City staff to discuss concerns regarding the siting of the WRF at CMC and increased pollutant loads to Chorro Creek.</i>
<i>December 8, 2014</i>	<i>Meeting between City staff and the WRF Technical Committee (Irons/Smukler) to review the project status.</i>
<i>December 1, 2014</i>	<i>Tour of the existing CMC facility with representatives from CDCR, CSD and the City.</i>
<i>November 19, 2014</i>	<i>Conference call between CDCR, CSD and Morro Bay staff regarding the logistics of siting at the CMC location.</i>
<i>November 18, 2014</i>	<i>Meeting between City and California Coastal Coastal Commission staff regarding a varieity of projects in Morro Bay including the WRF siting.</i>
<i>November 13, 2014</i>	<i>Staff presented to the City Council and the CSD Board of Directors the status of the CMC Capacity Analysis and also updated the CSD Board on the City Council meeting of November 12, 2014</i>
<i>November 12, 2014</i>	<i>The City Council reviewed the draft report from John Rickenbach Consulting regarding final site preference. As the result of the report being incomplete, without the Carollo CMC engineering analysis including comparable cost estimates, the City Council choose to delay their decision on final site preference until such time that the report is complete and the WRFCAC has had a chance to review and make a recommendation.</i>
<i>November 5, 2014</i>	<i>The WRFCAC met and reviewed the draft report from John Rickenbach Consulting regarding final site preference. As the result of the report being incomplete, without the Carollo CMC engineering analysis including comparable cost estimates, the WRFCAC moved to recommend to City Council to delay their decision on final site preference until such time that the report is complete and the WRFCAC has had a chance to review and make a recommendation to the City Council.</i>
<i>October 28, 2014</i>	<i>Cleath-Harris and Associates presented the Hydrogeological Technical Memoranda regarding the relative benefits of a Creek discharge in the Chorro Valley and In-Lieu recharge in the Morro Valley to the City Council at their regular meeting.</i>
<i>October 22, 2014</i>	<i>Meeting of the WRFCAC where they reviewed the Hydrogeological Technical Memoranda by Cleath-Harris and Associates and toured the Rancho Colina site.</i>
<i>October 20, 2014</i>	<i>A conference call between Morro Bay, CSD, CMC, Regional Board and CDCR was held to discuss the viability and timing of a regional facility at CMC. At that meeting CDCR authorized the release of WWTP data to Carollo for their process modeling.</i>
<i>October 10, 2014</i>	<i>A project kick off meeting was held at the City's Public Services offices for the Carollo CMC work, City and CSD staff along with the City's consultants were in attendance.</i>

WRF Project Timeline
January 2013 - Present

ATTACHMENT 1

Date	Action
October 9, 2014	Meeting between the Morro Bay City Council and the Cayucos Sanitary District Board of Directors Meeting in Cayucos. City Council directed, by motion, City staff to work cooperatively with Cayucos Sanitary District staff.
October 8, 2014	Meeting of the WRFCAC where they reviewed the LWA report regarding permitting constraints, Kestral Consulting report regarding financing and grants and they formed three technical subcommittees.
October 2, 2014	Meeting of the Morro Bay City Council Technical/Executive Committee and the Cayucos Sanitary District Board of Directors in Morro Bay
September 30, 2014	The Public Services director executed a contract with Carollo Engineers for the study of capacity and expansion capability at the CMC site.
September 26, 2014	Meeting with Bartle Wells (Sewer and Water Rate Consultant) regarding hearing schedule and additional data needs
September 25, 2014	Received final scope and estimated fee (\$101,945) from Carollo Engineers for the evaluation of the CMC option, Carollo requested changes to the standard City contract which are being reviewed by the City Attorney
September 23, 2014	City Council Special Meeting reviewed the Report by Larry Walker and Associates regarding the Water Quality permitting implications at each of the two final proposed sites. Council also discussed the potential of joint City Council/WRFCAC meetings and status of the CMC evaluation
September 11, 2014	Joint meeting of the Morro Bay City Council and the Cayucos Sanitary District Board of Directors Meeting in Morro Bay.
September 10, 2014	First Meeting of the WRFCAC
August 12, 2014	City Council confirmed Citizen Appointments to the WRFCAC
July 16, 2014	Kick off meeting with Larry Walker Associates regarding discharge permit requirements for various disposal/reuse options for the new WRF project.
July 10, 2014	Meeting with Cayucos Sanitary District staff to discuss the scope of work for the proposed Carollo Engineers CMC capacity evaluation study.
July 9, 2014	City Council conducted interviews for positions on the WRF Citizens Advisory Committee (WRFCAC). City Council appointed seven members to the WRFCAC.
June 30, 2014	Staff met internally to gather preliminary information for Bartle Wells Rate Study. Staff will have all info to Bartle Wells by the end of July.
June 27, 2014	Kick off meeting with Kestrel Consulting to discuss funding strategies for the new WRF project.
June 27, 2014	Meeting with Cleath-Harris to review draft Chorro Creek discharge study and effect on City water supply. Authorized Cleath-Harris to perform a similar study for the Morro Valley.
June 25, 2014	Meeting with John Rickenbach and Mike Nunley to discuss project schedule for the WRF project
June 20, 2014	City executed a contract with Larry Walker Associates in the amount of \$24,970 to advise the City regarding discharge permit requirements for various disposal/reuse options for the new WRF project.
June 15, 2014	City executed a contract with Kestrel Consulting in the amount of \$20,530 to develop funding strategies for the new WRF project.
June 14, 2014	Staff has met with a variety of alternative project delivery method firms to explore the requirements for this process, firm include: Corollo, CDMSmith; and Black and Veatch.

New items are indicated as italics.

WRF Project Timeline
January 2013 - Present

ATTACHMENT 1

Date	Action
May 27, 2014	City Council adopted Resolution 34-14 that provides direction to staff regarding the "Rancho Colina" site, continuing parallel path discussion regarding the CMC site, and forming a Citizen's Advisory Committee.
May 23, 2014	Selected Bartle Wells as Water and Sewer Rate Study consultant. The estimated fee for the study is not to exceed \$67,440.
May 22, 2014	The City Clerk posted the notice of the formation of a new, limited term and scope, i.e. Water Reclamation Facility Citizen's Advisory Committee. Applications are due to the Clerk by Friday, June 13, 2014.
May 13, 2014	Council Approved New Water Reclamation Facility Project Report on Reclamation and Council Selection of a WRF Site and provided direction to staff to return to Council with a resolution that captured the motions made.
May 8, 2014	May JPA Meeting cancelled.
May 1, 2014	Scheduled site visit at Giannini site with WRF Subcommittee, JRF Consulting and Property Owner.
April 23, 2014	Meeting to review the "Rancho Colina" site with the Morro Bay and CSD Sub-Committees along with Water Board staff.
April 21, 2014	"Rancho Colina" site visit with staff and Council persons Leage and N. Johnson.
April 18, 2014	Letter sent to property owners of potential WRF sites, inviting a discussion regarding siting potential
April 11, 2014	"Rancho Colina" site visit with staff and Council person C. Johnson.
April 10, 2014	April JPA Meeting cancelled
March 21, 2014	Meeting between City of Morro Bay (Irons/Smukler) and CSD (Enns/Lloyd) Sub-Committees along with Morro Bay and CSD County and Water Board Staff to discuss overall project status and the CMC option.
March 20, 2014	WRF Sub-Committee meeting along with staff and property owner at the "Rancho Colina" Morro Valley site to get an overview of the potential for it as a project location.
March 10, 2014	March JPA Meeting cancelled.
March 6, 2014	Scheduled WRF Subcommittee meeting with staff to discuss grant opportunities and schedules.
February 28, 2014	Received a revised scope of work for a contract amendment received from Rickenbach recognizing the accelerated time schedule for the WRF. Estimated fees not to exceed \$76,129.
February 25, 2014	City Council received a status update on the New WRF and adopted Resolution 17-14 prescribing a 5-year time frame for the construction of the New WRF.
February 13, 2014	WRF Sub-Committee meeting to discuss the 5 year time schedule and grant opportunities.
February 13, 2014	February JPA Meeting held.
February 11, 2014	Mid-year Budget adjustment to include additional funding for WRF alternative site analyses. \$100,000 was approved.
January 31, 2014	Status report preparation assigned to Public Services Director.
January 29, 2014	Received proposal from Rickenbach for a contract amendment to perform due diligence on alternative WRF sites for final site selection. Estimated fees not to exceed \$63,806.
January 23, 2014	Onsite staff meeting with property owner at Rancho Colina to tour a potential location.

New items are indicated as italics.

WRF Project Timeline
January 2013 - Present

ATTACHMENT 1

Date	Action
January 23, 2014	Telephone discussion with City's Water Attorney regarding water rights to creek discharge of wastewater.
January 20, 2014	Received proposal from Cleath-Harris to study Chorro Creek discharge and effect on City water supply. Estimated fees not to exceed \$7,500.
January 16, 2014	January JPA Meeting canceled.
December 19, 2013	December JPA Meeting held – Verbal update by both CMB and CSD.
December 10, 2013	Presentation of Options Report to City Council.
November 19, 2013	Meeting with RWCQB Staff regarding project Status and Permit Renewal.
November 14, 2013	November 2013 JPA Meeting Cancelled.
November 12, 2013	Presentation of Options Report to City Council.
November 5, 2013	Second Public Workshop – Presentation of Options Report for Public Feedback.
November 4, 2013	Public Works Advisory Board – Options Report to Board for Public Feedback.
October 29, 2013	Release of Public Draft – Options Report.
October 21, 2013	Quarterly Coastal Commission/City of Morro Bay Meeting.
September 27, 2013	October 2013 JPA Meeting cancelled.
September 16, 2013	Biosolids and Treatment Options Workshop at MB Veteran's Hall.
September 12, 2013	September JPA Meeting held.
August 19, 2013	Week ofmWorkshop Summary posted on City's website. Comments Form available on City's website for additional comments on the workshop and/or project.
August 15, 2013	Community Workshop #1 held at MB Veteran's Hall.
August 8, 2013	August JPA Meeting Cancelled.
July 25, 2013	Stakeholder Interviews conducted by Rickenbach team.
July 19, 2013	WSC Report entitled <u>Conceptual Wastewater Treatment Alternatives Technical Memorandum</u> commissioned by the Cayucos Sanitary District (CSD) released on the CSD website and delivered to the City. Report located at the following address: www.cayucossd.org/documents/Conceptual%20WW%20Treatment%20AltTM_CSD.pdf
July 18, 2013	Quarterly Coastal Commission/City of Morro Bay meeting, Rickenbach Team participated in review and discussion of the status of the WRF project.
July 11, 2013	July JPA Meeting Cancelled.
July 3, 2013	Tentative Schedule from Rickenbach for the New WRF posted online and available.
July 3, 2013	Working with Coastal Commission staff to finalize date for quarterly meeting/teleconference.
June 28, 2013	Work with Rickenbach to determine updated schedule pursuant to the scope of work in the RFP. Determination of Stakeholder groups/individuals.
June 24, 2013	Kick-off Meeting with John Rickenbach and team members.
June 13, 2013	JPA Meeting – Cayucos Veteran's Hall.
May 28, 2013	Closed Session Item scheduled to discuss Righetti appraisal.
May 15, 2013	Public Services staff continues to work with John F. Rickenbach, Consulting to finalize the consultant contract
May 14, 2013	City Council meeting – Approval of John F. Rickenbach, Consulting as the Preliminary Planning Consultant for the WRF project.
May 9, 2013	May JPA meeting held, "Verbal Report by the City and District on the Progress of the future WWTP" was on the agenda and discussed.
May 2, 2013	Interviews to recommend the individual/team for the WRF project manage.
April 29, 2013	WRF Study Session at Veteran's Hall.

New items are indicated as italics.

WRF Project Timeline
January 2013 - Present

ATTACHMENT 1

Date	Action
April 25, 2013	Quarterly Meeting with California Coastal Commission staff, WRF discussion and status report on the meeting agenda.
April 25, 2013	Initial meeting with Selection Committee for the RFP for Planning Services for the WRF.
April 23, 2013	City Council meeting for the reaffirmation of 5 members of citizen selection committee.
April 16, 2013	Study Session on WRF facility announced for April 29, 2013.
April 15, 2013	RFP due.
April 11, 2013	April JPA meeting held, "Verbal Report by the City and District on the Progress of the future WWTP" and Discussion and Approval to Terminate the Consultant Services Agreements with Delzeit; Dudek, McCabe and Company; and Montgomery Watson Harza (MWH)" were on the agenda and discussed.
April 10, 2013	Addendum to RFP issued, re: selection committee
April 9, 2013	City Council meeting - appointment of 5 citizens for the RFP selection committee at City Council meeting.
April 5, 2013	Citizen selection committee deadline.
March 27, 2013	Announcement placed on City website, etc. regarding citizen selection committee application period.
March 26, 2013	City Council meeting - City Council approves citizens to serve on the RFP selection committee.
March 18, 2013	RFP issued.
March 14, 2013	City Council goal session, WRF established as Essential City Goal.
March 14, 2013	March JPA meeting held, "Status Report on the Discussion with RWQCB Staff Renewal Process for the WWTP NPDES Permit No. CA0047881" and "Verbal Report by the City and District on the Progress of the future WWTP" were on the agenda and discussed.
March 11, 2013	City Council goal session, WRF established as Essential City Goal.
February 26, 2013	City Council meeting - draft schedule/project timeline presented to City Council.
February 26, 2013	City Council directed staff to prepare an RFP for a project manager.
February 14, 2013	February JPA meeting held, "Discussion and Consideration of Next Steps for the WWTP Upgrade Project" was on the agenda and discussed.
January 24, 2013	City Staff, Morro Bay JPA Sub-Committee, Cayucos SD representatives, staff and attorney meet and discuss strategy and moving forward.
January 8, 2013	WWTP Project denied by the California Coastal Commission (CCC).
January 8, 2013	January JPA not held due to CCC meeting.
January 3, 2013	Special City Council meeting – City Adopted Resolution No. 07-13 supporting the California Coastal Commission staff recommendation for denial.

New items are indicated as italics.

Cost Cumulative Cost

ATTACHMENT 2

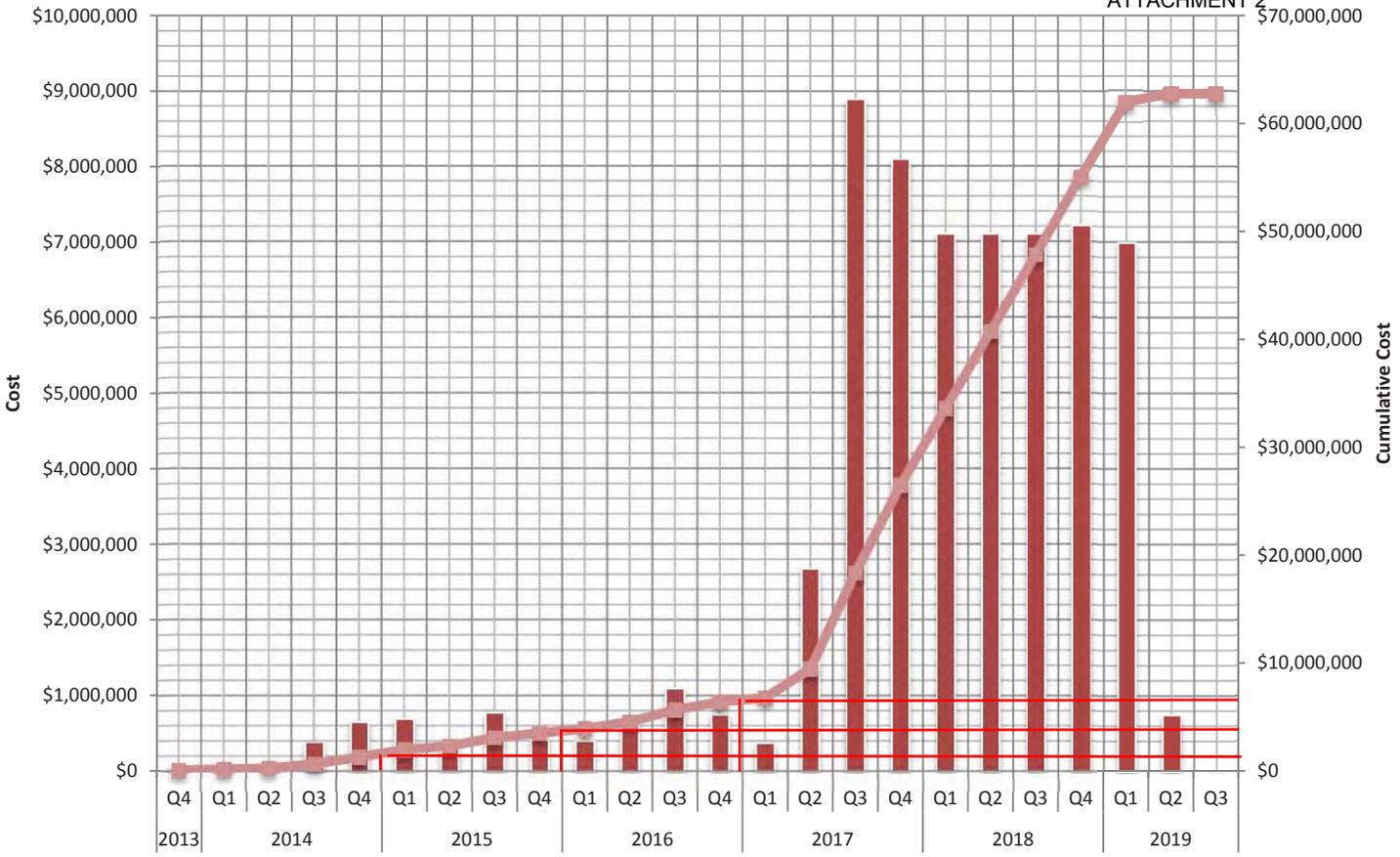


Figure 5 – Preliminary Cashflow Analysis

Morro Bay WRF Project Schedule

ID	Task Mode	Task Name	Duration	Start	Finish	2014				2015				2016				2017				2018				2019				2020			
						Q4	Q1	Q2	Q3																								
1		Council Direction re: Options Report	1 day	Tue 12/10/13	Tue 12/10/13																												
2		Site Evaluation Report - JFR	185 days	Thu 2/27/14	Wed 11/12/14																												
3		Site Selection	20 days	Thu 11/13/14	Wed 12/10/14																												
4		Property Negotiation and Acquisition	9 mons	Thu 11/13/14	Wed 7/22/15																												
5		CMC Evaluation - Carollo	53 days	Fri 10/3/14	Tue 12/16/14																												
6		Notice to Proceed	0 days	Fri 10/3/14	Fri 10/3/14																												
7		Draft Report	33 days	Fri 10/3/14	Tue 11/18/14																												
8		City Review	10 days	Wed 11/19/14	Tue 12/2/14																												
9		Final Report	10 days	Wed 12/3/14	Tue 12/16/14																												
10		Preliminary Permitting Constraints Analysis - LWA	71 days	Mon 6/23/14	Mon 9/29/14																												
11		Chorro Valley Benefits Analysis - CHG	30 days	Mon 8/25/14	Fri 10/3/14																												
12		Morro Valley Benefits Analysis - CHG	60 days	Mon 8/25/14	Fri 11/14/14																												
13		Evaluation of Delivery Method TM - JFR	85 days	Mon 8/11/14	Fri 12/5/14																												
14		Initial Grant/Loan Opportunities Assessment - Kestrel	78 days	Mon 6/23/14	Wed 10/8/14																												
15		Document Management System Evaluation - JFR	48 days	Wed 10/1/14	Fri 12/5/14																												
16		Initial Caltrans Coordination/Research for Pipeline Easements (HWY 41) - JFR	51 days	Fri 9/19/14	Fri 11/28/14																												
17		City Council Decision on WRF Site	0 days	Wed 11/12/14	Wed 11/12/14																												
18		RFP/Selection of Facilities Master Plan Consultant	60 days	Thu 12/11/14	Wed 3/4/15																												
23		Facilities Master Plan	186 days	Thu 3/5/15	Thu 11/19/15																												
24		Development of Bridging Documents	4 mons	Fri 11/20/15	Thu 3/10/16																												
25		RFP/Selection of Lift Station/Force Main Design Consultant	70 days	Fri 11/20/15	Thu 2/25/16																												
30		RFQ/RFP/Selection of Design/Build Team	120 days	Fri 1/8/16	Thu 6/23/16																												
35		Owner's Representative Support - Design Phase	12 mons	Fri 1/8/16	Thu 12/8/16																												
36		Design/Bid/Build Lift Station and Force Main	805 days	Fri 4/8/16	Thu 5/9/19																												
55		Phase I Design/Build Delivery	880 days	Fri 6/24/16	Thu 11/7/19																												
68		RFP/Selection of EIR/Permitting Team	70 days	Fri 11/20/15	Thu 2/25/16																												
73		EIR/Permitting	666 days	Thu 3/5/15	Thu 9/21/17																												
83		Phase II Recycled Water Distribution System	60 mons	Fri 11/8/19	Thu 6/13/24																												

File Name: Project Schedule_5-Yr
Date: Tue 11/4/14

Task		External Tasks		Manual Task		Finish-only	
Split		External Milestone		Duration-only		Deadline	
Milestone		Inactive Task		Manual Summary Rollup		Critical	
Summary		Inactive Milestone		Manual Summary		Critical Split	
Project Summary		Inactive Summary		Start-only		Progress	



AGENDA NO: C-2

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** December 29, 2014

FROM: Eric Endersby, Harbor Director

SUBJECT: Discussion and Direction on Expiring Lease at Lease Site 62/62W
(Krueger/Kayak Horizons)

RECOMMENDATION

Staff recommends the Council consider the alternatives presented and provide staff direction.

ALTERNATIVES

- A. Direct staff to conduct a Request for Proposal (RFP) process for the site as soon as feasible.
- B. Conduct an RFP process at a later date; delaying until the lease's expiration draws closer (September 2018).
- C. Allow the leaseholder continue their negotiations with a potential buyer for the site (Todd and Tamara Baston, new owners of Gray's Inn). Should the Council choose this alternative, staff will bring back the Assignment and Assumption for approval at a later date, including a more detailed proposal from the Baston's for consideration of Consent of Landowner approval.

FISCAL IMPACT

There is no significant fiscal impact expected at this time as the existing lease is relatively new and contains modern terms and conditions.

SUMMARY

In the summer of 2013, the Leaseholder of lease site 62/62W presented a preliminary redevelopment project proposal for their site. That proposal was considered and accepted by the City Council with direction to staff to work with the Leaseholder towards a more in-depth proposal. Subsequently the Leaseholder withdrew their proposal, but has recently negotiated an agreement with a new buyer. Council is now being asked to consider how to proceed with this lease site.

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

Lease site 62/62W, located at 551 Embarcadero, is a 23-year City lease originally entered into in 1995, expiring in September 2018. As the lease is within the last five years of its term, and pursuant to the Harbor Department's Lease Management Policy, the Leaseholder proposed a modest redevelopment project on the site that was taken to the City Council for consideration at their July 9, 2013 meeting. The proposal consisted of the following: removal of the existing one-story storage building in the southwest corner of the site, improving the view corridor; addition of a water-side walkway, eventually connecting to the neighboring lease site to the north; remodeling the existing dock to include the addition of a small storage shed; and, general updating and refurbishing of the site and main building. This site is one of the smallest lease sites on the waterfront.

The proposal was originally scheduled to be heard at the June 11th meeting; however, the Council moved to continue the item to a future meeting in order to hear it in conjunction with the Gray's Inn lease site proposal. The Gray's Inn lease also expires in 2018.

At the July 9, 2013, Council meeting both lease site proposals were presented for consideration with multiple alternatives provided by staff which included accepting both proposals and moving forward as two separate projects, directing staff to prepare and bring back separate RFP's for each site, or directing staff to prepare and bring back one RFP combining the sites under one leaseholder. Council consensus was to consider the lease sites separately; with regard to Lease Site 62/62W, the Council unanimously voted to approve Mr. Krueger's preliminary proposal and directed staff to work with Mr. Krueger for an in-depth proposal to be submitted for concept plan approval.

DISCUSSION

While staff began work with Mr. Krueger on expanding and vetting his proposal, on November 15, 2013 he notified the City that he was no longer interested in pursuing a new lease and associated lease site improvements.

There are now approximately 3 ½ years left on the lease. The decision in front of the Council is whether to direct staff to conduct an RFP process now; wait to conduct an RFP process, delaying until the lease expiration draws nearer; or wait until Mr. Krueger finalizes negotiating an agreement with Todd and Tamara Baston, who currently are the leaseholders of site 63-64/63W64W, Gray's Inn, for subsequent Assignment and Assignment of the lease and possible Consent of Landowner approval.

The Bastons have submitted an initial written Site Development Plan consisting primarily of:

- Enhanced view corridor by removal of the storage shed on the SW corner of the site.
- Renovation of the existing building to motel units, including ADA-accessibility (and parking) on the ground floor, with potential addition of units as space allows.
- Accommodation of the Kayak Horizons kayak rental use completely on an expanded dock.
- Full 8-foot street sidewalk including new access to new Harborwalk public walkway.
- New restroom facility for kayak rental patrons.
- Gangway, dock, piling and facility repairs and maintenance.

CONCLUSION

Mr. Krueger is a tenant in good standing, is considered to have a good history of lessee performance, and has operated and maintained his lease site well. The Bastons, while being relatively new tenants, achieved acceptance of their initial concept plan for the adjacent Gray's Inn lease site with Consent of Landowner approval of Council in April, 2014, and to date are also in good standing.

ATTACHMENTS

June 11, 2013 staff report and minutes

July 9, 2013 staff report and minutes

Mr. Krueger's withdrawal letter

Email correspondence between Mr. Krueger and the Bastons

Written Site Development Plan for the lease site

Aerial view of lease site



AGENDA NO: D-2

MEETING DATE: June 11, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 4, 2013
FROM: Eric Endersby, Harbor Director
SUBJECT: Consideration of Redevelopment Project Proposed for Lease Site 62/62W
(Kayak Horizons – Krueger).

RECOMMENDATION

Staff recommends the Council considers the two alternatives and provide staff direction. Staff is recommending Alternative A.

ALTERNATIVES

- A. Accept the Leaseholder's proposed project and direct the Leaseholder to file their Application with the Planning Division and authorize staff to begin lease negotiations with the Leaseholder for the proposed redevelopment.
- B. Direct staff to prepare and bring back Requests for Proposals (RFPs) for the site.

FISCAL IMPACT

None expected. The existing lease is relatively modern and contains modern terms and conditions.

SUMMARY

The Leaseholder on lease site 62/62W has proposed a redevelopment project on their site. As requested by the City, they have submitted a preliminary proposal for public comment and Council consideration. Council is being asked to consider the proposal and provide staff direction on the alternatives.

BACKGROUND

Lease site 62/62W is a 23-year City lease originally entered into in 1995 that expires in September 2018. This site is within the last five years of its lease term, and pursuant to the Lease Management Policy the Leaseholders have submitted a written proposal for a modest redevelopment project on the site. This site is one of the smallest lease sites on the waterfront.

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

DISCUSSION

For Tidelands Trust Leases from Beach Street to Tidelands Park, the City's Lease Management Policy states:

"In this area, the City controls land and water areas. In this area tenants are encouraged to propose redevelopments of lease sites to improve public benefits on these sites, enhance the Embarcadero business environment, and renegotiate leases to modern terms. To help accomplish this, and to provide tenants motivation not to let long-term leases run to the very end of their terms with degraded building/improvements, and under market lease terms, the City will generally not renew leases with existing tenants in this area if they allow their leases to run to a term of less than five years remaining."

In addition, the City's Lease Management Policy states that it will use the following standards for determining whether it should negotiate a new lease with a tenant:

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

Pursuant to the Lease Management Policy, the Leaseholder has submitted a redevelopment proposal. The proposal consists of removal of the existing one-story storage building in the southwest corner of the site to open up the views, addition of the water-side walkway to eventually connect to the neighboring lease site to the north, remodeling of the existing dock including addition of a small storage shed on the dock, and general updating and refurbishing of the site and main building. A copy of their proposal is included in this report.

Alternative A is would accept the Leaseholder’s proposal and direct staff to begin negotiating preliminary terms and conditions of a new lease, while the Leaseholder would concurrently file an Application with the City Planning Division to begin the development process. In addition, staff would work with the Leaseholder on furthering the details of their proposed project. Staff is recommending Alternative A.

Alternative B would put the lease site out for RFPs. The existing Leaseholder could submit a proposal in this alternative. Should this alternative be chosen, staff will begin work on crafting an RFP for future Council approval.

CONCLUSION

Based on the Leaseholder’s modest redevelopment proposal on their small but successful lease site, staff recommends Alternative A as outlined. This Leaseholder is a tenant in good standing and is considered to have a “good history of lessee performance.”

Embarcadero and APN 068-168-022, Vacant Lot next to 1320 Main Street; and, Conference with legal counsel due to anticipated litigation, Government Code Section 54956.9(b): Exposure to litigation exists based upon existing facts and the advice of legal counsel as to one matter - First American Title Company/First California Bank and City of Morro Bay; no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT

Meredith Bates, owner of Bates Care Management, presented the Morro Bay business report. Bates Care Management is a geriatric care management firm that covers the entire County. It is her goal that loved ones are able to stay safely in their own homes or transition into assisted living. Ms. Bates works carefully with the family. For those with loved ones outside of the County, you can locate a care manager by going to caremanager.org and then put in your zip code. To contact Ms. Bates you can call 771-9124 or go to her website at batescare.com. She urged people contact her with any questions they may have.

Stephanie Pipan, the City's K-9 Officer advertised the 3rd Annual K-9 Walk being held on Saturday, June 22, 2013. It is the annual fundraiser for Xello and the Canine Unit. The event is being held at City Park, there will be vendors, demo's, and will also feature a dog walk. The cost is a \$20 donation which will also get your dog a "goodie bag".

Police Commander Bryan Millard urged the community to support Officer Pipan in her fundraising goals; it takes between \$7,000-10,000 to maintain a police K9 in our community per year. He also advertised the upcoming Tip-a-Cop Dinner being held on Friday, June 28th benefitting Special Olympics. The event is being held at the Community Center and the cost is \$20/adult and \$5/child or \$150/table.

At this time, Mayor Irons requested the Council consider pulling Item D-2, Consideration of Redevelopment Project Proposed for Lease Site 62/62W (Kayak Horizons – Krueger) and continue it to a future meeting so that it could be heard in conjunction with the Gray's Inn item. Councilmembers Nancy Johnson and Leage both wanted to hear the item tonight as scheduled. Councilmembers Christine Johnson and Smukler both felt it was important to hear this item alongside the Gray's Inn item.

MOTION: Mayor Irons moved to continue Item D-2, Kayak Horizons, and to bring it back with Gray's Inn. The motion was seconded by Councilmember Smukler and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

Brian Stacy stated that he was a victim of the largest conspiracy in human history. Tonight he wanted to talk about crime and Council's obligation to follow through on these allegations.

Craig Schmidt advertised upcoming Morro Bay events. On June 12th, there will be a Morro Bay/Los Osos Chamber mixer at Sea Pines Restaurant from 530-730pm; on June 20th there will



AGENDA NO: C-1

MEETING DATE: July 9, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: July 1, 2013

FROM: Eric Endersby, Harbor Director

SUBJECT: Consideration of Redevelopment Projects Proposed for Lease Sites 62/62W (Kayak Horizons – Krueger) and 63-64/63W-64W (Gray's Inn - Gray)

RECOMMENDATION

Staff recommends that the Council consider the alternatives and provide staff direction. Staff is recommending Alternative A.

ALTERNATIVES

- A. Accept the Leaseholders' proposals, direct Leaseholders to file their Applications with the Planning Division, and authorize staff to begin lease negotiations with the Leaseholders for their proposed redevelopments. In the case of 63-64/63W-64W, Assignment and Assumption of the lease would have to first be approved in the proposal being offered.
- B. Direct staff to prepare and bring back individual Requests for Proposals (RFPs) for the sites to be redeveloped and owned individually.
- C. Direct staff to prepare and bring back one RFP for combining the sites under single leaseholder redevelopment and ownership.

FISCAL IMPACT

Nothing significant expected with 62/62W; the existing lease is relatively modern and contains modern terms and conditions. Increased revenue expected as the Pipkin lease on site 63-64/63W-64W is retired and replaced with a modern lease that would include percent of gross sales requirements in addition to property re-appraisal and new Base Rent adjustment every five years.

SUMMARY

The Leaseholder on lease site 62/62W has proposed a redevelopment project on their site. As requested by the City, they have submitted a preliminary concept proposal for public comment and Council consideration.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The Leaseholder on lease site 63-64/63W-64W has proposed an Assignment and Assumption of the site by new buyers, and a redevelopment proposed by those new buyers is attached for public comment and Council consideration.

Council is being asked to consider the proposals and provide staff direction on the alternatives.

BACKGROUND

Lease site 62/62W (Kayak Horizons) is a 23-year City lease originally entered into in 1995 that expires in September 2018. Lease Site 63-64/63W-64W (Gray's Inn) is a 50-year Pipkin lease originally entered into in 1968 that also expires in September 2018. Both sites are nearing the last five years of their terms.

Pursuant to the Lease Management Policy, the Leaseholders of Kayak Horizons have submitted a written proposal for a redevelopment project on the site in exchange for a new lease. A copy of that proposal is included with this report. This site is one of the smallest lease sites on the waterfront. Staff originally brought this proposal forward at the June 11, 2013 City Council meeting, however, Council deferred considering the proposal until it could be brought forward at the same time as Gray's Inn so that the aspect of possibly combining the sites could be considered.

The Leaseholder of Gray's Inn is currently in negotiations with potential buyers of the site, Todd and Tamara Gray-Baston. The Bastons have submitted a written proposal for acquiring the lease and implementing a redevelopment project on the site in exchange for a new lease. A copy of that proposal is included with this report.

DISCUSSION

For Tidelands Trust Leases from Beach Street to Tidelands Park, the City's Lease Management Policy states:

“In this area, the City controls land and water areas. In this area tenants are encouraged to propose redevelopments of lease sites to improve public benefits on these sites, enhance the Embarcadero business environment, and renegotiate leases to modern terms. To help accomplish this, and to provide tenants motivation not to let long-term leases run to the very end of their terms with degraded building/improvements, and under market lease terms, the City will generally not renew leases with existing tenants in this area if they allow their leases to run to a term of less than five years remaining.”

In addition, the City's Lease Management Policy states that it will use the following standards for determining whether it should negotiate a new lease with a tenant:

- A. The tenant has a good history of performance and lease compliance and the improvements on the site are well maintained. Example standards for determining “good history” of lessee performance are:

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

Pursuant to the Lease Management Policy, the Leaseholder of Kayak Horizons has submitted a concept redevelopment proposal. The proposal consists of removal of the existing one-story storage building in the southwest corner of the site to open up the views, addition of the waterside walkway to eventually connect to the neighboring lease site to the north (Gray's Inn), remodeling of the existing dock including addition of a small storage shed on the dock, and general updating and refurbishing of the site and main building.

While the Leaseholder of Gray's Inn has not submitted a redevelopment proposal because they wish to retire from running the Inn and Gallery, she is actively in negotiations to sell the site to a couple that has submitted their desire to acquire the site along with a concept redevelopment proposal. The proposal consists of providing an eight-foot street-side sidewalk, an eight to ten-foot lateral access boardwalk on the water side to connect with the adjoining lease sites north (Salt Building) and south (Kayak Horizons), enhancing the view corridor between the Inn and Kayak Horizons, maintenance of the existing slips, and additional ADA compliance on the site.

Alternative A is would accept the individual Leaseholders' proposals and direct staff to begin negotiating preliminary terms and conditions of new leases, while concurrently working with them on furthering the details of their proposed projects. While this is occurring, the Leaseholders would file Applications with the City Planning Division to begin their development processes. Since the proposal on Gray's Inn entails acquisition of the lease by a new party, the normal Assignment and Assumption approval process would have to occur prior to lease negotiations and submission of the redevelopment Application by the proposed new owners.

Alternative B would put the lease sites out for individual RFPs. The existing Leaseholders could submit proposals in this alternative. Should this alternative be chosen, staff will begin work on crafting RFPs for future Council approval.

Alternative C would put the lease sites out for one RFP that would combine them under a single leaseholder redevelopment project and ownership. Again, should this alternative be chosen the existing Leaseholders could submit proposals. However, neither party has proposed to take over the redevelopment and operation of the lease of their neighbor. Should this alternative be chosen, staff will begin work on crafting an RFP for future Council approval.

Staff is recommending Alternative A since neither proposing party has proposed to take over the neighboring site, both Leaseholders are tenants in good standing with a "good history of lessee performance," and the Leaseholder of Gray's Inn is actively pursuing sale of her site after a long tenure of good tenancy.

CONCLUSION

The Leaseholder on the Kayak Horizons lease site has proposed a redevelopment project for a new long-term lease, while the Leaseholder on the Gray's Inn lease site has proposed an Assignment and Assumption of the lease to be followed by a redevelopment project by the new owners for a new long-term lease. Based on the Leaseholders' proposals on their successful and well-maintained lease sites, staff recommends Alternative A as outlined.

Public Services Director Rob Livick will work with the consultant to see if we/they can accommodate future improvements in the northern end without affecting any major changes in the price. He feels there may be ways to incorporate these improvements into the planning document.

MOTION: Councilmember Smukler moved to approve Item A-10, the consultant agreement with RRM Design Group for designing, permitting and associated environmental services for the Morro Creek Multi-use Trail and Bridge project. The motion was seconded by Mayor Irons and carried 5-0.

A-11 RESOLUTION NO. 41-13 ADOPTING 2013/14 MASTER FEE SCHEDULE;
(ADMINISTRATIVE SERVICES)

Councilmember Christine Johnson pulled this item to have Administrative Services Director Susan Slayton discuss an edit needed on Footnote 6 on page 7 - Impact Fees.

Ms. Slayton stated that the note in question was carried over from the prior Master Fee Schedule and that note should have been red-lined out based on Resolution No. 14-13 and 16-13 which rescinded the reduced impact fees. In fact she will also be removing Note 10 as well.

Councilmember Christine Johnson also asked Harbor Director Eric Endersby to discuss 2 items in the Master Fee Schedule. The first was City Moorings Monthly and why they were lower than the market rate. Mr. Endersby responded that the rate increases are tied to the CPI whereas the market rates prices are based on demand. In this case, the City is bringing up the fees incrementally over the course of years in an effort to catch up to the market rate. The second fee in question is the Master Lease Approval Fee which is a new fee. Mr. Endersby explained that this \$810 Master Lease Approval Fee has been implemented in an attempt to recoup more of the staff costs associated with a lease coming to the end of its time. This new fee is being proposed as the new process is more time consuming and costs more to implement.

MOTION: Councilmember Christine Johnson moved to approve Resolution 41-13, adopting the 2013/14 Master Fee Schedule as amended. The motion was seconded by Mayor Irons and carried unanimously 5-0.

Councilmember Nancy Johnson stated that while discussions on items are very important, the Consent Agenda is not the place for them. When there are items that need to be discussed they should be placed under Unfinished Business or as Discussion Items, it is her understanding that Consent Items are things that we can more easily approve and not require extensive dialogue.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS

C-1 CONSIDERATION OF REDEVELOPMENT PROJECTS PROPOSED FOR LEASE SITES 62/62W (KAYAK HORIZONS – KRUEGER) AND 63-64/63W-64W (GRAY'S INN - GRAY); (HARBOR)

Harbor Director Eric Endersby presented the staff report.

Dennis Krueger, lease site holder at Kayak Horizons, stated that he has been the leaseholder since 2004, he loves what he does and would like to continue to do it. After looking at the Waterfront Master Plan, he understands what the City is trying to accomplish with their waterfront plan with the setbacks, view corridors and walkways and is prepared to do that. He also realizes a big concern for the City is that there are lots of leaseholders located in a small area and there is a need for them to work together. He has met with the Gray's Inn proposed leaseholders and he has a good picture of what can be done on his property and will work with neighboring lease sites to make it happen. He realizes that ADA will have to be dealt with. He also realizes that everyone will have to work together which should be what everybody's goal should be. His end project will look very nice as well as give the properties the privacy they need.

Proposed Lease Site holder for Gray's Inn, Tamara Gray Baston made her presentation. She and her husband Todd are very interested in purchasing Gray's Inn and continuing the lease past its 5 years. They have met with Abba Imani and Dennis regarding the mandated improvements needed in the property. Their proposal is very general because they are a bit in the dark about the specifics the City needs but are willing to put those together as they progress.

Councilmember Smukler asked them to review some of the improvements that they have proposed. Ms. Baston spoke on their proposal which includes the waterfront pedestrian walkway on the waterfront side, connecting the walkway from Abba Imani's site to Kayak Horizons, enhancing the view corridor from the street to the waterfront walkway - the view is already there in the 2nd story, the boardwalk states it's been reduced to 5 feet, they will be maintaining the slips as well as improving the ADA compliance standards of the slips, they also plan on making some ADA adjustments in at least one of the room's restrooms. It is their intent to negotiate a long term lease, initially taking over Josie's last 5 years and then would like to see an extension of at least 15-20 years.

Councilmember Leage ensured that there was appropriate parking for the project to which Ms. Baston stated there were 3 parking spots on site as well as 3 City parking spaces.

Councilmember Christine Johnson spoke on the reduction on Item E – Boardwalk reduction to 5 feet. The architect for the proposal, Gene Doughty, stated that the 5 foot on the Boardwalk is on the site to the north by Abba's. They are proposing a minimum of 8 foot and probably 10 feet in the remaining area. He also stated that the structure is only 20 years old and doesn't feel there is any need to knock it down and reconstruct it.

Mayor Irons opened up public comment for Item C-1.

Keith Swanson, son-in-law of the current Gray's Inn owner thanked staff for their patience with this process and appreciates the fact that the City has worked with them getting this back in line. Gray's Inn has a great reputation in this community and is hopeful that that can continue. He feels confident with the new leaseholders that they have a dedication just like Bob and Josie did.

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

Mayor Irons established that the first course of business was to determine whether or not these sites should be looked at as separate sites or to combine them and go out for an RFP.

Councilmember Nancy Johnson feels that an RFP should be sent out with the option for combining the sites. We have a highly underutilized piece of property in the heart of the Embarcadero.

Councilmember Smukler is not in favor of combining sites. He feels they are both unique sites and we have current proposals for both and each proposal satisfies the City commitments such as the harborwalk. Both sites are in good condition. He is not interested in pursuing an RFP for combination.

Councilmember Leage wants to give the people the chance with each proposal. Both Kayak Horizons as well as Gray's Inn should each have the right to bring us a plan and he likes the potential of the small unique lease sites. Gray's Inn has a long history of people coming for years. He's definitely for keeping them separate.

Councilmember Christine Johnson agrees with keeping the lease sites separate. We have 2 unique sites and she is in favor of keeping them that way. She is impressed with the vision of the two applicants and the time they took to research what the City is hoping to do with the Waterfront Master Plan.

Mayor Irons agrees that it's important to keep the lease sites separate for many of the reasons already stated. We have 2 sound sites.

The majority of Council would like to see the lease sites looked at separately. The Council then began to discuss the Kayak Horizon site.

Councilmember Leage is very much against sending this out for RFP, he'd rather see a proposal brought forward and give the people a chance to do the things being proposed.

Councilmember Christine Johnson is in agreement and is also impressed with the thoughtful proposal. Mr. Krueger has been very proactive in meeting with neighbors, especially those under construction right now to get estimates on what things will be costing; he seems to be a very motivated lease holder.

Councilmember Nancy Johnson stated that of the 2 proposals, she feels that the Kayak Horizon proposal is better. She stated he needs to do something about the 2nd floor and ensure it is used for permitted visitor serving uses.

Councilmember Smukler agrees with all comments made so far. He has spoken with Mr. Krueger about the use of the 2nd floor and it is his expectation that the final proposal will have a visitor serving use. He too feels that a strong component is Mr. Krueger's proactive work with his neighbors.

Mayor Irons has concerns about being able to maximize the use of the property, especially the 2nd floor. He also stated there are 2 parking spaces that are not necessarily being utilized and

wondered if they could become some kind of public benefit. As the majority of Council is in favor of moving forward and not sending this out for RFP, he would like to send the message that through the negotiation process, we see something that maximizes this lease site's 2nd floor and /or parking spaces.

Councilmember Leage stated that the Embarcadero has always had a real problem with requiring visitor serving on the 2nd floor as not many have worked.

Both Councilmembers Smukler and Nancy Johnson feel we need to remain strong on keeping a visitor serving business on the 2nd floor.

MOTION: Councilmember Smukler moved to accept the preliminary lease holder proposal for lease site 62-62W, Kayak Horizons and direct staff and Mr. Krueger to work towards an in-depth proposal and bring back for concept plan approval at the Planning Commission level and then for City Council approval. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

Discussions regarding Gray's Inn began regarding negotiating with the proposal they have or going out for RFP.

Councilmember Nancy Johnson didn't feel that the proposal was acceptable as the amount of work being proposed didn't equate to an additional 15-20 years on a lease site.

Councilmember Smukler felt that the basic foundation of the proposal was good. They are looking to satisfy all the standards we have for improvements on the boardwalk side as well as the harborwalk side in addition to the viewshed. He doesn't feel the site would be compatible to a large expansion of rooms. He is willing to move forward with this proposal; if there was a failure in the details, it can be brought back and sent out for RFP if necessary.

Councilmember Leage agrees with Councilmember Smukler completely. He would like to move on with this and let these people come back with ideas they have. The lease site isn't that large, if they make improvements, they will be able to demand more in rents which will bring up the City's revenues.

Councilmember Christine Johnson echoed many of Councilmember Leage's sentiments. Gray's Inn is almost always full. She wants to recognize the Bastons are wading into new waters and that isn't a simple process. Considering that, if you look at the aspects of their proposal, it hits the bullets that we have required. She also believes that they will find more improvements that need to be done as they dig further. She is comfortable in moving forward as this is still the initial phase; we can still come back and issue an RFP at that point. She is very impressed with their proactive outreach to the neighbors.

Mayor Irons feels that this is a very general proposal. He instinctively wondered why we are considering a lease purchase when the current leaseholder doesn't want to continue on; we should probably go to RFP and see what else is out there. He feels it's the Council's duty to take care of the fiduciary responsibility of the lease site. He realizes where the Council majority lies; he is pleased with the overall proposal as it does address all the key points and he likes the

November 15, 2013

To: Members of the Morro Bay City Council and the Morro Bay Harbor Office.

My wife and I are the leaseholders of Site 62, 62W. We took over the existing lease in 2004 and have been running Kayak Horizons from this location since.

The existing lease runs until September 30, 2018. We've had several meetings with Harbor staff to discuss what improvements would be necessary to the property in order to negotiate a new lease with the city. We've also gone before the City Council to express an interest in submitting a proposal with the improvements they'd require.

My wife and I have spent a lot of time discussing the merits of seeking a new lease and the expense involved. The main part of our discussions has focused on the fact that we'll both be in our mid/late sixties when the current lease expires and whether it's wise to be committing ourselves to the expense and hassle it would take to satisfy the city to get a new lease with longer terms.

What's been clouding my judgment is the fact that I truly love being down here on the Bay and dealing with the people I do through my business. It has been a blessing for me to be able to experience this. I think I'm in denial about getting older. But, the truth is I probably will be lucky to do, physically, what I'm doing now until the end of the current lease period.

We've decided to not pursue a new lease agreement with the city. We will continue to try to be the best leaseholders we can. We plan to run our business and keep the current improvements in good condition until the end of the current lease.

I'd like to apologize for the way this has progressed. I've probably been the most wishy-washy individual you've dealt with concerning the lease sites. It hasn't been my intention to waste anyone's time but I'm afraid I have. It's taken me a long time to come to this decision and will be very sorry when we reach the end of the lease.

I'd like to thank Lori and Eric at the Harbor Dept. for all the time they've spent on this. They've both been very helpful. I feel they have given straight answers to my questions, while keeping the best interests of the City in mind.

I'd also like to thank the members of the City Council. It's been very impressive to see how prepared you are for the meetings and how seriously you take your responsibilities as Council members.

Dennis and Deborah Krueger

Lease Site 62,62W
551 Embarcadero
Morro Bay, CA 93442
805-772-6444

Lori Stilts - Lease site 62,62w Dec. 29

From: Dennis Krueger <kayakhorizons@sbcglobal.net>
To: "Lori Stilts (Harbor Office)" <lstilts@morro-bay.ca.us>
Date: 12/29/2014 12:15 PM
Subject: Lease site 62,62w Dec. 29

Hello Lori,

It looks like we have worked out an agreement with Todd and Tamara Baston to purchase our lease position 62,62w. We still have a few details to work out but am confident we can get it done and have a transfer proposal ready for the next City Council meeting.

Thank you for your patience in this matter. I will do all I can to make sure we satisfy the Harbor and City.

Dennis Krueger
Lease site 62,62w
805-772-6444

City of Morro Bay Harbor Department
1275 Embarcadero
Morro Bay, CA 93442
Attn: Eric Endersby and Lori Stilts

January 5, 2015

From: Todd Baston and Tamara Gray-Baston
409 Pioneer Drive
Glendale, CA 91203

Request consideration of lease purchase and renewal for Lease Site 62/62W based on purchase of remaining lease held by present lease holder, Dennis Krueger and Kayak Horizons, along with the redevelopment of the site according to city recommendations.

Site Development Plan

Enhance viewing corridor

- Remove storage shed south end of site

Street side pedestrian walkway

- Increase street sidewalk to 8 feet
- Relocate street side signs

Waterfront walkway

- Develop 8 foot waterfront pedestrian walkway
- Collaborate with neighboring lease holders in the development and construction
- Provide ADA access to walkway

Facility Improvements

- Renovate existing building to provide:
 - Additional motel units
 - Provide complete ADA access to street level unit
 - Add ADA parking to east side of site
 - Install restroom facility for Kayak Horizon patrons
- Continue the distinctive visual quality of the structure
 - Maintain the historical and cultural identity of the Embarcadero
 - Preserve the character of a working fishing community

Kayak Horizons

- Relocate existing Kayak Horizons to the dock
- Extend existing dock to accommodate use

Improvements needed within 10 years

- Dock decking replacement

Improvements needed within 15 to 20 years

- Possible gangway replacement
- Possible piling repairs for dock

Maintenance program

- Provide a regular maintenance program retaining the city cleanliness standards
- Relocate trash containers out of public site
- Participate in the cleaning of facilities in the vicinity of the business



Lease Site
62/62W



AGENDA NO: C-3
MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council DATE: January 5, 2015

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

SUBJECT: Review of Requirements for the Sale and Ultimate Development of City-Owned Vacant Lot on the Corner of Coral Avenue and San Jacinto Street (Cloisters Lot); including Local Coastal Plan Amendment, Modification of the Coastal Commission Issued Coastal Development Permit and Potential Reprocessing of a Subdivision Map.

RECOMMENDATION

Staff recommends City Council review the information and provide direction to staff to proceed with processing of an LCP amendment and an amendment to the Coastal Commission CDP that will potentially add residential density to the subject property.

ALTERNATIVES

1. Develop the lot as a Fire Station, replacing the Bonita Station. Sell the existing Bonita Station.
2. Sell the lot “as-is” for the future developer to process any needed permit modifications.

FISCAL IMPACT

Currently, planning resources are not available to process the required LCP and CDP modifications. Additional resources would be required either by adding temporary staffing or to contract out for this item. The cost for this, assuming it would take approximately 18 months to complete, ranges from approximately \$125,000 - \$150,000.

BACKGROUND/DISCUSSION

This staff report summarizes the issues related to the potential sale and development of Lot 124, Tract 1996 (Cloisters), recorded on October 8, 1996 in Book 17, Page 83 of Maps in the office of the San Luis Obispo County Clerk-Recorder and was a resubdivision of a portion of the Atascadero Beach Tract.

In 1990, the City of Morro Bay processed and the California Coastal Commission approved a Local Coastal Plan Amendment (LCP Major Amendment 2-89) in the area known as “Cloisters.” That LCP amendment stated in part: *Such transferred density will allow 120 residential units in a clustered residential development, clustered to the North and South of the view corridors.*

Prepared by: <u>RL</u>	Dept. Review: <u>RL</u>
City Manager Review: _____	
City Attorney’s Review: <u>JWP</u>	

The final map for the Cloisters subdivision was approved by the Morro Bay City Council on September 23, 1996. The Cloisters project consists of 120 clustered residential lots and three open space lots that include a public park dedicated to the City, dune area dedicated to the State (California Department of Parks and Recreation) and the subject lot which was dedicated to the City for fire station purposes. An assessment district was formed to maintain the public park (including the parking lot and restrooms) and open space areas. The City maintains public streets and street lighting.

Prior to City Council approval of the Cloisters subdivision, it went through a lengthy public review process, including review, on appeal, and approval by the California Coastal Commission on July 9, 1992 (A-4-MRB-91-44) that resulted in a Coastal Development Permit (CDP) with the following referenced condition: Lot #124:

In the event that this site is not accepted as a location for a City Fire Station, a statement shall be recorded with the Final Tract Map identifying that unless the General Plan/Local Coastal Plan and the development agreement is amended, lot 124 shall have no residential density.(emphasis added)

The Morro Bay Planning Commission gave final approval of the Conditional Use Permit (CUP 28-90, Precise Plan) and tentative tract map (TM 01-90) on August 16, 1993. The City Council accepted the public improvements for this subdivision on January 26, 1998.

The approval of the Cloisters subdivision included a condition of approval that stated:

The applicant shall dedicate to the City one acre of land at the southwest corner of San Jacinto Street and SR 1, or at another comparable location for use by the City as a fire substation, or alternatively, at the City's discretion provide fire impact fees to the City for use in purchasing a comparable site elsewhere.

That condition of approval was satisfied when the applicant recorded an irrevocable offer to dedicate Lot 124 to the City of Morro Bay for utilization as a fire station (Doc No. 1996-050338). The irrevocable offer to dedicate Lot 124 to the City indicated if the lot were not used as a fire station, then any future development of the lot would be subject to all of the conditions of approval of the Cloisters subdivision, the Cloisters CC&Rs and the Cloisters Design Guidelines, and more specifically, without limitation, the architectural review, control and approval process set forth in the declaration. Additionally, the Grantee shall have the first right of refusal to repurchase Lot 124, to meet any *bona fide* offer to the City for the purchase of the lot.

Based on previous Council direction, the City has chosen not to develop Lot 124 as a fire station, but seeks to sell the site for residential use and utilize the proceeds to fund improvement of the existing downtown fire station.

In December 2007, the City received correspondence from the California Coastal Commission indicating the City's approval of the subdivision of Lot 124 (Vesting Tentative Tract 2859) required an LCP amendment and a CDP amendment to resolve the residential density issue on Lot 124. The City Council attempted to resolve the issue by deleting the condition from CUP 28-90 regarding residential density, but that action did not resolve the issues raised by the California Coastal Commission's previous actions on the Cloisters Subdivision.

As it stands today, the Cloisters subdivision does not contain additional residential density beyond the 120 residential units approved as part of the existing subdivision. Therefore, Lot 124 cannot currently be developed with residential units, without first adding density to the site. Density could be added to the property through a zone change process or through amendment of the density categories in the Local Coastal Plan (LCP). Those changes would also have to be accompanied by amendments to the Cloisters Conditional Use Permit, Coastal Development Permit (CDP), necessary CEQA review and, finally, amendment to the agreement offering Lot 124 to the City for use as a fire station. Any amendments to the CDP or LCP would also require Coastal Commission approval.

CONCLUSION

Based on what City staff has reviewed in the administrative record, LCP and CDP amendments are still required in order to develop Lot 124 as approved by the City of Morro Bay in 2007. If staff was directed to commence work on the LCP/CDP amendments, and additional resources are made available, then optimistically the item could be heard at the Planning Commission by July 2015. That would be followed by City Council approval in Fall 2015 and submission to Coastal Commission for final approval mid-2016. There could also be a need to either extend the expiration of the approved Tentative Map 2859 or to process a new one.



AGENDA NO: C-4

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council

DATE: January 2, 2015

FROM: Joseph W. Pannone, City Attorney

SUBJECT: Adoption of Ordinance No. 591 Amending Section 3.40.060 of the Morro Bay Municipal Code Regarding the City's Recovery of Costs Relating to Driving, Boating or Flying Incidents While Under the Influence of Drugs or Alcohol

RECOMMENDATION:

Staff recommends the City Council adopt Ordinance No. 591 after reading the title only and waiving further reading.

SUMMARY:

Ordinance 591 was introduced at the Council meeting held on December 9, 2014. This is the legally required second reading for non-urgency ordinances. After the second reading, by title only with further reading waived, it is recommended the Council adopt the ordinance, which will then become effective on the 31st day after its adoption.

Prepared By: JWP

Dept Review: _____

City Manager Review: _____

City Attorney Review: JWP

ORDINANCE NO. 591

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY, CALIFORNIA
AMENDING SECTION 3.40.060 OF THE MORRO BAY MUNICIPAL CODE
REGARDING THE CITY'S RECOVERY OF COSTS RELATING TO
DRIVING, BOATING OR FLYING INCIDENTS WHILE UNDER
THE INFLUENCE OF DRUGS OR ALCOHOL**

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, Morro Bay Municipal Code ("MBMC") section 3.40.060 governs cost recovery for the City when the City incurs costs as a result of incidents related to driving, boating or flying under the influence of drugs or alcohol; and

WHEREAS, the California Government Code ("Cal. Gov. Code") section 53155 has been amended since the City's adoption of Section 3.40.060 to increase the amount of total recovery the City may seek from \$1,000 per incident to \$12,000; and

WHEREAS, the City Council seeks to amend Section 3.40.060 to be consistent with Cal. Gov. Code section 53155.

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

SECTION 1. Section 3.40.060 of the Morro Bay Municipal Code shall be amended in its entirety to read as follows:

"3.40.060 - Limitation of costs.

All response costs which the City may recover related to incidents for driving, boating or flying under the influence shall not be in excess of Twelve Thousand Dollars for each incident as specified in Government Code section 53155. The City shall have the option to pursue any other legal remedies for recovery when such costs exceed Twelve Thousand Dollars per response."

SECTION 2: This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 9th day of December, 2014 by motion of Councilmember Johnson, seconded by Councilmember Headding.

PASSED AND ADOPTED on the ____ day of ____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

JOSEPH W. PANNONE, City Attorney



AGENDA NO: D-1

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** 12/29/2014

FROM: Joseph M. Woods, Recreation and Parks Director

SUBJECT: Review and Approval of Memorandum of Understanding between the Central Coast Concerned Mountain Bikers, Inc. and the City of Morro Bay for the Construction, Repair and Maintenance of the Little Morro Creek Road Bike Park.

RECOMMENDATION

Staff recommends the City Council review and approve the Memorandum of Understanding (MOU) between the City and the Central Coast Concerned Mountain Bikers Inc. (CCCMB) for the construction, repair and maintenance of the Little Morro Creek Road Bike Park.

ALTERNATIVES

- 1) City Council approves the MOU with revisions.
- 2) City Council denies the MOU and directs staff accordingly.

FISCAL IMPACT

To date, the fiscal impact has been the amount of staff time required for meetings and preparation of staff reports. Funds for construction, repair, and maintenance of the Bike Park will be borne by CCCMB.

SUMMARY

The development of a Bike Park in Morro Bay was reintroduced by the public to City Council in early 2013. Council supported the idea by approving Resolution 20-13, and directed staff to work with the local bike park interest group to support the establishment, development, and operation of a public bike park on City of Morro Bay property. The Morro Bay Bike Park group (MBBP) collaborated with the Central Coast Concerned Mountain Bikers (CCCMB) and entered into an Agreement. This collaborative relationship has allowed the bike park project to progressively continue in the design and permitting phase. The construction, repair, and operation MOU will play a part in the permitting process and is attached for review and approval. This MOU has been revised since originally reviewed and recommended by the Recreation & Parks Commission (RPC) on September 18, 2014.

Prepared By: JMW

Dept. Review: JMW

City Manager Review: _____

City Attorney Review: JWP

BACKGROUND

A bike park located in Morro Bay has been a topic of discussion for several years. Action taken by City Council on March 12, 2013, approved Resolution 20-13 supporting the development of a public bike park in Morro Bay. On March 21, 2013, the RPC reviewed Resolution 20-13 as well as letters from the Morro Bay Bike Park organization and Morro Bay Citizens Bike Committee. The recommendation from the RPC was to pursue property on Main Street, as well as property adjacent to Lila Keiser Park for possible site locations. Staff has continued to work with the MBBP organization in both the pursuit of a bike park location and a formal agreement in which to advance the project.

The MBBP aligned with the CCCMB, a non-profit corporation, allowing donors to make tax-deductible, charitable contributions to develop a bike park in Morro Bay. The two organizations executed an MOU on May 21, 2013 which was presented to the City of Morro Bay, expressing their desire to enter into an agreement with the City for bike park design and permitting. Staff drafted an MOU and presented the item to the RPC for review at their regular meeting on July 18, 2013. After reviewing the draft MOU, RPC supported the location and obligations presented with a recommendation for approval by City Council. The MOU for design and permitting a Bike Park in Morro Bay was approved by City Council at their regular meeting of August 13, 2013.

Staff worked with the applicant on meeting the requirements to establish a Bike Park. On September 18, 2014, at their regular meeting, the RPC reviewed the draft construction, operation and maintenance MOU between the City and the MBBP. There was opportunity for public comment; however, no public spoke regarding this item. After discussion of the public hearing item, the RPC recommended staff forward the proposed Bike Park MOU to Council for further review and approval. Prior to City Council's review, staff met with MBBP representatives to discuss the draft MOU and edits to the document were made and mutually agreed upon by both parties.

DISCUSSION

Staff has worked with the applicant throughout the permitting process through meetings and written correspondence. Questions and concerns have been identified and discussed to ensure proper procedures and requirements are met. Highlights of items discussed include, but are not limited to: park signage, fencing, drainage, grading, and access to the proposed park. These items and others have and will be addressed by staff and the Planning Commission during the permitting process.

The Construction, Repair, and Operation MOU has been amended since approved and recommended by RPC in September 2014. The most significant change involved the parties named in the MOU. The change from MBBP to the CCCMB was implemented based on the type of organization and that party's ability to enter into a MOU. The CCCMB is currently a California non-profit corporation and is recognizable by the City. Additional major changes included responsibility of Bike Park removal, which will be solely the City's (7. City's Rights and Obligations), and the inclusion of properties not owned by the City (1. Construction. J.) The attached Construction, Repair, and Operation MOU is reflective of those changes.

CONCLUSION

The CCCMB and the MBBP support the proposed MOU and desire the support and approval of City Council. Attached is the draft Memorandum of Understanding between the City and CCCMB for the construction, repair, and maintenance of a public bike park located on Little Morro Creek Road.

Attachments:

1. MOU for Construction, Operation, and Maintenance of a Bike Park
2. Resolution No. 20-13
3. Proposed Bike Park Maintenance Record Form
4. MOU for Design and Permitting of a Bike Park
5. MOU between MBBP and CCCMB

MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF MORRO BAY AND THE CENTRAL COAST
CONCERNED MOUNTAIN BIKERS, INC. FOR THE
CONSTRUCTION, REPAIR AND MAINTENANCE OF THE
LMCR BIKE PARK IN THE CITY OF MORRO BAY

This Memorandum of Understanding (“MOU”) is entered into on January 13, 2015 by and between the City of Morro Bay, a municipal corporation formed under the laws of the State of California (“City”) and Central Coast Concerned Mountain Bikers, Inc., a California non-profit corporation, (“CCCMB”) (collectively, the City and CCCMB are referred to herein as the “Parties”).

WHEREAS, the City owns certain real property located within the City of Morro Bay, commonly known as the vacant lot at Little Morro Creek Road (LMCR); and

WHEREAS, on March 12, 2013, the Morro Bay City Council adopted Resolution No. 20-13 supporting the development of a public bike park within the City limits; and

WHEREAS, the CCCMB is a non-profit corporation that has obtained IRS Code 501(3)(c) status whose mission is to expand the network of sustainable and enjoyable mountain bike trails in San Luis Obispo County and to maintain the trails currently in use; and,

WHEREAS, a local group of mountain biking enthusiasts who seek to establish a bike park in Morro Bay who call themselves the Morro Bay Bike Park Group (“MBBPG”) have affiliated with the CCCMB as a chapter and has entered into a memorandum of understanding with the CCCMB regarding the collection of donations for the purpose of funding the construction, operation and maintenance of a bike park in Morro Bay; and,

WHEREAS, on August 13, 2013, a Memorandum of Understanding was entered into by and between the City and MBBPG for the design and permit processing of a public bike park within the City limits; and

WHEREAS, MBBPG and CCCMB are committed to the construction, operation, and maintenance of a bike park at LMCR currently referred to as the CCCMB Morro Bay Bike Park (the “Bike Park”) and in furtherance thereof has submitted to the City all applications required by the City, including all necessary plans, specifications and engineered drawings, for final approval of the Bike Park; and

WHEREAS, the City has expeditiously processed all of said applications for consideration all together by the City Council; and

WHEREAS, the City has no additional financial resources at this time to commit to the design, construction, operation, or maintenance of the Bike Park; and

WHEREAS, MBBPG, in cooperation with the CCCMB, has raised initial funds for the construction of the Bike Park, is in the midst of a capital fundraising campaign, and expects that it will

raise sufficient funds and secure other commitments for the construction, operation, and maintenance of the Bike Park; and

WHEREAS, the Parties desire a Memorandum of Understanding to document the terms and conditions for the construction, operation, and maintenance of the Bike Park.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. Construction.

- a. Subject to the requirements set forth below, CCCMB will, at its sole cost, construct all Bike Park elements, fencing, gates, and access walkway(s) from the parking area to the Bike Park entrance, signage, and other similar improvements for the Bike Park. The scope of construction shall include site preparation, starting platforms, biking elements, safety features, fencing, pedestrian access, parking, or other site amenities, if necessary and approved by the City. The Bike Park shall be constructed in conformity with the approved plans and specifications, as reasonably determined by the Director. CCCMB shall contract with one or more properly licensed contractors (“contractors”) to perform all work necessary for the construction of the Bike Park. No members of CCCMB, including members of MBBPG, or any other volunteers shall perform work necessary for the construction of the Bike Park. Construction of the Bike Park shall not be performed, in whole or in part, by the City or under contract with the City.
- b. All contractors shall be subject to the approval of the City and shall not commence work until their licensing and insurance and all other requirements, if any, requested by the City are incorporated into the executed construction contract documents and proof thereof is provided to the satisfaction of the Director of Recreation and Parks (the “Director”). Because the improvement work is being performed by the authority of the Director, pursuant to Labor Code, section 1720(a) (3), and the City is contributing public funds in the form of the waiver of all special use permit and building permit fees, which is not de minimis in amount, as defined by Labor Code, section 1720(c) (3), this project is a public works project subject to payment of prevailing wages as may be required pursuant to Labor Code, section 1771. All contract documents between CCCMB and its contractors or subcontractors shall be submitted to the Director and approved prior to the commencement of that contractor’s work.
- c. CCCMB shall ensure that all contracts related to the construction of the Bike Park contain the indemnification and insurance provisions set forth in Exhibit “A” to this MOU and shall provide proof of compliance to the Director.
- d. All materials used in construction of the project shall be new or like-new, and in either event shall result in first class quality and appearance when incorporated into the project. Materials may be provided by the contractor, purchased at or below market value by CCCMB and provided to the contractor, or donated to CCCMB and provided to the contractor. Materials shall be subject to the approval of the Director or designee.

- e. Construction of the improvements shall comply with all applicable local, state and federal laws, including, but not limited to, the Morro Bay Building Codes and the Americans with Disabilities Act.
- f. Construction of the Bike Park may be performed in increments or phases approved by the Director. Before any increment or phase of construction may begin, CCCMB shall submit the contractor's bid proposal to the Director describing or depicting the work to be done, and in the case of the perimeter fence, the fence location shall be physically marked on the ground. No work shall be commenced until such proposal is approved by the Director, and in the case of the fence, until the fence location is approved by the Director.
- g. CCCMB shall ensure that all contractors have the construction inspected by City personnel as required by the issuance of City building and construction permits for the construction of the Bike Park.
- h. CCCMB shall not authorize any construction work to begin unless it holds sufficient funds to pay the contract price for the work in full. CCCMB shall pay all contractors in a timely manner and shall not allow any claim or lien to be made or filed against the City. In the event of a payment or performance dispute between CCCMB and any contractor, CCCMB shall notify the Director within 10 days of receiving notice of the dispute and shall request the assistance of the City in resolving the dispute.
- i. The City owns the LMCR and shall not charge any permit and inspection fees associated with the processing and issuance of special use permits or building permits. The City will require CCCMB or CCCMB's contractors provide performance and payment bonds for this work as required by the Civil Code. The permitting process to be followed for the Bike Park shall be as set forth in City's land use regulations.
- j. The Parties understand a portion of the area to be used as the Bike Park is not owned or controlled by the City and shall require written consent from that owner. CCCMB shall provide that written consent to City prior to CCCMB or any of its volunteers taking possession of any portion of the LMCR.

2. **Maintenance.**

- a. CCCMB shall perform at its expense all maintenance and repair to the Bike Park and site elements. CCCMB will conduct and submit monthly to the Recreation and Parks Department maintenance inspection records which shall be conducted on a weekly basis. The Parties understand and agree CCCMB may carry out some or all of its maintenance and repair obligations with City volunteers. To the extent CCCMB relies on City volunteers, CCCMB agrees to take the necessary steps to ensure City's volunteers satisfactorily complete CCCMB's obligations

- b. Prior to CCCMB performing any maintenance or repair work at the Bike Park, it shall comply with all City requirements for adopting a City park as set forth in the policies and procedures governing that program and it shall ensure each person performing maintenance or repair work at the Bike Park executes the most current version of the City's Agreement for Individual Volunteer Service.
- c. In the event that fencing needs to be replaced or elements need to be replaced with like material, CCCMB shall pay the reasonable cost of replacement materials and labor appropriate and available. CCCMB will monitor the condition of the Bike Park on a regular basis and promptly remove all debris and litter from the Bike Park to City trash facilities as required by the Director.
- d. Subject to compliance with subsection 2(a), with the guidance and approval of the Director or designee, CCCMB shall perform maintenance, repair, and replacement of certain elements and other similar site amenities of the Bike Park, and the access path from the parking area to the Bike Park entrance, whether made necessary by use by the participants, the public, the weather, or otherwise.
- e. The City shall close the Bike Park for proper routine maintenance, inclement weather, or any deemed safety issue. City shall provide notice to CCCMB regarding any maintenance issue and reserve the right to require CCCMB to reimburse the City for any resources used to correct the stated issue pertaining to the Bike Park provided CCCMB is unresponsive to the City's repair or maintenance request.

3. Operation of the Bike Park.

- a. Prior to the opening of the Bike Park, the Director shall establish and publish Rules of Conduct. CCCMB shall have these Rules of Conduct printed on signs made of durable all-weather materials of at least [dimensions] in size and post these signs in at least two conspicuous locations at the Bike Park, including at all entrances. All persons entering the Bike Park shall comply with the Rules of Conduct. The purpose of the Rules of Conduct is to implement safety precautions and provide for the enjoyment of the Bike Park by all bike riders and spectators, with the understanding that riding a bike through the Bike Park courses is a hazardous recreational activity as defined by California Government Code, section 831.7 which involves inherent risk CCCMB members shall assist in the observance of the Rules of Conduct by informing users of the rules, and/or in such other manner as approved by the Director.
- b. CCCMB is not expected to provide a daily presence of a member or volunteer at the Bike Park, supervise its use, or affirmately enforce the Rules of Conduct.
- c. The Director retains the right to close the Bike Park temporarily to perform repair or maintenance work necessary to protect the health and safety of the public. City shall notify CCCMB or its designee at said time of closure and approximate expectation of reopening.

4. **Good Faith Performance.**

Each party to this MOU will at all times act in good faith in the performance of its duties and responsibilities under this MOU, will use its best efforts to assist the other party, and will be courteous, helpful, cooperative with, and appreciative of the other party.

5. **Insurance Authority Guidelines.**

The City is a member of the Southern California Joint Powers Insurance Authority (the "JPIA"). CCCMB shall conform its activities at the Bike Park to any written guidelines provided by the JPIA and will do nothing to limit or jeopardize the City's liability insurance coverage through the JPIA. All maintenance activities provided by CCCMB shall be provided by volunteers, each of whom shall comply with all of the requirements for volunteers established by the Director.

6. **No Possessory Interest.**

CCCMB understands and agrees that it shall not at any time have a possessory interest in the Bike Park, including the personal or real property that comprise the Bike Park, and that any improvements constructed by CCCMB or its contractors are for the sole benefit of the general public and are the exclusive property of the City.

7. **City's Rights and Obligations.**

Without waiving any rights it may have, the City reserves the right to: (1) remove any Bike Park improvements if the City determines, at its sole discretion, that removal is necessary to protect the public health, safety, or welfare,; (2) relocate the Bike Park as the City Council may determine is in the public interest, and (3) close the Bike Park and remove the improvements if the City Council determines that a threatened danger to the public health, safety or welfare can only be eliminated by such closure and removal.

8. **CCCMB Contact Persons.**

CCCMB shall furnish to the Director the names and telephone numbers of two members of CCCMB , each with authority provided by CCCMB to act alone on behalf of CCCMB, and who will act as the contacts with the Director concerning the this MOU. CCCMB shall notify the Director if a member can no longer serve and will provide the name and telephone number of a replacement.

9. **Written Notice.**

Written notice to the respective parties will be provided as follows:

To the City:

City of Morro Bay
Rec & Parks Department
1001 Kennedy Way
Morro Bay, CA 93442
Attn.: Director

To MBBPG:

2089 Bayview Ave.
Morro Bay, CA 93442
Attn: Bonnie Johnson

10. **Assignment**

CCCMB shall not assign the performance of this MOU, nor any part thereof, without the prior written consent of City.

11. **Governing Law**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this MOU and also govern the interpretation of this MOU. Any litigation concerning this MOU shall take place in the County of San Luis Obispo Superior Court or federal district court with jurisdiction over City.

12. **Entire MOU**

This MOU contains the entire understanding between the parties relating to the obligations of the parties described in this MOU. All prior or contemporaneous MOUs, understandings, representations, and statements, verbal or written, are merged into this MOU and shall be of no further force or effect. Each party is entering into this MOU based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

13. **Time**

City and CCCMB agree time is of the essence in this MOU.

14. **Construction**

The parties agree each has had an opportunity to have their counsel review this MOU and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this MOU or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

15. **Amendments**

This MOU is the final, complete, and exclusive statement of the terms of the understanding between the Parties, supersedes all previous understandings between the Parties as to its subject matter. Amendments to this MOU shall be in writing and shall be made only with the mutual written consent of all the parties to this MOU.

16. **Authority To Execute This MOU**

The person or persons executing this MOU on behalf of CCCMB warrants and represents he/she has the authority to execute this MOU on behalf of Consultant and has the authority to bind CCCMB to the performance of its obligations hereunder.

17 **Effective Date of MOU**

This MOU will be effective upon approval by the City Council and execution by the Parties. IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed at Morro Bay, California.

<p>CITY OF MORRO BAY</p> <p>_____</p> <p>Jamie L. Irons, Mayor</p> <p>Date:</p> <p>ATTEST:</p> <p>_____</p> <p>Jamie Boucher, City Clerk</p> <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Joseph W. Pannone, City Attorney</p>	<p>CCCMB</p> <p>By: _____</p> <p>_____</p> <p>Its _____</p> <p>Date:</p> <p>By: _____</p> <p>_____</p> <p>Its _____</p> <p>Date:</p> <p>APPROVED AS TO FORM:</p> <p>_____</p>
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RESOLUTION NO. 20-13

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
SUPPORTING THE DEVELOPMENT OF A PUBLIC BIKE PARK
WITHIN THE CITY LIMITS**

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

WHEREAS, the Recreation and Parks Department operated a BMX bike track at 220 Atascadero Road from 2000 to 2005; and

WHEREAS, the real property at 220 Atascadero Road was sold to a private party by voluntary sale on April 15, 2005; and

WHEREAS, the bike track was subsequently removed by the new owner and replaced with an RV Park; and

WHEREAS, the citizens of Morro Bay expressed interest during public comment at the February 26, 2013 City Council meeting to establish a bike park on public land within the city limits of Morro Bay; and

WHEREAS, said interested citizens presented available resources to establish and operate a bike park within City limits.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay to support the establishment, development, and operation of a bike park on City property for public use.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 12th day of March, 2013 by the following roll call vote:

AYES: Irons, C. Johnson, N. Johnson, Leage, Smukler

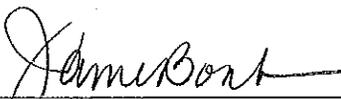
NOES: None

ABSENT: None



JAMIE IRONS, MAYOR

ATTEST:



JAMIE BOUCHER, CITY CLERK



City of Morro Bay, California
 Recreation and Parks Department
Bike Park Maintenance Record

Weekly:

Note please round time to nearest quarter hour.

Maintenance Task	<u>Week 1</u>	<u>Week 2</u>	<u>Week 3</u>	<u>Week 4</u>
	Date:	Date:	Date:	Date:
Inspect signage at bike park entries.				
Inspect signage on bike park features.				
Inspect/clear all hazardous debris throughout park, on riding surfaces, and within fall zones (bailout lines) of riding features (i.e. large holes, loose rocks, trash).				
Inspect and water dirt features to reduce erosion and dust and to maintain compactness.				

Time Worked: Time Worked: Time Worked: Time Worked:

Comments:

Monthly:

Maintenance Task	Date:
Inspect all hardware to insure nuts, bolts, screws, etc. are tight and secure. Replace damaged hardware (e.g. sheared off heads, bent shafts).	
Inspect, secure or replace damaged wood features (i.e. cracking/splitting of wooden supports or stringers, dry rot, etc.)	
Inspect, secure and stabilize all rock and wooden trail features to ensure structural integrity.	
Inspect and improve site drainage where needed.	
Inspect and maintain dirt features including all jumps, beams, rollers, pump track, etc. where needed to repair brake bumps, holes, erosion.	
Inspect and secure the boundary fence.	
Inspect for vandalism or non-approved park modifications.	
Confirm users are observing all safety rules and regulations.	

Time Worked (Monthly):

Comments:

Name: _____ Supervisor: _____

Month: _____ Total time worked this month (FT): _____ (Seasonal): _____ Total: _____

MEMORANDUM OF UNDERSTANDING
BIKE PARK DESIGN AND PERMIT PROCESSING

This Memorandum of Understanding ("MOU") is entered into by and between the City of Morro Bay, a Municipal Corporation formed under the laws of the State of California, hereinafter referred to as the "City"; and Morro Bay Bike Park, a duly organized community volunteer organization hereinafter referred to as "MBBP." Collectively, the City and MBBP are referred to herein as the "Parties."

WHEREAS, the City owns certain real property located within its corporate limits in the City of Morro Bay, known as the vacant lot at Little Morro Creek Road (LMCR); and

WHEREAS, the City has made clear that it has no financial resources at this time to commit to the design, development, operation, or maintenance of the Bike Park; and

WHEREAS, MBBP is a duly organized community volunteer organization committed to establishing biking recreation within Morro Bay, including but not limited to the design, and permitting of the Bike Park; and

WHEREAS, MBBP has associated itself with the Central Coast Concerned Mountain Bikers ("CCCMB"), which has formal federal and state non-profit status, for the purpose of raising funds in the name of CCCMB-MORRO BAY BIKE PARK, for the design, development, operation, and maintenance of the Bike Park in Morro Bay; and

WHEREAS, CCCMB has designated the Bike Park as a CCCMB project and has agreed to disburse funds raised by MBBP as directed by MBBP, and consistent with its charitable purposes, for the design, development, operation, and maintenance of the Bike Park; and

WHEREAS, MBBP has raised funds for the design and permitting of the Bike Park and has caused to be prepared preliminary plans for the Bike Park, and expects that it can raise funds and secure other commitments for the development, operation, and maintenance of the Bike Park; and

WHEREAS, the Parties desire a Memorandum of Understanding to document their mutual commitment to proceed in good faith with the permitting process for the Bike Park, including consideration of amendment of the Master Plan, subject to one or more future public hearings and the discretion of the City Council in its ultimate approval or disapproval of the Bike Park.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. MBBP will proceed expeditiously as follows:
 - a. Prepare all design documents and plans required for amendment of the Master Plan (the "Amendment") and for such other approvals and permits (collectively, the "Permits") for the Bike Park as required by the City.
 - b. Apply for the Amendment and the Permits as required by the City.
 - c. Submit all documents and provide all plans, prepared by appropriate professionals, required by the City for the Amendment and the Permits.
 - d. Perform, by appropriate professionals, all environmental analysis and review for the Amendment and the Permits as required by the City.
2. The City will proceed as follows:
 - a. Advise MBBP in writing within 30 days of all requirements for a complete Amendment application.
 - b. Morro Bay City Council to officially designate and reserve the empty lot at LMCR for the development of a fenced in Bike Park ("Bike Park").
 - c. Advise MBBP in writing within 30 days of all other Permits that will be required by the City and of all requirements for complete applications for such Permits.
 - d. Advise MBBP in writing within 30 days of any other Permits that, to the knowledge of the City, will be required by any other governmental agency, and, to the knowledge of the City, all requirements for complete applications for such Permits.
 - e. Process the Amendment application and all Permit applications at a staff level expeditiously and advise MBBP of the status of such processing upon request.
 - f. Schedule all required hearings at the earliest possible date convenient to MBBP.
 - g. Upon request of MBBP, provide all pertinent information necessary for MBBP to fulfill its responsibilities under this MOU.

3. The City will waive all Amendment and Permit processing fees normally charged applicants by the City, including fees for environmental review by City staff. Within 30 days of request by the City, MBBP will pay all other fees and costs charged by any third party associated with the preparation and submittal of plans and documents required for the Amendment and Permits.

4. Each party to this MOU will at all times act in good faith in the performance of its duties and responsibilities under this MOU, will use its best efforts to assist the other party, and will be courteous, helpful, cooperative with, and appreciative of the other party.

5. The Parties agree that in the event of approval of the Amendment and Permits, they will enter into a further memorandum of understanding regarding the development (construction), operation, and maintenance of the Bike Park.

6. MBBP will furnish to the City the names and telephone numbers of two representatives of MBBP, each with authority to act alone on behalf of MBBP, and who will act as the contacts with the City concerning the subject matter of this MOU. MBBP will notify the City in writing if a representative can no longer serve and will provide the name and telephone number of a replacement.

The City will furnish MBBP the names and telephone numbers of two representatives of the City, each with the authority to act alone on behalf of the City, and who will act as the contacts with MBBP concerning the subject matter of this MOU. The City will notify MBBP in writing if a representative can no longer serve and will provide the name and telephone number of a replacement.

7. Written notice to the respective parties will be provided as follows:

To the City:

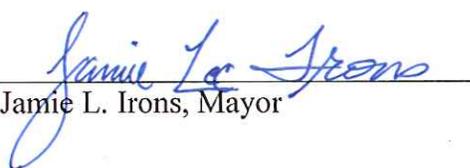
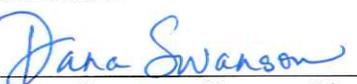
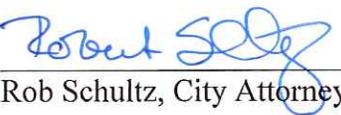
City of Morro Bay
Department of Recreation & Parks
Attention: Director
1001 Kennedy Way
Morro Bay, CA 93442

To MBBP:

Morro Bay Bike Park
c/o Bonnie Johnson
2089 Bayview Avenue
Morro Bay, CA 93443

8. This MOU shall be effective upon approval by the City Council and execution by the Parties. The persons executing this MOU represent that they are duly authorized by the party they represent to execute and bind that party. This MOU is the final, complete, and exclusive statement of the terms of the understanding between the Parties, supersedes all previous understandings between the Parties as to its subject matter, and may be amended only in a further writing executed by both Parties.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed at Morro Bay, California, on the dates written below.

<p>CITY OF MORRO BAY</p>  _____ Jamie L. Irons, Mayor <p>Date:</p> <p>ATTEST:</p>  _____ Dana Swanson, Deputy City Clerk <p>APPROVED AS TO FORM:</p>  _____ Rob Schultz, City Attorney	<p>MBBP</p> <p>By: </p> _____ Bonnie Johnson President <p>Date: 8/28/13</p> <p>APPROVED AS TO FORM:</p>  _____ Brandon Kato
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MEMORANDUM OF UNDERSTANDING

This is a Memorandum of Understanding ("MOU") between Central Coast Concerned Mountain Bikers a Non- Profit Corporation hereinafter referred to as "CCCMB" and Morro Bay Bike Park, a duly organized community volunteer organization hereinafter referred to as "MBBP".

RECITALS

Whereas, MBBP desires to install a Bike Park in the City of Morro Bay to increase the recreational activity opportunities for youth and others in the community and region; and

Whereas, the City of Morro Bay has indicated a willingness to grant MBBP access to and use of City Property for the installation of a Bike Park through the adoption of Resolution No. 20-13 ; and

Whereas, the parties desire to enter into this MOU to establish a framework for a productive working relationship for the funding, design and construction of a Bike Park in the City of Morro Bay in a quality and timely manner; and

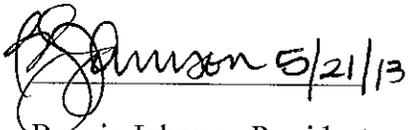
Now, therefore, in consideration of the foregoing and the terms set forth below, the parties agree as follows:

1. MBBP shall be responsible for raising funds through donations and fundraising events towards a Bike Park in the City of Morro Bay.
2. CCCMB shall act as the umbrella foundation for the Bike Park. All funds raised by MBBP for the Bike Park will be processed through CCCMB. It is understood and acknowledged that donations made towards the BMX/Pump Track Bike Park are to be treated as charitable contributions to CCCMB to allow donors the option of claiming deductions that may be applicable to them under relevant tax regulations.
3. CCCMB shall not use any funds raised towards the Bike Park for any other purpose other than towards expenses or costs for the Bike Park unless the parties agree otherwise in writing.
4. CCCMB sole responsibility under the terms of this MOU is to permit donors to make charitable contributions to install a Bike Park in Morro Bay and to issue appropriate payments as instructed in writing.

5. CCCMB shall be responsible for maintaining records of all cash received and held for the Bike Park. CCCMB shall make these records available at all times to MBBP to view.
6. CCCMB shall allow MBBP to become a Chapter of CCCMB and MBBP will participate in any/all requirements and privileges of a chapter, including but not limited to, a MBBP representative attending CCCBM board meetings and reporting to the CCCMB Board all accounting and activities of MBBP.

Morro Bay Bike Park

Central Coast Concerned Mountain Bikers


Bonnie Johnson, President


Greg Bettencourt, President 5/21/13



AGENDA NO: D-2

MEETING DATE: January 13, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 7, 2015

FROM: David Buckingham, City Manager

SUBJECT: City Council Annual Meeting Schedule - 2015

RECOMMENDATION

Staff recommends the City Council consider the following alternatives and adopt a meeting schedule for calendar year 2015, as well as discuss the Joint City Council and Planning Commission meetings:

Alternative No. 1:

The regular City Council meetings will be held the second and fourth Tuesdays of each month, beginning at 6:00pm with the following exceptions: July 21st and December 22nd will be canceled.

In this example, meetings will be held on the following dates:

January 13	January 27
February 10	February 24
March 10	March 24
April 14	April 28
May 12	May 26
June 9	June 23
July 14	N/A
August 11	August 25
September 8	September 22
October 13	October 27
November 10	November 24
December 8	N/A

Alternative No. 2:

The regular City Council meetings will be held the second and fourth Tuesdays of each month, beginning at 6:00pm with the following exceptions: July 21st, November 24th and December 22nd will be canceled. This alternative is similar to the 2014 calendar.

Prepared By: DB

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

In this example, meetings will be held on the following dates:

January 13	January 27
February 10	February 24
March 10	March 24
April 14	April 28
May 12	May 26
June 9	June 23
July 14	N/A
August 11	August 25
September 8	September 22
October 13	October 27
November 10	N/A
December 8	N/A

BACKGROUND/DISCUSSION:

The schedule proposed as Alternative No. 2 is similar to the 2014 calendar. Historically, if a Council meeting falls on a proclaimed City Holiday, the meeting is held on the following Wednesday. There are no proclaimed holidays that will affect the meeting schedule in 2015.

In addition, upon the request of City Council, the Planning Commission and City Council hold a joint meeting twice annually to discuss proposed policies, programs, goals and objectives, budgeting, future planning, and/or any other planning matter(s) requiring joint deliberation. Over the years, these meetings have been scheduled on a variety of dates some of which include 5th Tuesday's of the month as well as regular City Council meeting date(s) with this particular meeting starting one hour early. It is anticipated a Joint City Council/Planning Commission Meeting will be needed in the February/March timeframe to review the Draft Work Plan for the General Plan/Local Coastal Plan (GP/LCP) update. The date this meeting takes place is dependent upon the grant schedule, which is not yet finalized. Staff recommends the City Council defer setting dates for joint meetings until more information is available.

A 2015 calendar is attached for your reference.

Calendar for year 2015 (United States)

January						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

February						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

March						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

April						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

May						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

September						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		



AGENDA NO: D-3

MEETING DATE: 1/13/2015

Council Report

TO: City Council

DATE: January 5, 2015

FROM: Jamie L. Irons, Mayor

SUBJECT: Appointment of Mayor Pro Tempore and Appointment of Representatives on Discretionary Boards, Council Liaison Assignments and Council Sub-Committees

RECOMMENDATION

Discuss and appoint Councilmember Noah Smukler as Mayor Pro Tempore as well as appoint Representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2015.

DISCUSSION

The City Council Policies and Procedures Section 3.2 states:

“The appointment of the Mayor Pro Tempore shall be for a one-year term and shall be made at the first meeting in December. For appointment as Mayor Pro Tempore, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Mayor Pro Tempore. If there are two Council Members who have not yet held the position, the Council Member receiving the highest number of votes in the most recent election shall be appointed Mayor Pro Tempore.”

Last year Councilmember Christine Johnson was appointed as Mayor Pro Tempore and Councilmembers Headding and Makowetski are not yet eligible. As a result, Council should make a motion and formally appoint Councilmember Noah Smukler as Mayor Pro Tempore for 2015.

The City Council Policies and Procedures Section 6.1 states:

“Annually the Mayor shall make appointments to a variety of County and/or regional committees and boards (discretionary appointments). One member of the Council shall serve as a voting representative and one member shall serve as alternate. To the best of their ability, voting delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.”

Prepared By: JLIrons

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Pursuant to Council Policies and Procedures Section 6.1, the Mayor can seek input from City Council regarding the appointment to County and/or Regional Boards, but ultimately, the Mayor is responsible for the appointment of these positions. Attached for your review is a list of the proposed City Council Discretionary Appointments.

The City Council Policies and Procedures Section 6.2.1 States:

“The City Council shall assign a Council liaison to each of the following advisory boards: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, and Tourism Business Improvement District Advisory Board.”

“The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council’s familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members should either attend advisory body meetings or watch the meeting broadcasts and maintain communication with the advisory body on a regular basis.”

“Members should be sensitive to the fact that they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and the advisory body. In interacting with advisory bodies, Council Members are to reflect the views of the Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.”

Pursuant to City Council Policies and Procedures Section 6.2.1 the City Council shall assign Council Liaisons to the Advisory Bodies. Attached for your review is a list of the proposed City Council Liaisons. Appointment as a liaison is by Council vote.

The City Council Policies and Procedures Section 6.2.2 States:

“Council may establish several sub-committees of no more than two members to address areas of concern and/or study.”

Attached for your review is a list of the proposed sub-committees that have been established by the Council. Appointment to the sub-committee is by Council vote.

CITY COUNCIL DISCRETIONARY APPOINTMENTS (2015)

INTEGRATED WASTE MANAGEMENT AUTHORITY (meets the 2nd Wednesday of every other odd numbered month; 130pm; Board of Supervisors Chambers, SLO Government Center)

John Headding Designee
Noah Smukler Alternate

COUNTY WATER RESOURCES ADVISORY COMMITTEE (meets the 1st Wednesday of the month; 130-330pm; City County Library Room, 995 Palm, SLO)

Matt Makowetski Delegate
City Manager (or their designee) Alternate

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY (SLORTA) &

SAN LUIS OBISPO AREA COORDINATING COUNCIL (SLOCOG) (RTA meets the 1st Wednesday of every other odd numbered month; 830am; Board of Supervisors Chambers, SLO County Government Center) (COG meets the 1st Wednesday of every other odd numbered month; at conclusion of RTA meeting; Board of Supervisors Chambers, SLO County Government Center)

Jamie Irons Delegate
Christine Johnson Alternate

CMC CITIZENS' ADVISORY COMMITTEE (1-year term) (meets the 3rd Friday of every other month; 130-3pm; at CMC)

Noah Smukler Member

AIR POLLUTION CONTROL DISTRICT (meets the 4th Wednesday of every other odd numbered month; 9am; Board of Supervisors Chambers, SLO County Government Center)

Noah Smukler Member
John Headding Alternate

COMMUNITY ACTION PARTNERSHIP OF SAN LUIS OBISPO COUNTY, INC.

(formerly EOC) - (3-year term) (meets the 3rd Thursday of every month; 5pm; CAPSLO Board Room, 1030 Southwood, SLO)

**Morro Bay has rotated off this board and will cycle back in at CAPSLO's request.
No appointments at this time.**

ECONOMIC VITALITY CORPORATION (meets the 3rd Wednesday of every month; 4-530pm; Cannon & Assoc, 1050 Southwood, SLO)

Christine Johnson Liaison
John Headding Alternate

NATIONAL ESTUARY PROGRAM (Executive Committee meets quarterly; 2nd Wednesday of the month in February, May, August and November; 4-6pm)

Matt Makowetski Member
Noah Smukler Alternate

CITY SELECTION COMMITTEE (as needed)

Jamie Irons Member
Noah Smukler Alternate

LEGISLATIVE DELEGATE (as needed)

Jamie Irons	Member
Noah Smukler	Alternate

SAN LUIS OBISPO COUNTY HOUSING TRUST FUND

City Manager or designee (Planning Manager) Member

HOMELESS SERVICES OVERSIGHT COMMITTEE (meets the 3rd Wednesday of odd numbered months; 1-3pm; SLO Vets Building Lounge Room, 801 Grand, SLO)

Christine Johnson	Member
John Headding	Alternate

LOCAL ECONOMIC ACTION PLAN (LEAP) TEAM (meetings to be determined)

Jamie Irons	Member
City Manager	Member

The following City Council Liaison Assignments were made to City Committees and Boards:

PLANNING COMMISSION (meets 1st and 2nd Tuesday of every month; 6pm; Vets Hall)

Jamie Irons	Liaison
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HARBOR ADVISORY BOARD (meets the 1st Thursday of every month; 6pm; Vets Hall)

Matt Makowetski	Liaison
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RECREATION AND PARKS COMMISSION (meets the 3rd Thursday of odd numbered months; 530pm; Vets Hall)

Christine Johnson	Liaison
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PUBLIC WORKS ADVISORY BOARD (meets the 3rd Thursday of even numbered months; 6pm; Vets Hall)

Noah Smukler	Liaison
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MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT BOARD (meets the 2nd Thursday of every month; 9am; Vets Hall)

John Headding	Liaison
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The following appointments were made on City Council Sub-Committees:

COUNCIL SUBCOMMITTEE ON EMPLOYEE GRIEVANCES (meets as needed)

John Headding	Member
Christine Johnson	Member

JPA SUB-COMMITTEE

Jamie Irons	Member
Noah Smukler	Member