

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, MARCH 22, 2016 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 – Community Action Partnership of San Luis Obispo (CAPSLO) presentation “Supportive Services for Veteran Families to assist Homeless Veterans”

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.

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 FROM THE MARCH 8, 2016 SPECIAL CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FROM THE MARCH 8, 2016 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF RESOLUTION 17-16 AMENDING THE POLICY AND PROCEDURE FOR HIRING CONSULTANTS TO ALIGN AUTHORIZATION AMOUNTS WITH THE MORRO BAY MUNICIPAL CODE; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 17-16.

- A-4 APPROVAL OF RESOLUTION NO. 18-16 AMENDING THE ADVISORY BOARD BY-LAWS TO CHANGE MEETING FREQUENCY FOR PUBLIC WORKS ADVISORY BOARD, RECREATION AND PARKS COMMISSION AND TOURISM BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD, AND INCREASE NUMBER OF MEMBERS ON CITIZENS OVERSIGHT/FINANCE COMMITTEE; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 18-16.

- A-5 APPROVAL OF AGREEMENT FOR RUNABOUT RIDER FARE-FREE ACCESS ON MORRO BAY TRANSIT DEVIATED FIXED-ROUTE AND TROLLEY BUSES; (PUBLIC WORKS)

RECOMMENDATION: Authorize the Mayor to execute an agreement with the San Luis Obispo Regional Transit Authority.

- A-6 RESOLUTION NO. 19-16 AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE DOCUMENTS TO CONTINUE CALIFORNIA ENERGY COMMISSION LOAN FOR ENERGY EFFICIENCY PROJECTS; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 19-16.

B. PUBLIC HEARINGS

- B-1 INTRODUCTION AND FIRST READING OF ORDINANCE 601: LOCAL COASTAL PROGRAM AND ZONING TEXT AMENDMENT (#A00-029) AMENDING TITLE 17 PROVISIONS RELATED TO SECONDARY DWELLING UNITS AND GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Accept the Planning Commission recommendation to adopt text amendments to Title 17 outlined in Exhibit A attached to Ordinance 601; move to waive reading of Ordinance 601 in its entirety and introduce for first reading by number and title only; and direct staff to submit a Local Coastal Program (LCP) Amendment to Coastal Commission after second reading and adoption.

B-2 RESOLUTION NO. 20-16 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS PARK AND OPEN SPACE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 20-16

B-3 RESOLUTION NO. 21-16 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 21-16

C. BUSINESS ITEMS

C-1 COMMUNITY ENHANCEMENT (CODE ENFORCEMENT) PROGRAM STATUS/DISCUSSION; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Discuss and direct staff accordingly.

C-2 WITHDRAWAL OF PREVIOUS CONSENT OF LANDOWNER AGREEMENT APPROVAL FOR LEASE SITE IMPROVEMENTS FOR LEASE SITE 86/86W AT 801 EMBARCADERO (EMBARCADERO GRILL, CALDWELL) ISSUED OCTOBER 15, 2013, AND APPROVAL OF A NEW CONSENT OF LANDOWNER AGREEMENT TO FILE A NEW APPLICATION FOR LEASE SITE IMPROVEMENTS AND ALLOW STAFF TO ENTER INTO LEASE NEGOTIATIONS; (HARBOR)

RECOMMENDATION: Discuss and direct staff accordingly

C-3 RESOLUTION NO. 22-16 AUTHORIZING THE CITY MANAGER TO IMPLEMENT THE EARLY RETIREMENT MANAGEMENT PROGRAM FOR 2016/17; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 22-16.

C-4 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 602 AMENDING SECTION 3.22.120 OF THE MORRO BAY MUNICIPAL CODE TO INCREASE THE NUMBER OF MEMBERS ON THE CITIZENS OVERSIGHT COMMITTEE FROM FIVE TO SEVEN MEMBERS; (CITY ATTORNEY)

RECOMMENDATION: Move for the introduction and first reading of Ordinance No. 602, by number and title only, and waive further reading.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, April 12, 2016 at 6:00 pm** at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

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
SPECIAL CLOSED SESSION MEETING –
MARCH 8, 2016
CITY HALL ANNEX CONFERENCE ROOM–4:30 P.M.

AGENDA NO: A-1
MEETING DATE: March 22, 2016

PRESENT:	Jamie Irons	Mayor
	John Heading	Councilmember
	Christine Johnson	Councilmember
	Matt Makowetski	Councilmember
	Noah Smukler	Councilmember
STAFF PRESENT:	Dave Buckingham	City Manager
	Joe Pannone	City Attorney

ESTABLISH QUORUM AND CALL TO ORDER – A quorum was established and the meeting was called to order at 4:03 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 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Attorney

RECONVENE TO OPEN SESSION - The City Council reconvened to Open Session. The Council did not take any reportable action pursuant to the Brown Act.

ADJOURNMENT

The meeting adjourned at 5:16 p.m.

Recorded by:

Dana Swanson
City Clerk

AGENDA NO: A-2

MEETING DATE: March 22, 2016

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2016
VETERAN’S MEMORIAL HALL – 6:00 P.M.

PRESENT:	Jamie Irons	Mayor
	Matt Makowetski	Councilmember
	John Headding	Councilmember
	Christine Johnson	Councilmember
	Noah Smukler	Councilmember
STAFF:	Dave Buckingham	City Manager
	Joe Pannone	City Attorney
	Dana Swanson	City Clerk
	Sam Taylor	Deputy City Manager
	Rob Livick	Public Works Director
	Janeen Burlingame	Management Analyst
	Scot Graham	Community Development Manager
	Cindy Jacinth	Associate Planner
	Eric Endersby	Harbor Director
	Amy Christey	Police Chief
CONTRACT STAFF PRESENT:	Mike Nunley	WRF Program Manager
	John Rickenbach	WRF Deputy Program Manager

ESTABLISH QUORUM AND CALL TO ORDER
The meeting was called to order at 6:00 p.m.

MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT - City Attorney Pannone reported that with regard to the Closed Session Items, the Council did not take any reportable action pursuant to the Brown Act.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
<https://youtu.be/ijesQO-Sg9E?t=19m49s>

Proclamations of Recognition and Appreciation were presented to Congresswoman Lois Capps and Joshua Quigley on behalf of Senator Barbara Boxer.

PUBLIC PRESENTATIONS – NONE

PUBLIC COMMENT
<https://youtu.be/ijesQO-Sg9E?t=20m9s>

Erica Crawford, Chamber of Commerce CEO, encouraged the local business community to take an active role in the update of the City's General Plan/Local Coastal Plan.

Bob Keller, Morro Bay, reminded the community to be respectful at advisory board and Council meetings.

Susan Stewart, Morro Bay resident and business owner, thanked Morro Bay Beautiful for their trash patrol efforts and encouraged the community to consider annual memberships. More information is available at www.morrobaybeautiful.org.

Amos Acevedo, Morro Bay, asked the Council to keep residents informed about efforts to assist the homeless in Morro Bay.

Larry Newland, Morro Bay Maritime Museum, provided an update on the Maritime Museum and announced Morro Bay was selected as a port city to host the San Salvador in October 2016.

Judy Salamacha, Morro Bay Maritime Museum Board Member, expanded on the Maritime Museum update and was hopeful the San Salvador visit will become an annual event.

Rick Morse, provided the City Council with a PowerPoint presentation regarding medical marijuana collectives. He currently operates a clinic at 334 E. Olive Avenue in Fresno, CA.

Linda Stedjee, Morro Bay, expressed concern about the approval process for a project approved by the Planning Commission on October 6, 2015.

Joe Conchello, Cayucos resident and commercial fisherman, spoke to Item C-2 expressing frustration with code requirements regarding boat storage.

John Gillespie, Santa Margarita, spoke regarding a liveaboard violation notice received for his commercial fishing vessel berthed at the T-Pier, noting this code is incompatible with commercial fishing due to boat maintenance and security requirements.

Janice Peters, Morro Bay, shared from her experience on City Council that waiving hands or posters were much more effective than applause.

Hank Roth, Morro Bay, spoke to Item C-2 and suggested staff and the community work together to revise the municipal code.

Robert Swain, Morro Bay, spoke to Item C-2 and suggested revising the current code to address dilapidated vehicles and enforce leash laws to protect the bay.

Lee Kleim, Morro Bay, delivered code enforcement memo received from Commander Millard.

The comment period was closed.

A. CONSENT AGENDA
<https://youtu.be/ijesQO-Sg9E?t=1h3m9s>

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

- A-1 APPROVAL OF MINUTES FROM THE FEBRUARY 9, 2016 JOINT CITY COUNCIL AND WATER RECLAMATION FACILITY CITIZEN ADVISORY COMMITTEE (WRFCAC) MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FROM THE FEBRUARY 9, 2016 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF MINUTES FROM THE FEBRUARY 10, 2016 CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-4 APPROVAL OF MINUTES FROM THE FEBRUARY 23, 2016 JOINT CITY COUNCIL, PLANNING COMMISSION AND GENERAL PLAN ADVISORY COMMITTEE MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-5 APPROVAL OF MINUTES FROM THE FEBRUARY 23, 2016 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

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

RECOMMENDATION: Receive and file.

- A-7 WATER RECLAMATION FACILITY PROGRAM UPDATE; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

- A-8 PROCLAMATION OF THE CITY COUNCIL IN RECOGNITION AND APPRECIATION OF THE SERVICE OF SENATOR BARBARA BOXER; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-9 PROCLAMATION OF THE CITY COUNCIL IN RECOGNITION AND APPRECIATION OF THE SERVICE OF CONGRESSWOMAN LOIS CAPPS; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted

A-10 RESOLUTION NO. 14-16 AUTHORIZING SUBMISSION OF RECYCLED WATER FEASIBILITY GRANT APPLICATION TO THE STATE WATER RESOURCES CONTROL BOARD; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 14-16.

A-11 AUTHORIZATION FOR PARTICIPATION IN THE CALIFORNIA HOME FINANCE (CHF) AUTHORITY PACE PROGRAMS AND ASSOCIATE MEMBERSHIP IN CALIFORNIA HOME FINANCE AUTHORITY AS ADMINISTERED BY YGRENE ENERGY; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolutions 15-16 and 16-16 authorizing the participation in PACE programs as administered by Ygrene Energy.

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

MOTION: Councilmember Heading moved for approval of Consent Items A-1 through A-11 on the Consent Agenda. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

B. PUBLIC HEARINGS

B-1 REVIEW AND ADOPT FINAL FUNDING RECOMMENDATIONS FOR THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS; (COMMUNITY DEVELOPMENT)
<https://youtu.be/ijesQO-Sg9E?t=1h3m31s>

Associate Planner Jacinth presented the staff report and responded to Council inquiries.

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

MOTION: Councilmember Smukler moved for approval of Resolution No. 13-16 approving the Community Development Block Grant projects for 2016. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

C. BUSINESS ITEMS

C-1 REVIEW AND DIRECTION REGARDING WATER RECLAMATION FACILITY (WRF); (ADMINISTRATION)
<https://youtu.be/ijesOO-Sg9E?t=1h11m59s>

City Manager Buckingham presented the staff report and, along with WRF Program Manager Nunley and Deputy Program Manager Rickenbach, responded to Council inquiries.

A brief recess was taken and the meeting reconvened at 9:05pm.

Following the recess, there was Council consensus to continue Item C-2 to the March 22, 2016 City Council meeting.

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

Bill Todd, Morro Bay resident and business owner, expressed concerns about property value loss should the WRF be located at the Righetti property.

Bob Dalton, Morro Bay, opposed siting the WRF on the Righetti property due to reduced property values, visual, odor, and potential health concerns.

Ric Deschler, Morro Bay, spoke in support of the Righetti property for the new WRF.

Kayla Burke, Morro Bay, spoke in opposition of the Righetti property for the WRF.

Donna Burke, Morro Bay, spoke in opposition of the Righetti property for the WRF.

Bob Keller, Morro Bay, spoke in support of the Righetti property for the WRF.

Patty Martinez, Morro Bay, spoke in opposition of the Righetti property for the WRF.

Jacqueline Mario, Morro Bay, spoke in opposition of the Righetti property for the WRF and urged the Council to re-examine the Tri-W property and current plant site.

Jim Lyons, Morro Bay, spoke in opposition of the Righetti property for the WRF.

Judy Newman, Morro Bay, read a letter submitted by Gregory Cordes opposing the Righetti property for the WRF.

James Pauley, Morro Bay, spoke in opposition of the Righetti property for the WRF.

Terry Simmons, Morro Bay, encouraged the Council to deal with argumentative and technical issues before choosing a site.

Lee Kleim, Morro Bay, expressed frustration with noticing and lack of response from the Mayor and staff.

Bart Beckman, Morro Bay, appreciated the staff presentation and encouraged using a mediator to resolve issues with Cayucos Sanitary District.

Bill Martony, Morro Bay, encouraged the Council to reconsider Chevron and Tri-W properties.

Mary Jo Bruton-Sadowski, Morro Bay, encouraged the Council to reconsider the Tri-W location and conduct more public outreach.

Tina Metzger, Morro Bay, spoke in opposition to the Righetti property for the WRF and encouraged revisiting the ranking criteria.

Alice Cole, Morro Bay, spoke in opposition to the Righetti property for the WRF.

Robert Church, Morro Bay, encouraged further discussions with Cayucos Sanitary District.

Ed Sylvester, Morro Bay, urged the Council to work with Cayucos Sanitary District and reconsider either the Chevron property or existing plant site.

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

Mr. Buckingham, Mr. Nunley and Mr. Rickenbach responded to questions raised during the public comment period.

There was Council consensus to support the WRFCAC recommendation for a 60-day pause to provide the community an opportunity to review established WRF goals; reevaluate alternative sites including Chevron, Tri-W and other options that may have emerged in the Morro Valley, comparing property acquisition cost, reclamation opportunities, land conservation, renewable energy and effect on neighboring property values; visit other sites with comparable technologies to verify information presented; and reestablish communications with Cayucos Sanitary District.

MOTION: Councilmember Heading moved the meeting go past 11pm. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

No formal action was taken on this item.

C-2 COMMUNITY ENHANCEMENT (CODE ENFORCEMENT) PROGRAM STATUS/DISCUSSION; (COMMUNITY DEVELOPMENT)

This item was continued to the March 22, 2016 regular meeting.

C-3 CONSIDERATION HARBOR ADVISORY BOARD "TRIANGLE LOT" CONCEPT SITE PLAN RECOMMENDATION AND AUTHORIZATION TO PROCEED WITH A FINANCIAL FEASIBILITY ANALYSIS OF A PROPOSED MARINE SERVICES FACILITY BASED ON CONCEPT SITE PLAN; (HARBOR)
https://youtu.be/8asU9-Ctp_Q?t=2h12m53s

Harbor Director Endersby presented the staff report and responded to Council inquiries.

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

Terry Simons, Morro Bay, urged the Council to move forward with development of a boatyard/marine facility.

Bill Martony, Morro Bay, spoke in support of a boatyard at the triangle property.

Alan Alward, commercial fisherman, Harbor Advisory Board and Marine Facility Ad-Hoc Committee Member, spoke in support of the Harbor Advisory Boards' recommendation to move forward with a feasibility analysis.

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

MOTION: Councilmember Makowetski moved the Council accept the Harbor Advisory Board's December 3, 2015 recommendation to consider RRM Design Group's "Option A" concept site plan for the "Triangle Lot" property as the preferred site plan on which to conduct a financial feasibility analysis for the proposed marine services facility/boatyard and authorize staff to seek and engage a consultant to conduct a full financial feasibility analysis on the proposed marine services facility/boatyard, including authorization of up to \$50,000 to complete the analysis from the Harbor Accumulation Fund. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

C-4 DISCUSSION OF AGENDA FOR THE CALIFORNIA MARINE AFFAIRS AND NAVIGATION CONFERENCE (C-MANC) ANNUAL WASHINGTON, D.C., "WASHINGTON WEEK" MEETINGS; (HARBOR)
https://youtu.be/8asU9-Ctp_Q?t=2h50m8s

Harbor Director Endersby presented the staff report and responded to Council inquiries.

The public comment period for Item C-4 was opened; seeing none, the public comment period was closed.

No formal action was taken by the City Council.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
None

E. ADJOURNMENT

The meeting adjourned at 12:04 a.m. The next Regular Meeting will be held on Tuesday, March 22, 2016 at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson, City Clerk

RESOLUTION NO. 17-16

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING VARIOUS SECTIONS OF THE CITY POLICY
AND PROCEDURES FOR HIRING CONSULTANTS**

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

WHEREAS, the City Council approved the Policy and Procedures for Hiring Consultants (the “Policy”) on August 27, 2013; and

WHEREAS, recent changes to the Morro Bay Municipal Code (MBMC) have been made relating to Contract Authority and the Purchasing Process listing a threshold amount of \$125,000 for consultant services; and

WHEREAS, staff has reviewed the Policy and determined modifications are warranted to align the authorization amount to the MBMC.

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

SECTION 1. The Policy is readopted, as attached hereto as Exhibit A.

SECTION 2. This Resolution shall be effective as of March 22, 2016.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 22nd day of March, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY POLICY AND PROCEDURE FOR HIRING CONSULTANTS

This policy outlines the procedures for securing the services of consultants. Before any work by a consultant may begin, the City requires that certain approvals are obtained and an acceptable and properly signed contract is completed. All departments that intend to engage a consultant must obtain pre-approval of budget availability before committing funds to pay a consultant. It is the policy of the City that the following procedures shall be used in the selection of consulting services.

Purpose of the Policy:

The purpose of this policy is to establish general guidelines for the selection of consultants. It is the intent of the City to make a selection on the basis of demonstrated competence and/or professional qualifications for the services required at a competitive price. Furthermore, consultant services are of a professional nature, and due to the ethical codes of the professions involved, as well as the nature of the services to be provided, do not readily fall within the competitive bidding process. Consultants should be individually selected for a specific project or problem with the objective of selecting the most qualified consultant at a fair and reasonable cost based on the complexity of the work involved.

Policy:

Except as otherwise provided, the City of Morro Bay will solicit competitive proposals by releasing, when practicable, Requests for Proposals (RFPs) to perform work for which the City does not have staff available or lacks the technical expertise required to perform a project/program. Consultants will be individually selected for specific projects with regard to special knowledge of the subject matter; ability to perform the services within the time allowed; record of success on similar work; the demonstrated understanding of City project related issues; proven working relationships with City project staff; consultant availability to City staff and the project; and ability to perform effectively in the necessary discussion, presentation, coordination, and cooperation realms of the project. While the primary goal of consultant selection is on the basis of demonstrated competence and professional experience, the cost of providing the technical service to be performed will also be considered. Deviation from an RFP selection process (*i.e.*, negotiated contracts) shall only be employed as discussed below.

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Application:

This Consultant Policy applies to the engagement of, and all payments to, individuals or firms who are not employees of the City. The policy provides guidance regarding the engagement of consultants who perform a specific service, provide advice, or render assistance for a specific time period. Consultants normally possess specialized skills, knowledge or credentials that are not readily available among City staff and shall apply to the selection of technical consulting firms for design, review, inspection, field supervision, contract management, feasibility studies, master planning, and related services in connection with public improvement projects and/or

Deleted: August 27, 2013

governmental operations for the City of Morro Bay. For purposes of this policy, consulting services include, but are not limited to, professional services which may be contracted for by the City in the following fields:

- Engineering (civil, mechanical, electrical, structural, traffic, etc.)
- Architecture
- Landscape Architecture
- City and Regional Planning
- Economic Analysis
- Property Analysis
- Financial Services
- Data Processing Services
- Rates and Fees
- Recreation
- Risk Management
- Human Resources (Key employee recruitment, training, etc.)
- Contract Management (Construction management, inspection, etc.)
- Administrative Services
- Legal Services
- Environmental Services
- Land Surveying

The term "consultant" may include individuals, partnerships, a corporation, joint ventures, or any other combination of firms or persons deemed by the City to be qualified to perform the required services.

General Requirements:

1. The use of consultants provides an important human resource tool by addressing short-term project-oriented needs that would not warrant the addition of permanent full-time staff because of the finite nature of the task. Arrangements to secure the services of a consultant are beneficial when the services are so specialized or highly technical that they cannot be performed economically or satisfactorily by existing City staff, or in a situation where there are significant time or city workload constraints.
2. The use of a consultant is expected to be primarily for the purpose of obtaining recommendations for solving clearly delineated problems.
3. In general, the determination regarding employee versus consultant status is made by the Administrative Services Director in close coordination with the affected Department Head. In cases where it is difficult to determine the correct status, the Administrative Services Director shall consult with the City Attorney to determine whether an employer-employee relationship exists. Only upon determination that no employer-employee relationship would be established can the proposed agreement be executed. If an employer-employee relationship would be established, the Administrative Services Director shall follow the normal employment process.

Deleted: August 27, 2013

Conflict of Interest:

The City's conflict of interest code requires all City officials and employees to disqualify themselves from participating in a City decision that may result in material financial gain to them. ~~That~~ applies to decisions relating to contracting for the services of a consultant. Further, a consultant shall not be in a reporting relationship to a City employee who is a near relative nor shall the near relative be in a decision-making position with respect to the consultant.

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Former employees that subsequently work as consultants are prohibited from participating in projects directly or indirectly related to the City of Morro Bay for a period of one year. For example, the former employee may not work in the following consulting roles:

- An individual working as an independent consultant;
- An individual working for a consulting firm (i.e., the firm may bid on City contracts but may not involve a former employee on the project);
- An individual working for a firm that has been subcontracted by another consulting firm to perform a specific component of a contract.

An exception to this prohibition may be granted, with City Council approval, under extenuating circumstances before the one-year period expires, for example, when a former employee with specialized skills and/or experience is required to work on a special project.

Criteria for Selection:

Selection of consultants for professional services shall be based on demonstrated competence and the qualifications necessary for the work required. The following general selection factors will be considered, to the extent that each may apply, in selecting a consultant for a particular study or project:

- A. The consultant and consultant team's demonstrated understanding of the City's capital program, infrastructure and standards; positive work experience with City's project development and operations staff; and availability to the project and City staff.
- B. Educational and experience background of the consultant's key staff that will be assigned to each of the primary elements of the project work as well as the individual within the consultant's organization who will be in overall charge of the work.
- C. Necessary license or other professional credential(s) of the consultant to perform the particular study, project, or work.
- D. Demonstrated recent record of success of the consultant on work previously performed for the City or others of a similar nature and magnitude. Key areas to consider are the consultant's ability to deliver the required work or services in acceptable form and detail, on schedule, and within budget.

Deleted: August 27, 2013

- E. The consultant's documented record in delivering completed design, estimating, construction management services, etc., of proven reliability as evidenced by the final completion costs of previous projects of similar scope and magnitude.
- F. The adequacy of the consultant's staff to perform the work within the time allowance.
- G. The method(s) proposed by the consultant for the work required; the primary elements of the work shall be identified.
- H. The ability of the consultant to make effective written reports and public presentations of the work or design as may be required.
- I. The ability of the consultant to work effectively with City staff, other public agencies, and related parties as may be required during the course of the design, study, or other technical services.
- J. New or innovative ideas that are presented by the consultant in the proposal which demonstrate clear or advanced understanding of the work, its problems, and possible solutions.
- K. Whether the consultant has adequate knowledge of local conditions.
- L. The consultant's past record of continued interest in the success, efficiency, and workability of the program of services previously delivered.
- M. The ability of the consultant to furnish effective construction supervision services, where such services are an inherent part of a "package" of services for which the consultant is employed.
- O. The ability of the consultant to provide errors and omission insurance and other insurance as may be required by the City Attorney/Risk Manager.

Each of the above listed general selection criteria factors may typically be employed in the evaluation of any proposal. To this list may be added any specific or unusual evaluation criteria necessary because of any special work, process, or service required. Each selection criteria factor may be weighted according to its overall, perceived importance against the project whole.

While price may not be the singular guiding issue in selecting a consultant, the consultant's proposal shall include the "fixed" or "not-to-exceed" cost (whichever is required by the RFP). The proposal shall also include any required supporting data in the form of cost/man-hour of each employee classification to be used, anticipated total project, man-hours for each classification, overhead costs, expenses, etc. (Note: If a "not-to-exceed" cost is required by the RFP, then the final cost of the service(s) shall be the consultant's actual cost incurred or the agreed upon "not-to-exceed cost," whichever is less.)

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The consultant's proposal will be reviewed for any deviations and exceptions taken, work not included, or any other inconsistency between the City's RFP which details the "work required" and the consultant's proposal which details the "work offered." The consultant shall explain the reasons for the deviations and exceptions in the proposal. Deviations and exceptions which demonstrate clear benefit or advantage to the City may receive special consideration.

Selection Process–General Guidelines:

Firms that have been determined, by the department that is most familiar with the project or program, to be actively in the business of providing the required service will be invited to submit proposals. When possible, the minimum number of firms requested to submit a proposal in response to an RFP shall be three (3) for services estimated to cost from \$45,000 to \$125,000 and five (5) for services estimated to cost \$125,000 or more.

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When appropriate, qualified local firms (within San Luis Obispo County) will be sent RFPs. For unusual or extraordinary consulting services, Request for Qualifications (RFQs) will be sent to selected firms. The RFQs will be reviewed and evaluated to narrow and finalize the field of qualified firms to be sent RFPs.

Recognizing the development and presentation of a professional proposal is often expensive, it is the City's position to request a proposal from a firm only when the firm will be seriously considered for the program, project, or work.

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Selection:

The review procedure for the selection of professional service contracts shall be as follows:

A. Consultant Contracts Costing Less than \$45,000:

Request for Consultant services shall be initiated by the requesting Department Director (or Manager if there is no Director). The Department Director (or Manager if there is no Director) may waive the formal RFP process and interview one or more consultants which the Department Director (or Manager if there is no Director) believes is/are qualified to perform the work. The Department Director (or Manager if there is no Director) will then select a consultant and forward a recommendation, to include an explanation/justification for bypassing a competitive RFP process, to the City Manager for issue of a contract. At the discretion of the City Manager, award will be made as recommended, or the City Manager may require consideration of additional service providers.

B. Consultant Contracts Costing More Than \$45,000:

1. Review/Selection Committee:

The responses received to an RFP will be evaluated by a review/selection committee which shall provide a recommendation of a specific consultant for consideration. The review/selection committee shall normally consist of requesting department staff members

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appointed by the requesting Department Director (or Manager if there is no Director). For projects of particular interest, complexity, or controversy, the City Manager may designate additional staff from other departments or request less than a quorum of Council Members or others to participate on the review/selection committee. The review/selection committee will determine the ranking of the consultants. Final recommendation for awards valued greater than \$45,000 but under \$125,000 will be presented to the City Manager for approval. Recommendations for awards over \$125,000 will then be presented to Council for consideration of contract award.

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2. Deviation from RFP process:

The availability of qualified local firms (within San Luis Obispo County) is essential to the business of City government. To preserve that vital resource, the City Staff may decide to solicit annual submission of Statements of Qualification (SoQ) from local and regional professional firms that may provide value in executing the various programs and projects identified in the annual budget or capital improvement program. Those SoQs may be used to award on-demand delivery task order contracts to assist in the execution of the approved budget when appropriate. Those on-demand contracts shall not exceed \$125,000, unless specifically approved by the City Council.

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In addition, the City Council may authorize the execution of a contract for services up to \$125,000 without any previous publication or posting of notice inviting proposals when the City Council finds and declares any one or more of the following situations exist:

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- a. When a proposal or proposals have been received for the subject services, including publication or posting of notice, and the City has rejected any and all proposals, and has authorized negotiation with one or more proposers or other parties who possess the capability of supplying the required services, and the City finds the proposed contract so negotiated is more favorable to the City than any which could be made in accordance with the proposals heretofore requested.
- b. When there is only one available source which can supply the subject matter of the contract.
- c. When the contract is for professional services, including peculiar or specialized skill or ability.
- d. When an emergency exists that makes it essential to the health, safety or welfare of the people that emergency action be taken.
- e. When a sole-source procurement is based on standards previously adopted by the City Council.
- f. When prices have been established by other governmental entities, or associations of governmental entities, in such a manner as to ensure the best value available to the City.

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g. For procurement of services over \$125,000 when, at the request of the City Manager, and upon approval thereof by the City Council, services are proposed to be procured which do not constitute public works projects.

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All of the above is to be in accordance with the Government Code requirements.

Final Scope of Work and Contract:

The final contract of work may vary somewhat from that originally contemplated in the RFP, if the review/selection committee determines additions, deletions, or corrections are necessary to properly describe the work. Contracts must be prepared on forms approved by the City Attorney to assure they include all state and CJPIA required contract language. Any modification of forms previously approved by the City Attorney or the use of a non-City form requires the review by the City Attorney.

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Renewal of Contracts with Professional Consultants:

Requests to the City Manager/City Council to renew an existing contract with a professional consultant should include an evaluation of the work performed by the consultant as well as a determination that the fees being charged are comparable to similar services offered by other consultants.

If the fee of the renewed contract does not exceed \$125,000, then the City Manager may execute the agreement. If the fee exceeds \$125,000, then the request will be placed on the Council agenda.

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The total expenditures for consultant services shall be reported to City Council on a quarterly basis.

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AGENDA NO: A-4

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: March 11, 2016

FROM: Brooke Austin, Legal Assistant/Deputy City Clerk

SUBJECT: Approval of Resolution No. 18-16 amending the Advisory Board By-Laws to Change Meeting Frequency for Public Works Advisory Board, Recreation and Parks Commission and Tourism Business Improvement District Advisory Board, and Increase Number of Members on Citizens Oversight/Finance Committee

RECOMMENDATION

Staff recommends that Council adopt Resolution No. 18-16 approving the requested changes to Advisory Board By-Laws.

BACKGROUND/DISCUSSION

Staff has received requests from multiple advisory boards to increase their meeting frequency and recommending amendment to the Advisory Board By-Laws to accommodate those changes. The Public Works Advisory Board previously met every other month and would now like to meet monthly on a regular basis. The Recreation and Parks Commission previously met every other month and would now like to meet monthly, except in the months of February, June, October, and December, on a regular basis. The Tourism Business Improvement District Advisory Board previously met on a quarterly basis and would like to increase their meeting frequency to monthly on a regular basis.

In addition, a request has been made by the Citizens Oversight/Finance Committee to increase the number of committee members from five to seven. Committee membership is established by Section 3.22.120 of the MBMC; therefore, in addition to this item recommending amending the by-laws to incorporate the requested changes, there is a Business item on this same meeting's agenda recommending Ordinance No. 602 be introduced to amend that Section.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 18-16.

Prepared By: <u>BRA</u>	Dept Review: <u>DS</u>
City Manager Review: <u>DWB</u>	
City Attorney Review: <u>JWP</u>	

RESOLUTION NO. 18-16

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING THE ADVISORY BOARD BY-LAWS TO CHANGE
MEETING FREQUENCY FOR PUBLIC WORKS ADVISORY BOARD,
RECREATION AND PARKS COMMISSION AND TOURISM BUSINESS
IMPROVEMENT DISTRICT ADVISORY BOARD, AND INCREASE
THE NUMBER OF MEMBERS ON THE CITIZENS OVERSIGHT COMMITTEE
(ACTING AS THE CITIZENS FINANCE COMMITTEE)**

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

WHEREAS, the City of Morro Bay has established an Advisory Boards Handbook and By-Laws to set forth their purpose, procedures, and specific issues such as their functions, meeting dates, officers, vacancies, and budget; and

WHEREAS, the City Council desires to amend the applicable by-laws to increase the meeting frequency for the Public Works Advisory Board, Recreation and Parks Commission and Tourism Business Improvement District Advisory Board; and

WHEREAS, the City Council desires to amend the applicable by-laws to increase the number of members on the Citizens Oversight Committee (acting as the Citizens Finance Committee) from five to seven members; and

WHEREAS, the City Council desires to correct various other non-technical grammatical and typographical items in the Handbook.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, does hereby amend the By-Laws for the Public Works Advisory Board, Recreation and Parks Commission, Tourism Business Improvement District Advisory Board and Citizens Oversight Committee (acting as the Citizens Finance Committee), as set forth in Exhibit A and dated March 22, 2016, Advisory Boards Handbook and By-Laws.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 22nd day of March, 2016 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY
ADVISORY BOARDS
HANDBOOK
AND
BY-LAWS

Date: March 22, 2016

Approved by Resolution 18-16

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.

INTRODUCTION

Welcome and thank you for your interest in serving on one of the City's Advisory Boards. By serving on one of Morro Bay's Advisory Boards, you can help plan and guide the City's future. It is important that members of the Advisory Boards understand the functions and responsibilities of a board member. We hope that you find serving on the City's advisory board personally satisfying, and in the process gain invaluable knowledge and experience.

The City of Morro Bay Municipal Code empowers the City Council to form boards and commissions to assist the City Council in legislating and managing the affairs of the City. From time to time citizen advisory committees are appointed to meet a specific topic and need. Their varied roles provide significant opportunities for formulating City policy and for creating public forums for meaningful community participation.

Consistent with the City's Mission Statement, advisory boards can help the City achieve its mission and purpose, which is to preserve and enhance the citizens of Morro Bay's quality of life. This Handbook shall serve as a guide to assist you in the sometimes-complex, but often rewarding, process of serving on one of the City's Advisory Boards. These advisory bodies assist the City Council in making better-informed decisions by formulating new ideas, information gathering, receiving public testimony and comments, analyzing complex issues, and making recommendations on specific projects and broad policy.

Advisory Boards advise the City Council and the City Manager on matters within their area of responsibility and interest; help focus attention on specific issues and problems within their scope of responsibilities, and recommend action and alternatives for Council consideration; act as channels of communication among City government, the general public, and interest groups; and balance community wants with municipal responsibility and resources.

At times, your role may be challenging and complex. Public opinion can be sharply divided, questions may overlap, and sometimes the province of one body may also be the territory of another. Therefore, we have created this handbook to assist you with some of the fundamental aspects of your new responsibility.

Much of the information in this handbook comes from City policy, such as the City's Municipal Code and the City Council Policies and Procedures Manual. In addition, State Law governs certain responsibilities of advisory body members. The material presented is intended to: (1) Give interested persons an understanding of why the City's advisory bodies have been established and how they function within the overall governmental framework and, (2) Summarize the roles, relationships and responsibilities of each advisory body member.

Each Advisory Board within the City has its own By-Laws. The By-Laws are included herein for your ease of reference. The sections of the Handbook are divided as follows:

1. General Information on Advisory Boards
2. FAQs
3. Background Information of City Government
4. The Brown Act
5. Political Reform Act of 1974 (Conflict of Interest)
6. Advisory Body Summary
7. Advisory Board By-Laws

We hope this handbook will answer many of your questions, get you off to a good start, and contribute to your satisfaction in serving the citizens of the City of Morro Bay.

1. General Information on Advisory Bodies

Advisory bodies are authorized by both the Morro Bay Municipal Code and the City Council.

Advisory boards provide an opportunity for interested residents to participate in the governing of their community under guidelines and procedures established by the Council. Advisory boards can improve the quality of City government by providing the Council with resources to make better-informed decisions. Because of the nature of various advisory boards, they can serve as the “eyes and ears” of the Council for issues and matters that otherwise might not receive attention. Other benefits of advisory boards include improvement in the lines of communication between the public and the Council, greater opportunities for discussion of public issues, and more citizen involvement in City government. There is considerable variety in the purpose or responsibility of these bodies. Advisory boards have been created by the City Council to serve the City of Morro Bay’s unique needs.

The authority of an advisory body will depend upon its specific purpose. Each has a specific focus and will make recommendations to the Council on issues related to that specific field. Decisions made by an advisory body may be appealed to the Council. The Council may not always accept the recommendation of an advisory body because of additional information available or a need to balance the recommendation with policy or community priorities.

Generally, advisory bodies are empowered only to make recommendations to the Council or to the City staff, unless specifically authorized by law or Council to do otherwise. There should be two-way communication so that commissions are aware of the long-term goals Council has adopted, and the advisory body is able to present new ideas to the Council. Advisory board members are encouraged to attend and/or watch Council meetings.

Members of the advisory boards are volunteers who are appointed by the City Council and serve at the pleasure of the City Council. There is no compensation or benefits for board members, except for Planning Commission, whose responsibilities are greater and meetings more frequent. All members are expected to attend scheduled advisory board meetings and all meetings shall be conducted in accordance with Robert’s Rules of Order, City Council Policies and Procedures Manual and State Law.

As used herein references to advisory board shall include commission and committee. Currently, the City of Morro Bay has seven advisory boards:

- Harbor Advisory Board
- Public Works Advisory Board
- Recreation and Parks Commission
- Tourism Business Improvement District Board
- Planning Commission
- Citizens Oversight Committee/Finance Committee

2. Frequently Asked Questions

A. HOW ARE ADVISORY BOARD MEMBERS CHOSEN?

◆ **APPLICATION AND SELECTION PROCESS**

- All recruitment for advisory board members is open and published in a local newspaper. The City accepts applications from interested persons throughout the year.
- Applicants will be sought from all segments of the community, representing various interests and groups.
- Appointment is made by the City Council. Each application is carefully reviewed by the City Council.
- Members serve at the pleasure of the City Council.
- Incumbents are considered for reappointment at the conclusion of their terms.
- Terms are four years, commencing on February 1st, and the terms are staggered.

◆ **HOW DO I GET AN APPLICATION?**

- Applications may be obtained from the City Clerk's office at City Hall. Information on vacancies and/or specific recruitment periods may be requested by phoning the City Clerk. An official application form must be completed for each position.

◆ **ARE THERE ANY TIPS TO IMPROVE MY CHANCES OF BEING APPOINTED?**

- Fill out a separate form for each advisory board in which you are interested. It is to your advantage to tailor each application to the specific board or commission for which you are applying. Emphasize different aspects of your background to match those needed for a particular advisory board.
- Emphasize your talents. Clearly indicate how your particular talents, skills, training, or experience will benefit the advisory board for which you wish to be considered.
- Become familiar with the appropriate advisory board. Attend meetings, talk with advisory board members, or read documents they have developed to acquaint yourself with their work. Talk with the department head responsible for staffing the specific advisory board in which you are interested.

B. QUALIFICATIONS FOR SERVICE

Advisory board members may be required to wear "different hats" at different times. The ability to suitably perform the varied roles requires specialized skills and knowledge. Qualification for service can be divided into four general areas:

◆ LONG-RANGE INTEREST IN THE COMMUNITY

The ability to conceive and be concerned with the impact of current decisions on future citizens is paramount. Advisory board members are required to analyze issues, to listen to public comment through formal hearings or informal discussion, to interpret and apply mandates of the General Plan, and to analyze all the pertinent data before arriving at objective decisions which will be in the best interest of the community as a whole.

◆ FAIRNESS, COMMON SENSE, HONESTY AND GOOD CHARACTER

Keeping the public interest in mind, a board member will be called upon to use every day good sense in balancing the need of public and private groups. Controversial issues do arise, and the ability to make decisions based on merit rather than personalities is a must. Other traits include imagination, flexibility and the ability to act in a judicial vs. legislative capacity.

◆ KNOWLEDGE OF THE COMMUNITY MARKETPLACE, PROCESS, OBJECTIVES, AND LAWS

A first-hand knowledge of economic systems, the general operation of government, and a basic understanding of the legal process is important. This knowledge will be of tremendous value when board members are required to conduct public hearings, analyze and receive testimony and make meaningful decisions.

◆ TIME TO SERVE IN APPOINTED CAPACITY

The amount of time an advisory board member devotes to his/her duties varies with each advisory board. Before making a personal commitment, a prospective applicant should honestly evaluate whether he/she has adequate free time to attend the meetings, to review and be familiar with meeting materials, and to communicate with the public as well as with department staff.

C. STATEMENTS OF ECONOMIC INTERESTS / CONFLICT OF INTEREST

Members of any advisory board are required to file Statements of Economic Interest. Additionally, advisory board members are required to refrain from participation in matters where they have the potential for conflict of interest. (See Section 5 for the City's policy on Conflict of Interest)

3. Background Information on City Government

The City of Morro Bay is a general law city and became incorporated in 1964 and operates under the laws of the State of California.

The City Council, City Manager, City Clerk and City Attorney are integral to the day-to-day operations of the City. As such, we have included a summary of the City government's main function for your information and reference.

a. City Council:

The City Council is elected by a majority vote by the citizens of Morro Bay. The City Council is the governing body of the City and is made up of the Mayor and four council members. The City Council is accountable to the citizens of Morro Bay. The decisions of the City Council are reached by a majority vote.

The City Council formulates policy, approves programs, appropriates funds and establishes local taxes and assessments. The City Council enacts local laws (ordinances) and regulations for governing of the City. The local ordinances adopted by the City Council are compiled in the City's Municipal Code.

b. City Manager:

The City Manager is the administrative head of the government of the City. The City Manager is appointed by the City Council, and serves at its pleasure. The City Manager's duties include implementation of policies and procedures initiated by the City Council. The City Manager also is responsible for all City personnel, except as to the City Attorney, and serves as a liaison to each board, unless otherwise noted in the Board By-Laws.

c. City Clerk:

The City Clerk's duties include, but are not limited to: recording, writing and maintaining Council proceedings, conducting municipal elections, publishing ordinances and resolutions and other official City documents, storing and indexing official documents and City records for retrieval, administering Conflict of Interest disclosures, and serving as the custodian of the seal of the City.

d. City Attorney:

The City Attorney is appointed by the City Council. The City Attorney advises the City Council and City Officers (in their official capacity) in legal matters, attends all Council meetings and some board meetings, represents the City in legal actions and proceedings, and retains, supervises and monitors outside legal counsel. The City Attorney also approves all bonds and contracts made by the City, prepares ordinances and resolutions as required by the Council and prosecutes violations of the City's Municipal Codes and Ordinances.

4. The Brown Act

This is a mere glimpse of the Brown Act. A more detailed Brown Act and Political Reform Act Booklet is available to the advisory board through the City Attorney's office.

a. The Brown Act.

The general purpose of the Brown Act is to aid in the conduct of the people's business. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not for the people to know. Therefore, it is the intent of this Act that the actions and deliberations of all local agencies be taken openly, including deliberations and collective discussion involving the examination, weighing and reflection on the reasons for or against a choice. It also includes the exchange of facts preliminary to the ultimate decision.

Generally all meetings of City boards, commissions, committees and groups are to be open and public and all persons are to be permitted to attend any meeting. Under certain *strict* circumstances, closed session meetings are permitted.

Brown Act Compliance is absolutely required. We encourage you to carefully review the Brown Act Booklet which is available through the City Attorney's Office which describes in detail the Brown Act.

5. Political Reform Act (Conflicts of Interest)

A. Background

The Political Reform Act (Government Code sections 81000, et seq.) was approved by the voters of the State of California and is intended to prevent conflicts of interest by requiring public officials to disclose certain personal financial interests which could foreseeably cause conflicts. In addition, a public official may be required to disqualify himself/herself from making, participating in, or attempting to influence any government decision which will affect any of his/her financial interests, not just those that are required to be disclosed. The City's Brown Act and Political Reform Act Booklet explains in more detail what a conflict of interest is, and when the law requires disqualification. In addition, the Fair Political Practices Commission is available for advice.

Under the Political Reform Act, no public official may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision if he or she knows or has reason to know that he or she has a financial interest. (Government Code Section 87100). A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of his or her economic interests. (Government Code Section 87103; 2 Cal. Code of Regs. Section 18700 (a)).

The term "financial interest" denotes a conclusion that a public official has a financial interest in a decision if it is concluded that it is reasonably foreseeable that the decision will have a material financial effect on his or her economic stake greater than that of other citizens. The term "economic interest" is a label applied to the particular types of stakes recognized by the Act as potential sources of a conflict of interest. There are specific types of economic interest recognized by the Act, as such, we direct you to carefully review the Brown Act and Political Reform Act Booklet which is available from the City Attorney's Office and/or visit the Fair Political Practices Commission Web page for more detailed information.

B. City Policy Regarding Conflicts of Interests

Because the City of Morro Bay is a small, closely knit community it is imperative that the citizens have trust and confidence in City government. Therefore, the City has adopted this public policy to prevent any possibility of conflict that may arise.

Generally stated, any elected or appointed official has a conflict of interest if he or she has a financial interest in a project before the City and/or when compensation is received from anyone seeking approvals from the City. There are some exceptions but, generally, elected or appointed officials are prohibited from voting on projects where a conflict exists. A conflict of interest also occurs when officials live within a certain distance from a project (usually 500 feet). Even if a legal conflict does not exist, it may be inappropriate to participate in a decision for personal reasons to avoid even the appearance of a conflict of interest. As an example, there

could be a conflict if your good friend has a matter before your board, and you do not feel that it would be appropriate for you to voice an opinion in your "City" capacity. While the latter case is not defined by the Fair Political Practices Commission as a conflict, it could be perceived as a conflict, and then stepping down is appropriate.

It is the policy of the City, in addition to strictly adhering to the FPPC rules, all elected and appointed officials conduct themselves in a manner that does not raise a reasonable perception or belief that there is a conflict of interest or an abuse of your position. All board and commission members should avoid the appearance of conflict at all costs.

If you step down from the dais and refrain from voting on an issue, then you are not precluded from speaking as an individual. Your presentation, however, must be made from the floor, at the microphone with the rest of the public. You should state for the record that you are speaking as an *individual*. Many times in the past, Council Members and advisory board members have stepped down from their official position at the dais when projects are presented in which there may be the potential for conflict of interest. That provides the opportunity to present your views as an *individual* on any matter before any City body.

6. ADVISORY BOARD BY-LAWS

The City Council has approved the rules and regulations (referred to herein as By-Laws) to set forth their purpose, procedures, and specific issues such as their functions, meeting dates, officers, vacancies and budgets.

All advisory board meetings will be conducted in strict compliance with Robert's Rules of Order, the City Council Policy and Procedures and State Law. For more detailed information, we suggest you review the City Council's Policies and Procedures Manual.

Attached hereto are the applicable By-Laws for all of the City of Morro Bay's Advisory Boards.

CITY OF MORRO BAY HARBOR ADVISORY BOARD BY-LAWS

PURPOSE AND AUTHORITY

The Harbor Advisory Board is established to review, advise and recommend to the City Council on items pertaining to the City Harbor. These include, but are not limited to:

- A. Use, control, promotion and operation of vessels and watercraft within the harbor, docks, piers, slips, utilities and publicly-owned facilities as a part of the City's Harbor, and water commerce, navigation, or fishery in the Harbor.
- B. Review and recommend rules and regulations pertaining to any of the matters listed in subsection A of this section.
- C. Review and recommend rates, tolls, fees, rents, charges or other payments to be made for use or operation of the Harbor.
- D. The Board shall make reports and recommendations to the various city boards, commissions or the City Council on matters relating to activities within the harbor. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

APPOINTMENT

The Harbor Advisory Board shall be comprised of seven voting members, four of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Harbor Advisory Board members shall serve at the pleasure of the City Council. The City Council will attempt to select members from the following categories:

- Morro Bay Commercial Fishermen's Association
- Waterfront Leaseholders
- Marine Oriented Business
- Recreational Boating
- Representative of South Bay/Los Osos
- Two Members at Large

However, the City Council and Harbor Advisory Board recognize the importance of the Morro Bay Commercial Fisherman's Association (MBCFO) seat, and acknowledge that it is often difficult for commercial fishermen serving on the HAB to meet the attendance requirements due to the nature of their business. As such, up to two (2) Alternate MBCFO members to the Primary member may be appointed by the City Council in the same manner and fashion as regular appointments in order to stand-in for the Primary member in the event of the Primary member's absence.

TERMS OF OFFICE

Members shall serve, without compensation, for a period of four (4) years commencing February 1st in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

Four of the seven members must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

ABSENCE FROM MEETINGS

Absence of a Board Member from three consecutive meetings or four meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Harbor Advisory Board.

PROCEDURE

Regular meetings shall be held monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

These advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Harbor Advisory Board", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Harbor Advisory Board Member". In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Harbor Advisory Board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Harbor Advisory Board Members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Harbor Advisory Board business and shall attend the Harbor Advisory Board meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY PUBLIC WORKS ADVISORY BOARD BY-LAWS

PURPOSE AND AUTHORITY

The Public Works Advisory Board is established to review, advise and recommend to the City Council on items pertaining to Water, Waste-water, Streets, Recycling, and Solid Waste, Cable Television, Telecommunications, Trees, Transportation and other issues related to Public Services Department responsibilities.

The Board shall make reports and recommendations to the various city boards, commissions or the City Council on the above matters. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

APPOINTMENT

The Public Works Advisory Board shall be comprised of seven voting members, all of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. The Public Works Advisory Board members shall serve at the pleasure of the City Council.

TERMS OF OFFICE

Members shall serve, without compensation, for a period of four years commencing February 1st in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

A member must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

ABSENCE FROM MEETINGS

Absence of a Board Member from two consecutive meetings or three meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Advisory Board.

PROCEDURE

Regular meetings shall be held every month on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

These advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Board", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Public Works Advisory Board Member". In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Public Works Advisory Board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Public Works Advisory Board members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to the Public Works Advisory Board business and shall attend the Public Works Advisory Board meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY RECREATION AND PARKS COMMISSION BY-LAWS

PURPOSE AND AUTHORITY

The Recreation and Parks Commission is established to provide the following:

- A. Act in an advisory capacity to the City Council in all matters pertaining to parks and public recreation and to cooperate with other governmental agencies and civic groups in the advancement of sound recreation and parks planning and programming. The Board shall make reports and recommendations to the various city boards, commissions or the City Council on the above matters. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.
- B. Formulate policies on recreation services, parks and open space for approval by the City Council.
- C. Recommend to the City Council the development of recreational areas, parks, facilities, open spaces, programs, and improved recreation services.
- D. Recommend to the City Council the adoption of rules, regulations and standards concerning recreation and parks in respect to organization, personnel, areas and facilities, program and financial support.
- E. Advise the Recreation and Parks Director in the preparation of the annual parks maintenance, park improvement and recreation budgets and long-range recreation and parks facilities improvements.
- F. Hold public hearings and meetings to conduct investigations and surveys for the purpose of securing facts and data concerning parks and public recreation.

APPOINTMENT

The Recreation and Parks Commission shall be comprised of seven voting members, five of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Commissioners shall serve at the pleasure of the City Council.

TERMS OF OFFICE

Members shall serve, without compensation, for a period of four (4) years commencing February 1st in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

Five of the seven members must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

ABSENCE FROM MEETINGS

Absence of a Board Member from two (2) consecutive meetings or three (3) meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Commission.

PROCEDURE

Regular meetings shall be held every month, except the months of February, June, October and December, on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

All Commission meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term “City Council” shall mean the “Commission”, the term “Mayor” shall mean “Chairperson” and the term “Council Member” shall mean “Commissioner”. In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by “Robert’s Rules of Order,” revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Commission shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow “Robert’s Rules of Order.”

Communication between the Commission members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Commission business and shall attend the Commission meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD BY-LAWS

PURPOSE AND AUTHORITY

The Morro Bay Tourism Business Improvement District (MTBID) Advisory Board (the “Board”) advises the City Council on the administration and use of the MTBID assessment funds. The Board recommends projects to the City of Morro Bay to promote tourism to directly benefit the City’s lodging industry.

The primary purpose of the MTBID is to increase occupancy and room nights across all lodging types (motel, hotels, bed and breakfast) that pay the business improvement assessment, along with transient occupancy tax (TOT) within the City while placing particular emphasis on marketing that positively impacts the lodging.

APPOINTMENT

The Board shall be comprised of seven voting members. Appointments and the filling of vacancies shall be made by the City Council. The Board members shall serve at the pleasure of the City Council. Because of the diversity among assessment district members represented by the Board including local, regional and national lodging industry interests, it is neither practical nor advisable to limit Board membership to City residents. Accordingly, membership on the Board shall be exempt from residency requirements otherwise applicable to other City advisory boards. In addition, a member of the Board may not sit on any other City advisory board.

TERMS OF OFFICE

Members of the Board shall serve, without compensation, for a period of four years. Appointments shall be made in such a manner such that no more than three members’ terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only. If a vacancy is within the last 6 months of a term, then it will be held over to the normal interview process.

QUALIFICATIONS

The Board shall consist of five members from the Morro Bay lodging industry and two members from the community at large.

The five members from the lodging industry shall consist of three members representing hotels “at large” (no specific number of rooms), and two other positions shall give preference to a

member representing lodging rooms of less than 22 rooms and one member representing 50 or less rooms (single hotel or cumulative representation), respectively. If no preferential applicant from a small or large hotel – as defined above – apply, then the seat shall be made available to applicants at an “at large” hotelier representative basis.

The community “at large” members shall be residents and registered voters of the City during the term of appointment.

Each member must be at least 18 years of age at the time of appointment and may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

FUNCTIONS AND DUTIES

The functions and duties of the Board shall include, but not be limited to, the following:

1. Plan a comprehensive program to promote tourism to the City of Morro Bay and prepare an annual marketing program consistent with industry goals and objectives.
2. Develop advertising and promotional programs and projects to benefit the lodging industry in Morro Bay
3. Present an annual assessment report to the City Council regarding the implemented promotional programs and projects.
4. Perform any other lawful tasks as directed by the Council.

ABSENCE FROM MEETINGS

Absence of a Board Member from three consecutive meetings or three meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chair and Vice-Chair of the Board as well as any presiding officers shall be hoteliers. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, the Vice-Chairperson shall perform duties of the office. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Board.

PROCEDURE

Regular meetings shall be held monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

These advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Board", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Board Member". In all matters and things not otherwise provided for in the Bylaws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the advisory board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Board members, and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to the Board business and shall attend the Board meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY PLANNING COMMISSION BY-LAWS

PURPOSE AND AUTHORITY

The Planning Commission is established in accordance with the provisions of Government Code Sections 65100, *et seq.* The functions of the Planning Commission shall be as follows:

- A. To develop and periodically review, a general plan and recommend its adoption or any revisions to the city council;
- B. To maintain and implement the general plan after its adoption by the city council;
- C. To develop specific plans as may be necessary to implement the general plan;
- D. To periodically review the capital improvement program of the city for its consistency with the general plan, and forward recommendations to the city council;
- E. Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.
- F. Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it;
- G. To perform such other functions as the city council may direct.

The Planning Commission shall:

- A. In addition to the duties and responsibilities set forth by state laws and local ordinances, the planning commission shall act in the public interest and serve in an advisory capacity to the city council on all matters pertaining to the planning function;
- B. Cooperate with other city boards and commissions, governmental agencies and civic groups in the advancement of sound planning, both within and without the city;
- C. Formulate policies on planning services for recommendation to the city council;
- D. Upon the request of the City Council, hold a joint meeting with the city council twice annually to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The city clerk shall in January of each year bring forth an agenda item to the city council to schedule the two joint meetings;
- E. Recommend to the city council the adoption of standards with respect to organization, personnel, facilities, programs and financial support of the planning commission;
- F. Disseminate to the public information concerning the policies and functions of the planning commission.

APPOINTMENT

The Planning Commission shall consist of five voting members and they shall be qualified electors and residents of the City. Appointments and the filling of vacancies shall be made by the City Council. Commissioners shall serve at the pleasure of the City Council.

TERMS OF OFFICE

Members of the Planning Commission shall be appointed by and serve at the pleasure of the City Council. Terms shall be for a period of four years; vacancies shall be filled for the unexpired term only. Two-year short terms may be established to stagger terms. Expiration dates of specific terms shall be established by resolution of the City Council.

QUALIFICATIONS

A member must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

ABSENCE FROM MEETINGS

Absence of a Commissioner from three consecutive meetings or four meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

ORGANIZATION

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, then the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Commission.

PROCEDURE

Regular meetings shall be held twice a monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to

public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

All Commission meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Commission", the term "Mayor" shall mean "Chairperson" and the term "Councilmember" shall mean "Commissioner." In all matters and things not otherwise provided for in the Bylaws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Commission shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Commission members, and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Commission business and shall attend the Commission meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

**CITY OF MORRO BAY
CITIZENS OVERSIGHT COMMITTEE
ACTING IN THE CAPACITY OF A CITIZENS FINANCE
COMMITTEE**

PURPOSE AND AUTHORITY

The Citizens Oversight Committee was established in accordance with the provisions of Morro Bay Municipal Code Section 3.22.120 as a result of Measure Q. The functions of the Citizens Oversight Committee shall be to semi-annually review revenues and expenditures from the collection of tax and present its findings and conclusions to the City Council no later than the last day of the sixth month following the end of each City fiscal year.

The purpose of the functions of the Citizens Oversight Committee acting in the capacity of a Citizens Finance Committee shall be an advisory body to the City Council. (Hereinafter when this policy refers to “the Committee” it shall be a reference to the Citizens Oversight Committee acting in the capacity of the Citizens Finance Committee. The Committee will review financial documents, and make recommendations, in general, regarding the review of financial information provided to them, concerning the annual budget and mid-year budget review.

MISSION STATEMENT

The role of the Committee is to provide citizen input to the City Council and staff, regarding financial policy or process issues, including audits, financial budgets, contract expenditures and financial reports. In addition, the Committee’s role is to help promote citizen participation with, and understanding of, governmental financial information and processes, such as the financial documents, audits, and budgets, as well as the financial condition of the City.

DUTIES

1. Annual review of independent financial audit, with recommendations, as appropriate.
2. Annual review of contract expenditures, with recommendations, as appropriate.
3. Review existing budget document to determine long-term financial sustainability, and make recommendations, as appropriate.
4. Review and provide comments on the mid-year budget reports prior to presentation to City Manager.
5. Review annual budget prior to presentation to the City Council, and make recommendations, as appropriate.
6. Special financial projects, as directed by the City Council, City Manager or City Treasurer.

7. Propose/recommend additional financial areas of study to the City Council.
8. All recommendations are to be provided to the City Council, in writing, unless otherwise requested, on no less than a semi-annual basis.
9. Submit an annual work program to the City Council review and approval.
10. The Citizens Oversight Committee shall review a semi-annual expense report of the City relative to activities funded with the additional general purpose local sales tax monies and present its findings and conclusions to the City Council for its review no later than December 31st each year.

APPOINTMENT AND TERMS OF OFFICE

The Committee shall have seven citizen-members appointed by the City Council for six year terms with initially three members serving three years, and four members serving six years. Appointees shall be residents of the City; however, no member of the Committee shall be an elected official. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

All Committee Members must be residents and registered voters of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

ABSENCE FROM MEETINGS

Absence of a Committee Member from two (2) consecutive meetings or three (3) meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

ORGANIZATION

At the first regular meeting every two years wherein newly appointed members are seated, the members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of two years. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, the Vice-Chairperson shall perform duties of the office. If both the Chair and Vice-Chair are absent, then the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Committee.

PROCEDURE

Regular meetings shall be held monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

All Committee meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Committee", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Committee Member". In all matters and things not otherwise provided for in the Bylaws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Committee shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Committee members, and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Treasurer shall be responsible for preparing agendas, reports, and minutes pertaining to Committee business and shall attend the Committee meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

DISCUSSION

The RTA has seen an increase in use, as well as expenses, associated with Runabout operations. As costs for Runabout continue to increase, the resulting impact is reduced TDA funding for all systems that operate fixed-route transit programs within the county, including Morro Bay. One way to assist RTA in reducing the load on the paratransit system is to have local fixed-route providers accommodate paratransit riders when, and if, they can complete a ride on the fixed-route system. These rides are provided at a lower cost and can help save money for RTA and in turn, the JPA funding partners.

An agreement is proposed for consideration to allow RTA to subsidize Runabout passenger rides provided by Morro Bay Transit and Trolley, at the rate of \$7.45 per trip. This would help alleviate demands on Runabout paratransit services by capturing more trips on a more cost effective fixed-route system.

The RTA Board of Directors has previously approved the concept of providing free fixed-route fares to encourage fixed-route travel by ADA paratransit riders. SLO Transit and South County Area Transit (SCAT) have enacted similar agreements and begun offering this option to Runabout riders.

Increasing Runabout Demand Trend

Paratransit services typically serve a small subgroup of disabled passengers who cannot use regular ADA accessible fixed-route buses. Riders may be eligible for paratransit even if they do not have a physical disability. Barriers to accessing the fixed-route system - such as topography or lack of sidewalks, can make paratransit the only transit available to some riders. For San Luis Obispo County, data trends show an increasing demand for Runabout trips. RTA has seen a significant increase in ridership over the last several years. Demand for Runabout has put annual paratransit operating costs just below the total RTA fixed-route costs even though it is a supplemental service to the fixed-route operation.

Paratransit services are less cost effective to operate than fixed-route. This is because the rider needs are much more specific, thus limiting the opportunity for shared rides which therefore drives the cost per passenger up. The passenger requested travel times (pick-up and drop-off), destination(s), which can be countywide, and the timeframe needed to accomplish the trip, almost always require a dedicated vehicle and driver for each single passenger trip. The Runabout cost per passenger averages over \$60 for RTA while the cost per passenger for Morro Bay Transit and Trolley services is \$7.45.

There is very specific and stringent language from the Federal Transit Administration regarding the high level of service that must be provided for these passengers. In fact, while travel times can be negotiated, they cannot be denied to a rider. This therefore requires RTA to always have available dedicated resources for such passengers.

Fiscal Issues

RTA's current FY15-16 budget identifies a total of \$3,654,000 for Runabout services. This is of concern to both RTA and Morro Bay as more of the limited regional dollars are allocated to the paratransit service and issues of overcrowding or additional service on high demand RTA routes must be deferred. RTA staff is currently working to implement cost saving efforts and policies to appropriately curb increasing Runabout demands; including additional assessment of ADA applicants as part of eligibility screening and trip sharing discounts for multiple passenger pickups.

Additional Solution

An additional cost saving effort is shifting potential ADA riders to fixed-route services if the rider is able to be accommodated. This is possible because, in some cases, passengers have what is known

as a “conditional disability” where the passenger has the ability to use fixed-route under favorable medical and/or weather conditions and depending on the nature of their trip. They qualify for Runabout paratransit services as they have a qualifying conditional disability but don’t have to rely solely on Runabout to provide all of their trips. The goal would be to incentivize these individuals to use the fixed-route on those “favorable conditions” trips, at no cost to them, in order to save the cost of the trip on the ADA service. Their fare will be reimbursed by RTA’s Runabout budget to the local provider.

Under this arrangement, RTA will reimburse Morro Bay Transit and Trolley for these rides by paying a flat fee of \$7.45 based on the full average cost-per-passenger for Morro Bay Transit and Trolley (total operating cost divided by total passengers). RTA will reimburse Morro Bay Transit and Trolley every time a Runabout passenger uses local fixed-route under this arrangement for a three year period with execution of the agreement.

Future year reimbursements will be based on the previous year’s cost per passenger trip rate. The goal is to slow or even reverse the trend of increased use on Runabout, and related increased costs, by migrating as many trips as possible to the more cost effective fixed-route services available throughout the county. It is hoped that some of these trips will be able to be accommodated on the City’s fixed-route system thus alleviating the demand on Runabout, resulting in reducing operating expenditures which in turn result in lower increases of the City TDA funds needed for Runabout service.

Staff will monitor the ADA uses on the system and report on potential issues (such as delays due to increased wheel chair boarding’s), if they develop.

CONCLUSION

Staff recommends the City Council authorize the Mayor to execute an agreement with the RTA for fare free rides for Runabout passengers on Morro Bay Transit and Trolley that would be subsidized by the RTA.

ATTACHMENTS

1. Agreement for Runabout Rider Fare-Free Access on Morro Bay Transit Deviated Fixed-route & Trolley Buses

ATTACHMENT 1

**AGREEMENT FOR RUNABOUT RIDER FARE-FREE ACCESS ON MORRO BAY
TRANSIT DEVIATED FIXED-ROUTE & TROLLEY BUSES**

THIS AGREEMENT (“Agreement”) is made and entered on this _____ day of _____, 2016 (the “Effective Date”) by and between the San Luis Obispo Regional Transit Authority, a Joint Powers Authority (“RTA”) and the City of Morro Bay, a municipal corporation (“CITY”) (collectively, RTA and CITY are sometimes referred to as the “Parties”).

WITNESSETH:

WHEREAS, the Americans with Disabilities Act (the “ADA”) requires transit agencies, such as RTA, to provide certain paratransit service; and

WHEREAS, in order to comply with the ADA, RTA operates a Runabout Paratransit program, which is the designated complementary paratransit provider for all fixed-route services in San Luis Obispo County (“Runabout”); and

WHEREAS, CITY operates general public fixed-route and deviated fixed-route vehicles within and adjacent to Morro Bay City limits; and

WHEREAS, Runabout service is the designated ADA complementary paratransit provider for all fixed-route services in San Luis Obispo County; and

WHEREAS, RTA has identified the need to control costs in the face of increasing demand for Runabout services; and

WHEREAS, RTA determines eligibility for Runabout services based on applicants’ self-certification and a medical professional’s concurrence; and

WHEREAS, qualified registrants are issued a Runabout eligibility card by RTA; and

WHEREAS, RTA, Paso Robles Express and South County Transit permit Runabout registrants to board fixed-route buses fare-free by displaying their eligibility card upon entering the fixed-route bus; and

WHEREAS, RTA wishes to expand fare-free service for certified Runabout registrants on CITY’s fixed-route and deviated fixed-route vehicles.

NOW THEREFORE, for good and valuable consideration, the parties hereto do mutually agree on the following:

1. Runabout Registrants Ride Fare-Free To/From Established Bus Stops

Registered Runabout riders can board a CITY bus and ride fare-free by showing the bus operator his or her Runabout eligibility card. Fare-free service will only be provided for Runabout-eligible riders who travel between established CITY bus stops; Runabout-eligible riders wishing to use route-deviations will not be provided a fare-free trip.

2. RTA Compensates CITY on a Monthly Basis

CITY will track each Runabout-eligible passenger boarding using the daily driver run sheets, and provide a monthly summary by route to RTA. For Fiscal Year 2015-16, RTA shall compensate CITY on a per-passenger boarding price of \$7.45. In future fiscal years during the Term (as defined below), RTA shall compensate CITY for each fare-free Runabout boarding using CITY's previous year Operating Cost divided by the number of annual passenger boardings. The Operating Cost is reported in CITY's annual TDA fiscal and compliance audit report. Payment of the compensation shall be made within thirty (30) days after RTA's receipt of each monthly summary from CITY.

3. Term and Termination

The term of this Agreement commences on the Effective Date (as defined below) and expires at the end of the third full fiscal year of CITY after the Effective Date (as defined below) (the "Term"). During the Term, either party may terminate this Agreement for any reason by providing thirty-days' written notice to the other party.

4. Change in Terms

This Agreement shall be amended or modified only by mutual written agreement of the parties.

5. Mutual Indemnification

Each party to this Agreement shall indemnify, defend and hold harmless the others hereto and they and their affiliated entities' officers, agents and employees, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including reasonable attorney's fees and court costs, which arise solely by virtue of its own negligent acts or omissions (either directly or through or by its officers, agents or employees) in connection with its duties and obligations under this Agreement.

6. Notification

All notices and communications regarding interpretation of the terms of this Agreement and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

San Luis Obispo Regional Transit Authority

Geoff Straw
Executive Director
179 Cross Street, Suite A
San Luis Obispo, CA 93401

City of Morro Bay

Janeen Burlingame
Transit Manager
595 Harbor Street
Morro Bay, CA 93442

7. Effective Date

The effective date of this Agreement is the date it is last signed by one of the Parties.

SIGNATURES

RTA

CITY

Jan Marx, President
RTA Board of Directors

Jamie Irons, Mayor
City of Morro Bay

Dated: _____

Dated: _____

APPROVED AS TO FORM
AND LEGAL EFFECT

APPROVED AS TO FORM

RITA L. NEAL
County Counsel

JOSEPH W. PANNONE
Morro Bay City Attorney

By: _____
Assistant County Counsel

By: _____
City Attorney

Date: _____

Date: _____



AGENDA NO: A-6

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and Council **DATE:** March 15, 2016

FROM: Rob Livick, PE/PLS – Public Works Director/City Engineer
Jarrod Whelan, PE, Associate Engineer

SUBJECT: Resolution 19-16 Authorizing the Public Works Director to Execute Documents to continue California Energy Commission Loan for Energy Efficiency Projects

RECOMMENDATION

Staff recommends Council adopt Resolution No. 19-16, which authorizes the Public Works Director, or his/her designated appointee, to execute all documents necessary to continue the California Energy Commission Loan for Energy Efficiency Projects.

BACKGROUND

At the City Council meeting on December 14, 2009, staff was authorized to apply for Energy Efficiency and Conservation Block Grant (EECBG) funds to initiate the projects identified in the California Energy Commission (CEC) Energy Audit Letter Report. Staff informed Council at that time General Fund monies may be requested to supplement the grant funds to complete the recommendations identified in the audit. On February 8, 2010, Council authorized staff to apply for loan funding through the CEC to supplement the grant funding. The 2010 loan program was similar to this and offered a 3% interest rate. The funding for this program was exhausted before the City application was processed. The CEC released a new program with a 1% interest rate, and Council authorized the Recreations and Parks Director to proceed with the funding in June 2014.

In February 2015, the restructuring of City Departments transferred the Facility Maintenance Division to Public Works and eliminated the Recreation and Parks Director position. Resolution 19-16 will allow the Public Works Director, or his/her designated appointee, to execute all necessary documents to continue in eligible City-wide energy efficiency and energy generation projects.

CONCLUSION

The completion of the energy efficiency projects identified by the CEC and the installation of new HVAC and energy generating photo voltaic panels is a step in meeting our goal of developing fiscal conservation and reducing the City's carbon footprint.

Prepared By: RL/JW Dept Review: RL
City Manager Review: _____
City Attorney Review: _____

RESOLUTION NO. 19-16

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING THE PUBLIC WORKS DIRECTOR, OR DESIGNATED APPOINTEE,
TO EXECUTE ALL NECESSARY DOCUMENTS TO CONTINUE THE CALIFORNIA
ENERGY COMMISSION LOAN FOR ENERGY EFFICIENCY PROJECTS**

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

WHEREAS, the California Energy Commission provides loans to school, hospitals, local governments, special districts, and public care institutions to finance energy efficiency improvements; and

WHEREAS, Resolution 37-14 authorized the Recreation and Parks Director to apply for an energy efficient loan from the California Energy Commission for up to \$562,000 to implement energy efficient measures and authorize all necessary documents to implement the loan; and

WHEREAS, the City no longer has a Recreation and Parks Director and Facility Maintenance Services were transferred to the Public Works Director.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that: the Public Works Director, or his/her designated appointee, is hereby authorized and directed to execute all necessary documents to implement and carry out the terms of the loan and to undertake all actions necessary to undertake and complete the energy efficiency projects.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March, 2016 by the following vote:

AYES:
NOES:
ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk



City of Morro Bay

City Hall
595 Harbor Street
Morro Bay, CA 93442
805-772-6201

MEMORANDUM

To: Honorable Mayor and City Council
From: Scot Graham, Community Development Manager
Date: March 21, 2016
Subject: Secondary Unit Ordinance Recommendation Change for Item B-1

Meeting Date: March 22, 2016

This memo is written to address a change in staff recommendation for item B-1 (Secondary Dwelling Unit Ordinance) of the City Council Agenda for the Meeting of March 22, 2016. The current staff report recommendation is to accept the Planning Commission recommendation to adopt text amendments to Title 17 as outlined in Exhibit A attached to Ordinance No. 601. The aforementioned recommendation includes exclusion of secondary units for use as vacation rentals.

Staff's revised recommendation is to strike the vacation rental prohibition and to allow secondary dwelling units to be utilized as residential units and/or vacation rentals depending on the desire of the owner. This change in recommendation is derived from the fact that the Coastal Commission was not in favor of an outright ban on the use of secondary dwelling units as vacation rentals and the fact that the Planning Commission was not a staunch supporter of the prohibition, but instead was more ambivalent toward the issue.

Allowing secondary dwelling units to be utilized as either permanent housing or vacation rentals allows the owner flexibility in how they manage the unit. Secondary units may provide housing for a family member or they may be rented to the public or they may serve multiple rolls; providing a place for family and friends to stay when they visit, but then serving as an income source in the form of vacation rental when not being utilized for visitation by family or friends.

The change in recommendation effects findings Section 1 of Ordinance No. 601, in so far as findings 8 and 9 will need to be stricken. The deletion of findings will also require renumbering. See findings 8 and 9 below:

~~8. Utilizing secondary dwellings as vacation rentals is inconsistent with Housing Element Policy H-10 (Secondary Units) because that would undermine their use as long-term affordable rental housing.~~

~~9. Prohibiting the use of secondary dwelling units for vacation rentals will not have any significant adverse effect on available visitor serving facilities. Vacation rentals are allowed in all zones throughout the City. As of March, 2016, within Morro Bay there are~~

Memo to City Council
March 21, 2016

~~approximately 160 licensed vacation rentals and 900 motel rooms, in addition to two State parks with camping facilities and numerous second homes used for vacationing by families living outside the City.~~

Also, Exhibit A of Ordinance 601 would require alteration to remove Section 17.48.320(H) as identified below:

~~H. Prohibited Use as Vacation Rental.~~

~~A secondary dwelling unit shall not be rented as a vacation rental. Public notice of each application for a secondary dwelling unit shall clearly state within the description of the project it may not be used as a vacation rental.~~

The remainder of Section 17.48.320(H) would have to be sequentially re-lettered.



AGENDA NO: B-1

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 11, 2016

FROM: Whitney McIlvaine, Contract Planner

SUBJECT: Introduction and First Reading of Ordinance No. 601: Local Coastal Program and Zoning Text Amendment (#A00-029) amending Title 17 provisions related to Secondary Dwelling Units and Guesthouses/quarters and accessory living areas

RECOMMENDATION

Staff recommends the City Council:

- 1) Accept the Planning Commission recommendation to adopt text amendments to Title 17 outlined in Exhibit A attached to Ordinance No. 601; and
- 2) Move to waive reading of Ordinance No. 601 in its entirety and introduce for First Reading by number and title only; and
- 3) Direct staff to submit a Local Coastal Program (LCP) Amendment to Coastal Commission after second reading and adoption.

ALTERNATIVE

- 1) Make modifications to Ordinance No. 601 and introduce, as modified, with direction to staff to submit as an LCP Amendment for certification by Coastal Commission after 2nd reading and adoption.

FISCAL IMPACT

The proposed amendments will have negligible effect on City finances.

SUMMARY

The City's current zoning laws regarding second units, as certified by the Coastal Commission, are not consistent with State law. The City has adopted three separate ordinances to correct that and to change provisions related to guesthouses between 2005 and 2014 (Ordinances No. 507, 576, and 585). None of those were certified by the Coastal Commission, as required pursuant to Morro Bay Municipal Code Section 17.64.080. Before submitting the most recent ordinance for certification, staff recommended further review by the Planning Commission to correct minor errors, clarify development standards, and address

Prepared By: WM

Dept Review: SG

City Manager Review: _____

City Attorney Review: JWP

the issue of affordable housing versus vacation rentals. The Planning Commission reviewed suggested changes at its January 5, and February 16, 2016, meetings and recommended additional revisions, which are incorporated into Exhibit A. If introduced and adopted by the City Council, then Ordinance No. 601, which includes the actual proposed amendments to the City's Zoning Ordinance, as Exhibit A, will be forwarded to the Coastal Commission for certification.

DISCUSSION

State law:

A primary purpose of Ordinance No. 601 is to comply with the amendments made in 2002 to Government Code Section 65852.2, which sets standards of review and permitting for secondary dwelling units in an effort to increase supply of small, affordable housing units while ensuring those units remain compatible with the surrounding neighborhood. Please refer to Attachment C for the text of the State law.

Summary of Ordinance No. 585 amendments:

The City Council adopted Ordinance No. 585 in May 2014, which sought to update the Zoning Ordinance to be more consistent with State law regarding secondary dwelling units and to make changes to regulations affecting guesthouses. That ordinance (i) deleted the requirement for a minor use permit and deed restriction for both secondary dwelling units and guesthouses, (ii) reduced the maximum size of a secondary dwelling to the lesser of 900 square feet or 50% of the square footage of the primary dwelling, with an allowance of up to 1,200 square feet with a conditional use permit, (iii) required a conditional use permit for tandem parking where more than one space is required for the secondary unit and (iv) deleted the requirement for compliance with water equivalency and public facility improvement fees. The full text of Ordinance No. 585 is included as Attachment B.

Summary of proposed Ordinance No. 601 amendments:

The full text of Ordinance No. 601 is included as Attachment A to this report with proposed amendments to Title 17 outlined in Exhibit A. In addition to some of the changes proposed in previous Ordinance No. 585, the new ordinance proposes:

- A revised definition for "Guesthouse/Accessory living area,"
- More detailed development standards for guesthouses and accessory living areas, similar to those provided for secondary dwelling units,
- Retaining the minor use permit requirement for guesthouse and accessory living areas,
- Clarifying permit requirements by zoning district,
- Requiring a covenant agreement for both guesthouses and secondary dwelling units, as a means of constructive notice to prospective buyers and future property owners and a deterrent to conversion of guesthouses to unpermitted separate dwellings,
- Prohibiting the use of secondary dwellings for vacation rentals, and

- An amnesty program for existing non-permitted secondary dwellings.

Coastal Commission Comments and Staff Analysis:

Coastal Commission staff expressed concern with the prohibition of using secondary dwelling units as vacation rentals. City planning staff feels that concern is unwarranted for several reasons. Secondary dwelling units are intended to expand affordable housing options, consistent with the City's General Plan Housing Element Policy H-10, which states, "Allow for the development of secondary housing units as an affordable housing option throughout the city." Enabling them to be rented short term as vacation rentals is not consistent with General Plan affordable housing goals.

In Morro Bay, vacation rentals are allowed in every zoning district with virtually no requirement other than obtaining a vacation rental license and paying applicable transient occupancy taxes. Secondary residential units are only permitted in certain residential zones in conjunction with a single-family house. In the Agricultural zone, they would only be allowed if used for farm worker housing. They are not permitted in commercial zones, and notably, not in the Visitor-Serving Commercial zoning district. Overall, Morro Bay has an ample supply of visitor-serving accommodations. Currently, there are approximately 165 licensed vacation rentals in the City, in addition to roughly 900 motel rooms, 2 State Parks with camping facilities, and numerous second homes used by families vacationing from outside the area. In contrast, there are only about 35 secondary dwelling units. Allowing them to be used for vacation rentals would undermine their potential to improve housing affordability.

Environmental Determination:

A Negative Declaration was prepared for proposed amendments to the Zoning Ordinance regarding secondary dwelling units and guesthouses. The environmental document was posted for review and comment for a thirty day period that concluded on November 29, 2011. The State Clearing House number is 2011101073. The Negative Declaration concluded the proposed text changes to the Local Coastal Program and Zoning Ordinance would not result in any significant adverse impacts to the built or natural environment. Nothing in the currently proposed revisions materially alters that conclusion.

CONCLUSION

Ordinance No. 601 represents the most recent and most comprehensive review of Morro Bay Zoning Ordinance provisions related to secondary dwelling units and guesthouses. Adoption of that ordinance would resolve inconsistencies with State law regarding secondary dwelling units and provide clear guidelines for the establishment of secondary dwellings and guesthouses and accessory living areas.

ATTACHMENTS

- A - Ordinance No. 601
- B - Ordinance No. 585 (adopted on May 13, 2014, but not certified by Coastal Commission)
- C - California Government Code sections related to “second units”
- D - Planning Commission Resolution No. PC 01-16
- E - Minutes of the January 5, 2016 meeting
- F - Copy of currently certified Zoning Ordinance language regarding secondary dwellings and guesthouses

Links Available on the City’s Web Page:

January 5, 2014 Planning Commission agenda and Item B-3 staff report:
<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2637>

February 16, 2016 Planning Commission agenda and Item B-1 staff report:
<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2675>

ATTACHMENT A

ORDINANCE NO. 601

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17
OF THE MORRO BAY MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR
REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES**

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

Case No. A00-029 (Local Coastal Plan/Zoning Ordinance Amendment)

WHEREAS, it is the purpose of Title 17 of the Morro Bay Municipal Code (“MBMC”) (the “Zoning Ordinance”) to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

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

WHEREAS, California State Law §65852.2 requires cities to establish standards to allow for secondary dwelling units so as to increase the supply of smaller, affordable housing compatible with the surrounding neighborhood; and

WHEREAS, the proposed amendments are intended to meet the intent of State Law by providing an option to build a secondary dwelling unit in certain zones that permit single-family dwellings and have no more than one existing single-family home on the property; and

WHEREAS, after duly noticed Public Hearings on January 5, 2016, and February 16, 2016, the Planning Commission of the City of Morro Bay did forward a recommendation, by adoption of Planning Commission Resolution No. 01-16, the City Council amend the Zoning Ordinance to comply with the State legislation (AB 1866) and also clarify review standards for guesthouses; and

WHEREAS, a Negative Declaration was prepared to evaluate the environmental impacts as a result of amendments to Title 17 of the MBMC regarding secondary dwelling units and guesthouses, and determined no significant impacts would result.

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

SECTION 1: The City Council finds:

1. The above recitations are true and correct and constitute the findings of the Council in this matter.
2. The Zoning Ordinance Amendment proposal is consistent with the State Statute AB 1866 and includes similar language, which was previously in effect.
3. The previous amendments to the Zoning Ordinance, adopted by Ordinance No. 576, did not reflect the values of the community.
4. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well-being of the persons residing or working in the neighborhood.
5. The proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan because they forward the objective of creating a variety of affordable housing types and ensure protection of coastal resources.
6. The Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and applicable policies and provisions of the California Coastal Act because a finding of no adverse impact on coastal resources is required in order to approve any application for a secondary dwelling unit or guesthouse, and because neither are allowed in the Commercial Visitor Serving zoning district.
7. The proposed amendment is consistent with and implements Housing Element Policy H-10 (Secondary Units) which states, "Allow for the development of secondary housing units as an affordable housing option throughout the city."
8. Utilizing secondary dwellings as vacation rentals is inconsistent with Housing Element Policy H-10 (Secondary Units) because that would undermine their use as long-term affordable rental housing.
9. Prohibiting the use of secondary dwelling units for vacation rentals will not have any significant adverse effect on available visitor serving facilities. Vacation rentals are allowed in all zones throughout the City. As of March, 2016, within Morro Bay there are approximately 160 licensed vacation rentals and 900 motel rooms, in addition to two State parks with camping facilities and numerous second homes used for vacationing by families living outside the City.
10. For purposes of the California Environmental Quality Act, on November, 29, 2011, a Negative Declaration (State Clearing House number 2011101073) was prepared for the then proposed amendments to Title 17 regarding secondary dwelling units and guesthouses. The Negative Declaration concluded those proposed text changes to the Local Coastal Program and Zoning Ordinance would not result in any significant adverse impacts to the built or natural environment. Nothing in the revisions

established by this Ordinance materially alters that conclusion.

- 11. Pursuant to Morro Bay Municipal Code Section 17.64.080, no amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission. If the Coastal Commission certifies this Ordinance conditioned on substantive changes being made, then the Council will introduce and adopt another ordinance to incorporate those substantive changes. If the Coastal Commission certifies this Ordinance conditioned on non-substantive changes being made to this Ordinance, then the City Clerk is authorized to amend this Ordinance to reflect those non-substantive changes.

SECTION 2: The City Council hereby repeals Ordinance No. 507, Ordinance No. 576, and Ordinance No. 585.

SECTION 3: Based upon all the foregoing, Title 17 of MBMC is amended set forth in Exhibit "A," attached hereto and made a part of this Ordinance.

SECTION 4: This Ordinance shall become effective on the 31st day after its adoption but shall not become operative until it is certified by the Coastal Commission.

INTRODUCED at the regular meeting of the City Council held on the 22nd day of March 2016, by motion of _____ and seconded by _____.

PASSED, APPROVED, AND ADOPTED, by the City Council of the City of Morro Bay, on the ____ day of _____, 2016, on the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

JOSEPH W. PANNONE, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 22nd day of March, 2016, and hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ day of _____, 2016, by the following vote, to wit:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2016.

City Clerk of the City of Morro Bay

EXHIBIT A

The changes to the City's Zoning Ordinance (Title 17), and Local Coastal Program are shown in underline for additions, while ~~strike through~~ indicates deletions. Plain text indicates existing zoning ordinance language to be retained. ***Bold italics*** indicate recommended general changes.

CHAPTER 17.12 DEFINITIONS

Delete Section 17.12.295, definition for "Granny Unit," and replace with new definition for "Secondary Dwelling Unit" as follows:

~~17.12.295~~ ~~GRANNY UNIT~~

~~"Granny Unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons (accessory to a single family residence in specific zones permitting such use). It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling.~~

17.12.295 Secondary dwelling unit.

"Secondary dwelling unit" means a dwelling unit that (i) is detached from or attached to the primary residential dwelling unit, which provides complete independent living facilities for one or more persons, (ii) includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the primary residential dwelling unit and (iii) "second unit," as set forth in Sections 65852.150 and 65852.2 of the California Government Code.

Delete Section 17.12.300, definition for "Guesthouse," and replace with new definition for "Guesthouse / Accessory living area" as follows:

~~17.12.300~~ ~~Guesthouse.~~

~~"Guesthouse" means any attached or detached accessory building which does not have enclosed access directly to the interior of the principle residence, which has any bathroom facility and which does not contain a kitchen, cooking facilities, or food preparation or storage facilities, and where no compensation in any form is received or paid for use thereof.~~

17.12.300 Guesthouse / Accessory living area.

"Guesthouse / Accessory living area" means an attached or detached habitable area that is used in conjunction with a primary single-family dwelling on the same lot and may have bathroom facilities, but does not have enclosed access to the interior of that primary single-family dwelling and does not contain a kitchen or any cooking or food preparation facilities, nor more than one bedroom.

In general, replace all references in the Zoning Ordinance to “granny unit” with “secondary dwelling unit”. This includes references in Chapter 17.44, Parking and Chapter 17.24, Primary Districts (discussed below).

CHAPTER 17.24 PRIMARY DISTRICTS

The following changes shall be made to the tables in the Chapter 17.24 in designated areas zoned for single-family and multi-family use:

• In the AG, RA, R-1, R-2, R-3, and R-4 districts, delete the requirement for a minor use permit for secondary dwelling units that meet the applicable standards in Section 17.48.320 “Secondary Dwelling Units.”

• Delete references to “granny unit”.

CHAPTER 17.48 GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS

17.48.315 ~~GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS~~ Guesthouse / Accessory living area.

Where provided by this Title, guesthouses and habitable structures for accessory living areas may be permitted in conjunction with a ~~dwelling unit~~ primary single-family dwelling, subject to the below requirements:

A. ~~Guesthouse Restrictions.~~ Size.

A guesthouse / accessory living area shall not contain more than six hundred forty (640) square feet of habitable floor area ~~containing not more than one bedroom and bathroom~~ nor shall it exceed thirty (30) percent of the floor area of the primary single-family dwelling, ~~and no cooking or food preparation or food storage facilities shall be provided.~~

B. ~~Use-Permit Requirements.~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

1. Outside the Coastal Commission appeal jurisdiction, guesthouses and accessory living areas may be permitted only after obtaining a minor use permit pursuant to Chapter 17.60 “Use Permits, Procedures, Notices, and Variances.”

2. In the CRR zone, a conditional use permit is required pursuant to Chapter 17.60.

3. Inside the Coastal Commission appeal jurisdiction, guesthouses and accessory living areas are subject to the same requirements as “additions to single-family dwellings,” pursuant to Chapter 17.58 “Coastal Development Permits and Procedures.”

C. Location.

Guesthouses and accessory living areas may be established on any lot zoned R-A, R-1, R-2, R-3, R-4, AG and CRR, with the required permit, in accordance with District Tables in Chapter 17.24, where a primary single-family dwelling has been constructed or is proposed to be constructed in conjunction with the guesthouse or living area. Only one guesthouse / accessory living area or secondary dwelling unit is permitted on the same lot; provided, that both may be permitted on any lots which is a minimum of 7,500 square feet in size, subject to approval of a conditional use permit. Guesthouses and accessory living areas are prohibited in the S2.B Overlay.

D. Development Standards.

Guesthouses and accessory living areas shall comply with all development standards applicable to the zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage.

E. Parking.

As part of the permit process, additional parking may be required for guesthouses and accessory living areas.

F. Design.

Guesthouses and accessory living areas shall be consistent and compatible with the architectural style of the primary single-family dwelling and the neighborhood, and shall be located on the same lot as the primary residence.

G. Covenant Agreement.

Prior to the issuance of any building or grading permit, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "guesthouse / accessory living area." That agreement shall be recorded in the Office of the County Recorder for San Luis Obispo County to provide constructive notice to future property owners. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and State and local health and safety codes.

H. No Separate Rental.

A guesthouse / accessory living area may not be rented separately from the primary single-family dwelling. Public notice of each application for a proposed guesthouse or an accessory living area shall clearly state within the project description it may not be rented separately from the primary single-family dwelling on site.

I. Consistency with the Coastal Act.

Establishment of a guesthouse / accessory living area shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

17.48.320 ~~Granny Units~~ Secondary dwelling units.

The purpose of this Section is to provide affordable low- and moderate-income housing. ~~Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions: The following supplemental regulations are intended to comply with Government Code sections 65852.150 and 65852.2 on second units and implement the General Plan, by allowing secondary dwelling units subject to the following requirements. Nothing in Government Code sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for coastal development permit applications for second units. (Government Code subsection 65852.2(j).) Noticing for interested parties and surrounding properties shall be the same as required for coastal development permits. An approval of any secondary dwelling unit in the California Coastal Commission appeal jurisdiction will continue to be appealable to the Coastal Commission.~~

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

~~A.B. Location.~~

~~Said A secondary dwelling unit may be located, as an accessory use, on any lot zoned for single family or multi family uses zoned R-A, R-1, R-2, R-3, R-4, and AG, in accordance with District Tables in Chapter 17.24, where a primary single-family residential use has been constructed established or is proposed to be constructed in conjunction with that unit. Only one secondary dwelling unit or one guesthouse / accessory living area is permitted per one primary single-family dwelling on the same lot. A secondary dwelling unit may be allowed on any lot zoned AG only if the unit is expressly designated and used for farm laborer quarters.~~

~~B.C. Lot Coverage Development Standards.~~

~~Maximum lot coverage allowed for the District that they are located in. Secondary dwelling units shall comply with all development standards applicable to the zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage.~~

~~C.D. Design.~~

~~Said~~—A secondary dwelling unit shall be consistent and compatible with the architectural style of the main residence primary single-family dwelling and the neighborhood, and shall be located on the same lot as the primary single-family dwelling. All secondary dwelling units shall have a separate outdoor entrance in addition to any enclosed access to the interior of the primary single-family dwelling.

D.E. Size.

~~The total floor area, not including a garage, for a granny second unit shall not exceed 1,200 square feet. The total floor area, including a garage, for a detached secondary dwelling unit shall not exceed the lesser of, 900 square feet, as per State guidelines or fifty percent of the living area of the primary single-family dwelling on the same lot; provided, that up to 1,200 square feet, including a garage, may be allowed for a detached secondary dwelling unit with a Conditional Use Permit pursuant to Chapter 17.60 “Use Permits, Procedures, Notices and Variances.” The floor area, including a garage, of an attached secondary dwelling unit shall not exceed thirty percent of the living area of the primary single-family dwelling.~~

E.F. Parking.

~~A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking spaces may be open and uncovered and may be located in setback areas; however they may not be in tandem with the required parking of the primary single-family dwelling. When more than one space is required for a secondary dwelling unit, tandem spaces shall only be allowed for those two spaces with a Conditional Use Permit pursuant to Chapter 17.60. The primary single-dwelling unit must conform to the parking requirements of Chapter 17.44 “Parking, Driveway and Loading Facilities.” Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
- ~~2. That it is not permitted anywhere else in the City.~~

G. Water Equivalencies and Other Public Facilities.

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. Compliance with Title 14.

~~A granny secondary dwelling unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the~~

~~applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.~~

F. Water Service and Meter Requirements.

A separate water service and meter is required for detached secondary dwelling units pursuant to Title 13 of the Morro Bay Municipal Code. An attached secondary dwelling unit may be served by a separate water service and meter or may share the water service and meter with the primary single-family dwelling.

G. Permit Requirements.

No use permit shall be required for secondary dwelling units except as noted in this section and where a secondary dwelling unit is proposed as an addition to a nonconforming structure pursuant to Chapter 17.56 “Nonconforming Uses and Structures.” An administrative coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units in or outside the Coastal Commission appeal jurisdiction.

H. Prohibited Use as Vacation Rental.

A secondary dwelling unit shall not be rented as a vacation rental. Public notice of each application for a secondary dwelling unit shall clearly state within the description of the project it may not be used as a vacation rental.

I. Consistency with the Coastal Act.

Establishment of a secondary dwelling unit shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

J. Density.

A secondary dwelling unit, which conforms to the requirements of this section, shall not be considered to exceed the allowable density for the lot upon which it is located.

K. No Subdivision of Property.

The secondary dwelling unit shall not be sold separately and no subdivision of property shall be allowed where a secondary dwelling unit has been constructed, unless the subdivision meets all requirements of zoning and subdivision regulations. Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been constructed.

L. Covenant Agreement.

Prior to the issuance of any building or grading permit, a covenant agreement shall be recorded which discloses the structure’s approved floor plan and status as a “secondary dwelling unit.” This agreement shall be recorded in the Office of the County Recorder for San Luis Obispo County to provide constructive notice to all future owners of the property. The covenant agreement also may contain

authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and State and local health and safety codes.

M. Acceptance of Existing Secondary Dwelling Units.

1. Exemption. Each secondary dwelling unit that existed on or before March 1, 2016, (“Existing Secondary Dwelling Unit”) and that meets the requirements of the Uniform Housing Code, as determined by the Building Inspector, on a lot that includes the required number of parking spaces for both the primary single-family dwelling and the secondary dwelling unit, is exempt from the unit size and design requirements of this section; provided that to be able to benefit from this exemption an Existing Secondary Dwelling Unit must be issued a timely Acceptance Certificate, as provided in subsection 2., below.

2. Acceptance Certificate Required. To obtain an Acceptance Certificate, an owner of an Existing Secondary Dwelling Unit must file an application with the Community Development Department for acceptance of the unit on or before March 31, 2018.

3. Application and Procedure. An application for a certificate timely filed must include a site and floor plan, documentation of ownership, additional materials as required to establish the approximate date the secondary dwelling unit was built, and a fee, as established by City Council resolution. Upon receipt of the application, the Building Inspector will schedule an inspection.

4. If the secondary dwelling unit meets basic health and safety standards as identified in the then current Uniform Housing Code, then an Acceptance Certificate will be issued and the secondary dwelling unit address will be entered into the City’s database indicating the secondary dwelling unit is legal.

5. If the required inspection determines the secondary dwelling unit does not meet health and safety standards identified in the then current Uniform Housing Code, and it is brought into compliance within a period of not more than 12 months after the date of inspection, then an Acceptance Certificate will be issued and the secondary dwelling unit address will be entered into the City’s database indicating the secondary dwelling unit is legal.

6. If the required inspection determines the secondary dwelling unit does not meet health and safety standards identified in the then current Uniform Housing Code, and it is not brought into compliance within a period of not more than 12 months after the date of inspection, then that unit shall be deemed an illegal non-conforming use and demolished within 6 months after notice from the City.

7. Notwithstanding the foregoing application, inspection and certification process, no person shall rent or occupy a secondary dwelling unit that fails to meet the standards required by the Uniform Housing Code.

8. A secondary dwelling unit, which receives an Acceptance Certificate, but does not meet site development standards, will be considered a legal nonconforming unit.

Chapter 17.58 COASTAL DEVELOPMENT PERMITS AND PROCEDURES

17.58.020(G) Additions to Single-Family Homes.

2.b. Regular coastal permit required for additions greater than ten percent of gross floor area and for fences, garages, and other ancillary structures, including secondary units (secondary dwelling units) including guesthouses and accessory living areas.

17.58.020(I) Secondary Dwelling Units.

Administrative coastal permits will be required for the establishment of secondary dwelling units within the coastal zone both inside and outside the California Coastal Commission appeal jurisdiction.

ATTACHMENT B

ORDINANCE NO. 585

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17
OF THE MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR MINISTERIAL
REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES IN
RESIDENTIAL ZONES WHERE SINGLE-FAMILY HOMES ARE A PERMITTED USE**

THE CITY COUNCIL
City of Morro Bay, California

Case No. A00-013 (Local Coastal Plan/Zoning Ordinance Amendment)

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

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

WHEREAS, California Government Code §65852.2 requires cities to establish standards to allow for ministerial secondary dwelling units so as to increase the supply of smaller, affordable housing while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, the proposed amendments meet the intent of State Law by providing for an option to build a secondary dwelling unit or guest house in residential zones that permit single family dwellings and have no more than one single family home existing on the property; and

WHEREAS, on December 7, 2011, after a duly noticed PUBLIC HEARING, the Planning Commission of the City of Morro Bay did forward a recommendation, by adoption of Planning Commission Resolution No. 01-11 that the City Council amend Title 17 (Zoning Ordinance) to comply with the Government Code §65852.2; and

WHEREAS, on March 13, 2012, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating Secondary Units and Guesthouses as contained in Ordinance 576; and

WHEREAS, on October 16, 2013, the Planning Commission of the City of Morro Bay, after a duly noticed PUBLIC HEARING, did reconsider zoning code amendments in Ordinance 576 and did forward a recommendation by motion the City Council amend Title 17 (Zoning Ordinance) to comply with the Government Code §65852.2; and

ATTACHMENT B

WHEREAS, on April 22, 2014, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating Secondary Units and Guesthouses as contained in attached Exhibit "A;" and

WHEREAS, the City Council finds a Negative Declaration was prepared to evaluate the environmental impacts of this Ordinance, and determined no significant impacts would result from the adoption of this Ordinances; and

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

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

SECTION 1: The City Council finds:

1. The above recitations are true and correct and constitute the findings of the Council in this matter.
2. The Zoning Ordinance Amendment proposal is consistent with the Government Code §65852.2 and includes similar language, which was previously in effect.
3. The previous amendments to the City's Zoning Ordinance, adopted by Ordinance 576, did not reflect the values of the community.
4. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well-being of the persons residing or working in the neighborhood.
5. The proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan.
6. The Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act; and
7. Pursuant to Morro Bay Municipal Code Section 17.64.080, no amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission. If the Coastal Commission certifies this Ordinance conditioned on substantive changes being made, then the Council will introduce and adopt another ordinance to incorporate those substantive changes. If the Coastal Commission certifies this Ordinance conditioned on non-substantive changes being made to this Ordinance, then the City Clerk is authorized to amend this Ordinance to reflect those non-substantive changes.

ATTACHMENT B

SECTION 2: The City Council hereby repeals Ordinance 507 and Ordinance 576.

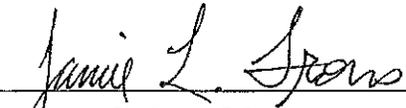
SECTION 3: Based upon all the foregoing, Title 17 of Morro Bay Municipal Code (Zoning Ordinance) is amended as contained in Exhibit "A," attached hereto and made a part of this Ordinance:

INTRODUCED at the regular meeting of the City Council held on the 22nd day of April 2014, by motion of Councilmember Christine Johnson and seconded by Mayor Irons.

PASSED, APPROVED, AND ADOPTED, by the City Council of the City of Morro Bay, on the 13th day May, 2014 by the following vote to wit:

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

ATTEST:

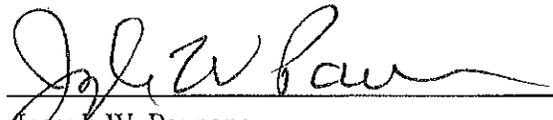


Jamie L. Irons, Mayor
City of Morro Bay



Jamie Boucher, City Clerk
City of Morro Bay

APPROVED AS TO FORM:



Joseph W. Pannone
City Attorney

ATTACHMENT B

EXHIBIT A

*The changes to the City's secondary dwelling unit ordinance (Title 17), and Local Coastal Program are shown in underline for additions, while ~~strikethrough~~ indicates deletions. **Bold** represents Planning Commission recommendations made at their October 16, 2013 meeting.*

CHAPTER 17.12 DEFINITIONS

Delete Section 17.12.295, definition for "Granny Unit", and replace with:

~~17.12.295~~ ~~GRANNY UNIT~~

~~"Granny Unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons (accessory to a single family residence in specific zones permitting such use). It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling.~~

17.12.295 Secondary Dwelling Unit.

"Secondary dwelling unit" means an attached, ~~or~~ detached or located within the residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling. This term also means "second unit" for the purposes of Sections 65852.150 and 65852.2 of the California Government Code.

(*In general, replace all references in the Zoning Ordinance to "granny unit" with "secondary dwelling unit". This includes references in Chapter 17.44, Parking and Chapter 17.24, Primary Districts (discussed below).)

CHAPTER 17.24 PRIMARY DISTRICTS

The following changes apply to areas zoned for single-family and multi-family use, including the AG, RA, R-1, R-2, R-3, R-4, and CRR districts.

- Allow, by-right, secondary dwelling units that meet the applicable standards in Section **17.48.320**
- Delete references to "granny unit".

17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

ATTACHMENT B

EXHIBIT A
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~~B. Use Permit Requirements~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

B. Location. Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or secondary unit is permitted per one primary single-family dwelling on the same lot.

17.48.320 GRANNY SECONDARY UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. Pursuant to ~~Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single family residence, subject to the following provisions: The following supplemental regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 on secondary units and implement the General Plan, by allowing secondary units in all R districts subject to the following requirements. Nothing in Government Code Sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act except that the local government shall not be required to hold public hearings for coastal development permit applications for secondary units.” (Government Code Subsection 65852.2(j).) Noticing for interested parties and those properties within 100 feet of a secondary unit property will be required. Approvals of secondary units in the appealable zone will continue to be appealable to the Coastal Commission.~~

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

A.B. Location

Said unit may be located, as an accessory use, on any R lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one secondary unit or one guesthouse is permitted per one primary single-family dwelling on the same lot. The secondary unit shall be allowed on any lot zoned AG, if the secondary unit is expressly designated and used for farm laborer quarters.

ATTACHMENT B

EXHIBIT A
Page 3 of 4

B.C. Lot Coverage

Maximum lot coverage shall be as allowed for the Zoning District that in which they are located ~~in~~.

C.D. Design

~~Said unit shall be consistent with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence. The unit shall be consistent and/or reasonably compatible with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.~~

D.E. Size

~~The total floor area, not including a garage, for a granny second unit shall not exceed 1,200 square feet. The total floor area, not including a garage, for a detached secondary unit shall not exceed **the lesser of 900 square feet, as per State guidelines, or fifty percent of the square footage of the existing single-family dwelling on the same lot, except as provided below.** The increased floor area of an attached secondary unit shall not be permitted to thirty percent of the existing living area. **Up to 1,200 square feet may be allowed with a Conditional Use Permit pursuant to Chapter 17.60.**~~

E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking spaces can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit and where more than one space is required for a secondary unit, tandem spaces shall only be allowed with a Conditional Use Permit pursuant to Chapter 17.60. The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading." Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:

1. ~~That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. ~~That it is not permitted anywhere else in the City.~~

~~F. Parking. One additional parking space shall be provided for each second unit with one bedroom and two additional parking spaces shall be provided for units with two or more bedrooms. (not including bathrooms and kitchens). The parking first space must be covered while the second space can be open and~~

ATTACHMENT B

EXHIBIT A
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~~uncovered, however neither may be in tandem with required parking of the principal dwelling unit or secondary unit, and cannot be located in the front or street side setback area. The principal dwelling unit must conform to the parking requirements of Chapter 17.244: Off Street Parking and Loading.~~

G. ~~Water Equivalencies and Other Public Facilities~~

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

F. Compliance with Title 14 and applicable provisions of Title 17

A secondary unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

17.24.030 Suburban Residential (RA) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Single-family dwelling.	No	25 ft. (no wall may exceed 30 ft.)	20,000 sq. ft.	20,000 sq. ft.	20 ft.	10 ft. garage entrance 20ft..	10% of ave. with 10 ft maximum requirement	20% of the depth of the lot with 20 ft. maximum	35% minimum permeable surface	45%
Crop and tree farming; viticulture; farming and if one acre or more grazing, of not more than two (2) cattle or horses per acre or not more than four (4) sheep or goats per acre.										
Rabbit and chicken ranching involving not more than twelve (12) animals										
Expressly prohibited: commercial dairies and kennels;										
Accessory uses and buildings normally incidental to other permitted uses but not including commercial uses, and located in accordance with Title 7; home occupations										
Guest house (no kitchen) *pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	Minor-Use-Permit *No	25 ft. (no wall may exceed 30 ft.)	N/A	1 per lot in conjunction	20 ft.	10 ft.	10 %	20%	35% minimum permeable surface	45%
Temporary Produce Stands			10 acres				10 % of ave. width with 10 ft. maximum requirement	20% of the depth of the lot with 20 ft. maximum		
Additional Residences for Agricultural Employees	Yes									
Equestrian Boarding										
Special Use Permits pursuant to 17.30	Yes									
Antennas and Wireless										

Refer to Chapter 7.16 for animal keeping setbacks

Not permitted within 100' of residential structure or adjacent residentially zoned property

Per CUP

17.24.040 Single family Residential (R-1) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling	No	25 ft. (No wall may exceed 30 ft.)	Refer to subdivision regulations for sizes for new lots	1/lot or pursuant to Section 17.24.040	20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum	10% of ave. width of lot with 5 ft. maximum and 3 ft. minimum	10% if ave. depth of lot with 10 ft. maximum and 6 ft. minimum	N/A	45%
Home occupations: structures and uses (include, home oc.) normally incidental to primary use	Minor-Use Permit *NO	25 ft.	N/A	1 unit per lot in conjunction with a primary unit	20 ft.	20% of ave.	10% of ave.	10% of ave.	N/A	45%
Guest house (no kitchen) *pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	Yes		1 per CUP	5,000 sq. ft. or per overlay zone					Plan required 20% min. permeable surface area	
Community housing project	Yes									
Special Use Permits pursuant to 17.30	Yes									

PER CUP

ATTACHMENT B

17.24.050 Duplex Residential (R-2) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 district.	No	25 ft.	Refer to Subdivision regulations for sizes for new lots	2,900 sq. ft.	20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum	10% of ave. width of lot with 5 ft. maximum and 3 ft. minimum	5 ft.	N/A	50 %
Duplexes (single structure); second single family dwellings										
Home occupations; structures and uses normally incidental to primary use						Garage entrance 20ft.				
Guest house (no kitchen) *pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	Minor-Use Permit *No	25 ft.			20 ft.	20% of ave. width of lot	10% of ave. width of lot	5 ft.	N/A	50 %
Apartment units/Bed and Breakfast	Yes									
Community Housing projects			10,000 sq. ft.							
Mobile home parks and other permitted uses as stated in Section 17.40.060			2 acres							
Parking lots-only to serve residential uses			Per CUP	N/A					Plan required 15% minimum permeable surface	
Special Use Permits pursuant to 17.30	Yes		Per	CUP						

17.24.060 Multiple Family Residential (R-3) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 and R-2 districts.	No	25 ft.	Refer to Subdivision Regulations for sizes for new lots	2,175 sq. ft.	15 ft.	20% of ave. width of lot with 10 ft maximum and 5 ft. minimum Garage entrance 20ft.	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations: structures and uses normally incidental to primary use					Garage entrance 20 ft.				Plan required 15% minimum permeable surface	
Apartment units										
Guest house (no kitchen) *pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	Minor-Use Permit *No	25 ft.			15 ft.	20% of ave. width of lot	5 ft.	5 ft. except where abuts an R-1	N/A	60%
Rooming and boarding house: bed and breakfast establishment	Yes			2,900 sq. ft.					Plan required 15% minimum permeable surface	
Community Housing project			6,000 sq.ft.							
Parking Lot			3 acres	N/A						
Mobile home park			3 acres	2,900 sq. ft.						
Special Use Permits pursuant to 17.30	Yes		Per	CUP						

ATTACHMENT B

17.24.070 Multiple Residential (R-4) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses listed in the R-1, R-2, and R-3 districts.	No	30 ft.	Refer to Subdivision	1,800 sq. ft.	15 ft./ Garage entrance 20 ft.	20% of ave. width of lot with 15 ft. maximum and 10 ft. minimum Garage entrance 20 ft.	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations; structures and uses normally incidental to primary uses			Regulations for sizes for new lots							
Apartment units	Minor-Use Permit *No	30 ft.		1 unit per lot in conjunction with a primary unit	15 ft./ Garage entrance 20 ft.	20% of ave. width of lot with 15 ft. maximum and 10 ft. minimum Garage entrance 20 ft.	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	Plans required N/A	60%
Guest house (no kitchen) *pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.										
Community housing project	Yes		6,000 sq. ft.							
Rest homes; rooming and boarding houses				750 sq. ft.						
Hotel and Motel; Bed and Breakfast establishment										
Mobile Home Park			3 acres	2,900 sq. ft.						
Commercial uses and services, including but not limited to newsstands, gifts and notions, coffee shops, self service laundries, and bike rental, which are normally incidental to hotels, motels and mobile home parks, if such uses are provided without direct access to a public street										
Parking lots										
Professional, governmental and general business offices which do not engage in retail sales on the premises										
Special Use Permits pursuant to 17.30	Yes									
			Per	CUP						



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GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 1. PLANNING AND ZONING [65000 - 66103] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.*)

CHAPTER 4. Zoning Regulations [65800 - 65912] (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.*)

ARTICLE 2. Adoption of Regulations [65850 - 65863.13]

 (*Article 2 added by Stats. 1965, Ch. 1880.*)

65852.2. (a) (1) Any local agency may, by ordinance, provide for the creation of second units in single-family and multifamily residential zones. The ordinance may do any of the following:

(A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.

(B) Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of second units.

(b) (1) When a local agency which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.

(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements which apply to detached dwellings, as appropriate.

- (1) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.
- (3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.
- (4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of second units if these provisions are consistent with the limitations of this subdivision.
- (5) A second unit which conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (c) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.
- (d) A local agency may establish minimum and maximum unit size requirements for both attached and detached second units. No minimum or maximum size for a second unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which does not permit at least an efficiency unit to be constructed in compliance with local development standards.
- (e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.
- (f) Fees charged for the construction of second units shall be determined in accordance with Chapter 5 (commencing with Section 66000).
- (g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of second units.
- (h) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) or (c) to the Department of Housing and Community Development within 60 days after adoption.
- (i) As used in this section, the following terms mean:
- (1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
- (2) "Local agency" means a city, county, or city and county, whether general law or chartered.
- (3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.
- (4) "Second unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:
- (A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for second units.

(Amended by Stats. 2002, Ch. 1062, Sec. 2. Effective January 1, 2003.)



California LEGISLATIVE INFORMATION

Code: Section: [Up^](#) [<< Previous](#) [Next >>](#)[cross-reference chaptered bills](#)[PDF](#) | [Add To My Favorites](#) **GOVERNMENT CODE - GOV****TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)**DIVISION 1. PLANNING AND ZONING [65000 - 66103]** (*Heading of Division 1 added by Stats. 1974, Ch. 1536.*)**CHAPTER 4. Zoning Regulations [65800 - 65912]** (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.*)**ARTICLE 2. Adoption of Regulations [65850 - 65863.13]** (*Article 2 added by Stats. 1965, Ch. 1880.*)

65852.150. The Legislature finds and declares that second units are a valuable form of housing in California. Second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income, and an increased sense of security.

It is the intent of the Legislature that any second-unit ordinances adopted by local agencies have the effect of providing for the creation of second units and that provisions in these ordinances relating to matters including unit size, parking, fees and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.

(Added by Stats. 1994, Ch. 580, Sec. 1. Effective January 1, 1995.)

ATTACHMENT D

RESOLUTION NO. PC 01-16

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL APPROVE TEXT AMENDMENTS TO TITLE 17 OF THE MORRO BAY MUNICIPAL CODE TO ESTABLISH REVIEW PROCEDURES AND DEVELOPMENT STANDARDS FOR SECONDARY DWELLING UNITS AND GUESTHOUSES

CASE NO.: A00-029 (Local Coastal Program/Zoning Ordinance Amendment)

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on February 16, 2016 for the purpose of considering Local Coastal Program/Zoning Ordinance Amendment A00-029 to establish review procedures and development standards for secondary dwelling units and guesthouses citywide; 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, including the testimony of interested parties, and the evaluation and recommendations by staff, presented at said hearing; and

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

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

WHEREAS, California Government Code §65852.2 encourages cities to establish standards to allow for ministerial secondary dwelling units so as to increase the supply of smaller, affordable housing while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, the General Plan Land Use Element includes residential objectives, which encourage creation of a variety of housing types for all income levels and housing needs; and

WHEREAS, Housing Element Policy H-10 (Secondary Units) states, "Allow for the development of secondary housing units as an affordable housing option throughout the city."

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:

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Resolution No. PC 01-16
LCP and Zoning Amendment #A00-029
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California Environmental Quality Act (CEQA) Finding

1. For purposes of the California Environmental Quality Act, an Initial Study was prepared for the project which resulted in a Negative Declaration (State Clearing House number 2011101073). The Negative Declaration concluded that proposed text changes to the Local Coastal Program and Zoning Ordinance would not result in any significant adverse impacts to the built or natural environment. Nothing in the proposed revisions materially alters that conclusion.

General Plan and Local Coastal Plan Consistency

1. The proposed amendments are in general conformance with the intent of the City General Plan and Coastal Land Use Plan because they forward the objectives of creating a variety of affordable housing types and, at the same time, ensuring protection of coastal resources.

Exclusion of Secondary Dwelling Units in the CRR Zone

1. Due to the need to minimize traffic impacts, no secondary dwelling units shall be allowed in the CRR zone, pursuant to conditions of approval for the Cloisters development (CUP 28-90, CDP 42-90, and TM 01-90).

SECTION 2: Action. The Planning Commission forwards a recommendation to the City Council to approve Local Coastal Program/Zoning Ordinance Amendment A00-029 as contained in Exhibit "A," attached hereto and made a part of this Resolution.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 16th day of February, 2016 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:


Robert Tefft, Chairperson

ATTEST


Scot Graham, Community Development Manager

The foregoing resolution was passed and adopted this 16th day of February, 2016.

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*The changes to the City's Zoning Ordinance (Title 17), and Local Coastal Program are shown in underline for additions, while ~~strikethrough~~ indicates deletions. Plain text indicates existing zoning ordinance language to be retained. ***Bold italics*** indicate recommended general changes.*

CHAPTER 17.12 DEFINITIONS

Delete Section 17.12.295, definition for "Granny Unit," and replace with new definition for "Secondary Dwelling Unit" as follows:

~~17.12.295~~ ~~GRANNY UNIT~~

~~"Granny Unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons (accessory to a single family residence in specific zones permitting such use). It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling.~~

17.12.295 Secondary dwelling unit.

"Secondary dwelling unit" means a dwelling unit that is detached, or attached and/or located within the primary residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the primary dwelling. This term also means "second unit" for the purposes of Sections 65852.150 and 65852.2 of the California Government Code.

Delete Section 17.12.300, definition for "Guesthouse," and replace with new definition for "Guesthouse / Accessory living area" as follows:

~~17.12.300~~ ~~Guesthouse.~~

~~"Guesthouse" means any attached or detached accessory building which does not have enclosed access directly to the interior of the principle residence, which has any bathroom facility and which does not contain a kitchen, cooking facilities, or food preparation or storage facilities, and where no compensation in any form is received or paid for use thereof.~~

17.12.300 Guesthouse / Accessory living area.

"Guesthouse / Accessory living area" means an attached or detached habitable area that is used in conjunction with a primary single-family residence on the same lot and may have bathroom facilities, but does not have enclosed access to the interior of the principal residence and does not contain a kitchen or any cooking or food preparation facilities, nor more than one bedroom.

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In general, replace all references in the Zoning Ordinance to “granny unit” with “secondary dwelling unit”. This includes references in Chapter 17.44, Parking and Chapter 17.24, Primary Districts (discussed below).

CHAPTER 17.24 PRIMARY DISTRICTS

The following changes shall be made to the tables in the Chapter 17.24 in designated areas zoned for single-family and multi-family use:

• In the AG, RA, R-1, R-2, R-3, and R-4 districts, delete the requirement for a minor use permit for secondary dwelling units that meet the applicable standards in Section 17.48.320 “Secondary Dwelling Units.”

• Delete references to “granny unit”.

CHAPTER 17.48 GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS

17.48.315 ~~GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS~~ Guesthouse / Accessory living area.

Where provided by this Title, guesthouses and habitable structures for accessory living areas may be permitted in conjunction with a ~~dwelling unit~~ single-family dwelling, subject to these further requirements:

A. ~~Guesthouse Restrictions. Size.~~

~~A guesthouse / accessory living area shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.~~

B. ~~Use Permit Requirements.~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

1. Outside the Coastal Commission appeal jurisdiction, guesthouses and accessory living areas may be permitted only after obtaining a minor use permit pursuant to Chapter 17.60 “Use Permits, Procedures, Notices, and Variances.”

2. In the CRR zone, a conditional use permit is required pursuant to Chapter 17.60.

3. Inside the Coastal Commission appeal jurisdiction, guesthouses and accessory living areas are subject to the same requirements as “additions to single-family homes” pursuant to Chapter 17.58 “Coastal Development Permits and Procedures.”

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C. Location.

Guesthouses and accessory living areas may be established on any lot zoned R-A, R-1, R-2, R-3, R-4, AG and CRR, with the required permit, in accordance with District Tables in Chapter 17.24, where a primary single-family residential use has been previously established or is proposed to be established in conjunction with said unit. Only one guesthouse / accessory living area or secondary dwelling unit is permitted on the same lot, except that both may be permitted on lots which are a minimum of 7,500 square feet in size, subject to approval of a conditional use permit. Guesthouses and accessory living areas are prohibited in the S2.B Overlay.

D. Development Standards.

Guesthouses and accessory living areas shall comply with all development standards applicable to the zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage.

E. Parking.

Additional parking may be required for guesthouses and accessory living areas.

F. Design.

Guesthouses and accessory living areas shall be consistent and compatible with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

G. Covenant Agreement.

Prior to the issuance of construction permits a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "guesthouse / accessory living area." This agreement shall be recorded in the office of the county recorder to provide constructive notice to future property owners. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and health and safety codes.

H. No Separate Rental.

A guesthouse / accessory living area may not be rented separately from the primary residence. Public notice of applications for proposed guesthouses and accessory living areas shall clearly state within the project description that they may not be rented separately from the primary residence on site.

I. Consistency with the Coastal Act.

Establishment of a guesthouse / accessory living area shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

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17.48.320 ~~Granny Units~~ Secondary dwelling units.

The purpose of this Section is to provide affordable low- and moderate-income housing. ~~Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions:~~ The following supplemental regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 on second units and implement the General Plan, by allowing secondary dwelling units subject to the following requirements. Nothing in Government Code Sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act except that the local government shall not be required to hold public hearings for coastal development permit applications for second units. (Government Code Subsection 65852.2(j).) Noticing for interested parties and surrounding properties shall be the same as required for coastal development permits. Approvals of secondary dwelling units in the California Coastal Commission appeal jurisdiction will continue to be appealable to the Coastal Commission.

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

~~A.B. Location.~~

~~Said A secondary dwelling unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses zoned R-A, R-1, R-2, R-3, R-4, and AG, in accordance with District Tables in Chapter 17.24, where a primary single-family residential use has been previously established or is proposed to be established in conjunction with said unit. Only one secondary dwelling unit or one guesthouse / accessory living area is permitted per one primary single-family dwelling on the same lot. A secondary dwelling unit may be allowed on any lot zoned AG only if the unit is expressly designated and used for farm laborer quarters.~~

~~B.C. Lot Coverage Development Standards.~~

~~Maximum lot coverage allowed for the District that they are located in. Secondary dwelling units shall comply with all development standards applicable to the zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage.~~

~~C.D. Design.~~

~~Said A secondary dwelling unit shall be consistent and compatible with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence. All secondary dwelling units shall have a separate outdoor entrance in addition to any enclosed access to the interior of the principal residence.~~

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D.E. Size.

~~The total floor area, not including a garage, for a granny second unit shall not exceed 1,200 square feet. The total floor area, including a garage, for a detached secondary dwelling unit shall not exceed the lesser of 900 square feet, as per State guidelines, or fifty percent of the living area of the single-family dwelling on the same lot, except as provided below. The increased floor area of an attached secondary dwelling unit shall not exceed 30 percent of the existing living area. Up to 1,200 square feet may be allowed for a detached secondary dwelling unit with a Conditional Use Permit pursuant to Chapter 17.60 "Use Permits, Procedures, Notices and Variances."~~

E.F. Parking.

~~A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking spaces may be open and uncovered and may be located in setback areas, however they may not be in tandem with the required parking of the principal dwelling unit. Where more than one space is required for a secondary dwelling unit, tandem spaces shall only be allowed with a Conditional Use Permit pursuant to Chapter 17.60. The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Parking, Driveway and Loading Facilities." Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions;~~
- ~~2. That it is not permitted anywhere else in the City.~~

G. Water Equivalencies and Other Public Facilities.

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. Compliance with Title 14.

~~A granny secondary dwelling unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.~~

F. Water Service and Meter Requirements.

~~A separate water service and meter is required for detached secondary dwelling units pursuant to Title 13 of the Morro Bay Municipal Code. An attached secondary dwelling unit may be served by a separate water service and meter or may share the water service and meter with the primary single-family dwelling.~~

ATTACHMENT D

G. Permit Requirements.

No use permit shall be required for secondary dwelling units except as noted in this section and where a secondary dwelling unit is proposed as an addition to a nonconforming structure pursuant to Chapter 17.56 "Nonconforming Uses and Structures." An administrative coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units in or outside the Coastal Commission appeal jurisdiction.

H. Prohibited Use as Vacation Rental.

Secondary dwelling units shall not be rented as vacation rentals. Public notice of applications for secondary dwelling units shall clearly state within the description of the project that they may not be used as vacation rentals.

I. Consistency with the Coastal Act.

Establishment of a secondary dwelling unit shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

J. Density.

A secondary dwelling unit which conforms to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which it is located.

K. No Subdivision of Property.

The secondary dwelling unit shall not be sold separately and no subdivision of property shall be allowed where a secondary dwelling unit has been established unless the subdivision meets all requirements of zoning and subdivision regulations. Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been established.

L. Covenant Agreement.

Prior to the issuance of construction permits, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "secondary dwelling unit." This agreement shall be recorded in the office of the County Recorder to provide constructive notice to all future owners of the property. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and health and safety codes.

M. Acceptance of Existing Secondary Dwelling Units.

1. Exemption. Existing secondary dwelling units that meet the requirements of the Uniform Housing Code, as determined by the Building Inspector, on lots that

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include the required number of parking spaces for both the primary and secondary dwelling units, are exempt from the unit size and design requirements of this section.

2. Acceptance Certificate Required. To obtain an Acceptance Certificate, owners of units existing at the time of certification of this ordinance must file an application with the Community Development Department for acceptance of the unit within two years of certification of this ordinance (by DATE).

a. Application and Procedure. An application for a certificate filed within two years of Coastal Commission certification of this ordinance (by DATE) must include a site and floor plan, documentation of ownership, additional materials as required to establish the approximate date the unit was built, and a fee as established by City Council resolution. Upon receipt of the application, the Building Inspector will schedule an inspection.

i. If the unit meets basic health and safety standards as identified in the Uniform Housing Code, an Acceptance Certificate will be issued and the address will be entered into the City's database indicating the secondary dwelling unit is legal.

ii. If the required inspection determines that the unit does not meet health and safety standards identified in the Uniform Housing Code, it shall be brought into compliance within a period of not more than one year from the date of inspection.

iii. No secondary dwelling unit that fails to meet the standards required by the Uniform Housing Code shall be rented or otherwise occupied.

iv. Secondary dwelling units which receive a certificate but do not meet site development standards will be considered legal nonconforming units.

Chapter 17.58 COASTAL DEVELOPMENT PERMITS AND PROCEDURES

17.58.020(G) Additions to Single-Family Homes.

2.b. Regular coastal permit required for additions greater than ten percent of gross floor area, fences, garages, and other ancillary structures, ~~including secondary units (secondary dwelling units)~~ including guesthouses and accessory living areas.

17.58.020(I) Secondary Dwelling Units.

Administrative coastal permits will be required for the establishment of secondary dwelling units within the coastal zone both inside and outside the California Coastal Commission appeal jurisdiction.

ATTACHMENT E

AGENDA ITEM: A-2

DATE: February 16, 2016

ACTION: _____

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 5, 2016
VETERANS MEMORIAL BUILDING – 6:00 PM

PRESENT:	Robert Tefft	Chairperson
	Katherine Sorenson	Vice-Chairperson
	Michael Lucas	Commissioner
	Richard Sadowski	Commissioner
	Gerald Luhr	Commissioner
STAFF:	Scot Graham	Community Development Manager
	Cindy Jacinth	Associate Planner
	Joan Gargiulo	Assistant Planner
	Whitney McIlvaine	Contract Planner

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS - Commissioner Sadowski announced a fundraiser at the Pizza Port for the Morro Bay Bike Park.

PUBLIC COMMENT PERIOD – NONE

PRESENTATIONS – NONE

A. CONSENT CALENDAR

<https://youtu.be/dRubRO9lhmQ?t=31n28s>

A-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.

Chairperson Tefft asked the Planning Commissioners if there were any questions regarding the Current and Advanced Planning Processing List; seeing none it was received and filed.

B. PUBLIC HEARINGS

<https://youtu.be/dRubRO9lhmQ?t=3m53s>

B-1 *(continued from the December 15, 2015 Planning Commission meeting)*

Case No.: #UP0-359

Site Location: 725 Embarcadero, Morro Bay, CA

Proposal: Conditional use permit for construction of new gangway, dock, and seven (7) boat slips which will be 6 private month-to-month rentals and 1 public slip controlled by the Harbor Dept. The dock and slips would be supported by eleven (11) new guide piles consisting of 35 – 55-foot by 16-in diameter 0.375 wall steel. The upper 25 feet of the exterior surface that would be exposed will be coated with a marine grade epoxy/polyurethane coating. All on-site work would occur from a barge stocked and prepared at the APC dock in Morro Bay, and tugged into position for pile installation. The project also includes expansion of

ATTACHMENT E

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
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Water Lease Site 82-85W from approximately 50-feet to 93.71-feet. In addition, the project proposes a second story dining deck expansion along the west side of the building. This project is located in the original jurisdiction of the California Coastal Commission.

CEQA Determination: Mitigated Negative Declaration, State Clearinghouse #2015011002

Staff Recommendation: Adopt the Mitigated Negative Declaration and Forward Favorable Recommendation to City Council to Conditionally Approve Concept Plan

Staff Contact: Cindy Jacinth, Associate Planner, (805) 772-6577

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS –
Commissioner Sadowski called State Lands Commission staff and asked about the width on the leases.

Chairperson Tefft opened Public Comment period.

<https://youtu.be/dRubRO9lhmQ?t=53m3s>

Steve Puglisi representative for applicant, introduced the project team member who came to the meeting tonight. Puglisi also answered questions the Planning Commission had.

Betty Winholtz, Morro Bay resident, added her comment regarding the eel grass. She asked why do the lease holders have to get bigger and move into more space; noted bigger is not better. She suggested this issue should be discussed sometime.

Chairperson Tefft closed the Public Comment period.

<https://youtu.be/dRubRO9lhmQ?t=1h3m57s>

Chairperson Tefft opened Public Comment period.

<https://youtu.be/dRubRO9lhmQ?t=1h5m37s>

Scott Kimura, Tenera Environmental, stated a comprehensive management plan for eel grass is needed in Morro Bay. Kimura stated eelgrass management for permits are taken on an individual basis as they come in. Kimura clarified what the habitat for eel grass was and covered the allowances for them.

Chairperson Tefft closed the Public Comment period.

<https://youtu.be/dRubRO9lhmQ?t=1h31m1s>

MOTION: Commissioner Lucas moved to approve Resolution PC 04-16 as modified by new conditions 10 through 14.

10. Improve connections between lateral access on north side of building and existing pedestrian amenities on street end.
11. Public access space and private dining shall be clearly delineated and enclosed with railing as required by Waterfront Master Plan.

ATTACHMENT E

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING –JANUARY 5, 2016

12. Glass windscreen and/or roof of bayside lateral access walkway shall be removed to the extent compatible with outdoor first floor dining facilities located at southwest end of building.
13. Precise Plan shall include a specific sign plan with both commercial tenant and public access signs shown, including but not limited to, plans denoting size and material of sign, location of signs and method of attachment.
14. Plans shall be revised to the greatest extent feasible, to ensure lateral access at the south end of the lease site is able to accommodate a connection point to future lateral access to Lease Site 18.

Vice-Chairperson Sorenson seconded and the motion passed (4-1) with Commissioner Sadowski voting no.

B-2 Case No.: #UP0-433

Site Location: 430 Olive Street, Morro Bay, CA

Proposal: Conditional Use Permit approval for a 500 sq. ft. addition to an existing 2,212 sq. ft. nonconforming single-family residence in the R-1 Residential Zoning District. Specifically, the Applicant proposes to extend the existing living room, bedroom, and bathroom into the existing patio space. The project is located outside of the Coastal Commission Appeals Jurisdiction.

CEQA Determination: Categorically Exempt, Section 15301, Class 1

Staff Recommendation: Conditionally Approve

Staff Contact: Joan Gargiulo

<https://youtu.be/dRubRO9lhmQ?t=2h15m40s>

Chairperson Tefft recused himself due to residing within the 500 feet proximity of the project.

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS –
NONE

Gargiulo presented staff report.

Vice-Chairperson Sorenson opened Public Comment period and seeing none closed the Public Comment period.

https://youtu.be/QnU_gRWRPvU?t=6m54s

MOTION: Commissioner Lucas moved to continue to a date uncertain. Commissioner Luhr seconded and the motion passed unanimously (4-0).

https://youtu.be/QnU_gRWRPvU?t=19m4s

B-3 Case No.: A00-029 (Local Coastal Program and Zoning Text Amendment)

Site Location: Citywide

Applicant/Project Sponsor City of Morro Bay

ATTACHMENT E

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING –JANUARY 5, 2016

Request: Local Coastal Program and Zoning Text Amendment proposing to amend Section 17.48.320 (Secondary Units) modifying the section to be consistent with State law and other related sections in the Morro Bay Municipal Code for internal consistency, as well as Section 17.48.315 (Guesthouses/Quarters and Accessory Areas).

CEQA Determination: Negative Declaration.

Staff Recommendation: Forward a favorable recommendation to the City Council to approve the proposed Amendment and adopt the Negative Declaration.

Staff Contact: Whitney McIlvaine, Contract Planner (805) 772-6211

https://youtu.be/QnU_gRWRPvU?t=20m6s

McIlvaine presented staff report.

Chairperson Tefft opened Public Comment period and seeing none, closed the Public Comment period.

https://youtu.be/QnU_gRWRPvU?t=44m25s

Commissioners recommended the following changes to the draft resolution attached to the staff report:

- Align guesthouse description in Section 17.48.315 with the definition in Chapter 17.12 of the zoning ordinance.
- List standards for guesthouse development similar to standards for secondary dwelling units.
- Prohibit both the primary dwelling and secondary dwelling on the same site from being used as a vacation rental.
- Require a deed restriction for guesthouses and secondary dwelling units to provide constructive notice to future property owners.
- Prohibit subdivision and sale of secondary dwelling unit separate from primary unit except where such subdivision meets all subdivision and zoning ordinance requirements.
- Address nonconforming secondary dwelling units.
- Provide an amnesty program for illegal and potentially nonconforming secondary dwelling units.
- Include any garage in the 900 SF size limit for detached secondary dwelling units (parking for secondary dwelling units is not required to be covered).
- Require an administrative permit for guesthouses.

MOTION: Commissioner Luhr moved to approve Resolution PC 01-16 with changes discussed. Commissioner Lucas seconded and the motion passed unanimously (5-0).

https://youtu.be/QnU_gRWRPvU?t=2h19m50s

MOTION: Commissioner Lucas moved to continue the meeting until 11 p.m.

Commissioner Sadowski seconded and the motion passed unanimously (5-0).

https://youtu.be/QnU_gRWRPvU?t=2h20m47s

C. NEW BUSINESS

C-1 Planning Commission review of General Plan conformity in relation to disposition of the vacant City owned property located on the adjacent lot west of Lemos; APN: 068-168-022.

Staff Recommendation: Adopt Resolution

ATTACHMENT E

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
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Staff contact: Scot Graham, Community Development Manager
https://youtu.be/QnU_gRWRPvU?t=2h21m9s

Graham presented staff report.

MOTION: Commissioner Lucas moved to approve Resolution PC 03-16. Commissioner Sadowski seconded and the motion passed unanimously (5-0).
https://youtu.be/QnU_gRWRPvU?t=2h28m45s

D. UNFINISHED BUSINESS - NONE

E. PLANNING COMMISSIONER COMMENTS - NONE

F. COMMUNITY DEVELOPMENT MANAGER COMMENTS - NONE

G. ADJOURNMENT

The meeting adjourned at 11:00 p.m. to the regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on January 19, 2016, at 6:00 p.m.

Robert Tefft, Chairperson

ATTEST:

Scot Graham, Secretary

ATTACHMENT E

17.12.285 FLOOR AREA

"Flood area," for the purposes of zoning review and water equivalency analysis, includes the total floor area of each floor of buildings on a site, including internal circulation, storage and equipment space, as measured from the outside faces of the exterior walls, including enclosed halls, lobbies, stairways, elevator shafts, enclosed porches and balconies.

17.12.287 FLOOR AREA, GROSS

"Gross Floor Area," for the purposes of zoning review and water equivalency analysis, includes the total floor area of each floor of buildings on a site, including internal circulation, storage and equipment space, as measured from the outside faces of the exterior walls, including enclosed halls, lobbies, stairways, elevator shafts, enclosed porches and balconies.

17.12.290 GARAGE

"Garage" means accessible and usable covered space entirely enclosed and of not less than ten by twenty feet each for a storage of automobiles. (Ord. 263 § 1 (part), 1984)

17.12.292 GARAGE, PUBLIC PARKING

"Public Parking Garage" means a garage building designed, constructed and used for the storage of vehicles and available for public use.

17.12.294 GRADING

"Grading" means excavating, filling, leveling or smoothing or combination thereof, but does not include temporary stock piles of a duration of 30 days or less.

17.12.295 GRANNY UNIT

"Granny Unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons (accessory to a single family residence in specific zones permitting such use). It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling.

17.12.300 GUESTHOUSE

"Guesthouse" means any attached or detached accessory building which does not have enclosed access directly to the interior of the principal residence, which has any bathroom facility and which does not contain a kitchen, cooking facilities or food preparation or storage facilities, and where no compensation in any form is received or paid for use thereof. (Ord. 263 § 1 (part), 1984)

17.12.310 HEIGHT OF BUILDING

- A. "Height of Building" means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building, as measured to the topmost point of the roof but not including ventilation stacks and chimneys under six feet in width or length. (see illustration 3: end of chapter)
- B. When measuring the various levels on a lot to calculate the height, the grades in existence on the lot on January 1, 1986, shall be used; any fill added to the site since

- (2) Dedication of impacted area as permanent open space;
- (3) Coverage of the archaeological site by at least twenty-four inches of sterile sand;
- (4) Any other available measures to avoid development of significant archaeological sites, including purchase tax relief and transfer of development rights.

D. Activities Other Than Development

Activities other than development which could damage or destroy archaeological resources including but not limited to off-road vehicle activity and unauthorized collecting of artifacts, shall be prohibited unless specifically permitted by the Planning Commission with provisions for adequately protecting any archaeological resources. (Ord. 263 § 1 (part), 1984)

17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

B. Use Permit Requirements

A guest house may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)

17.48.320 GRANNY SECOND UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions:

A. Minor Use Permit and Deed Restriction Required

A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.

B. Location

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit.

C. Lot Coverage

Maximum lot coverage allowed for the District that they are located in.

D. Design

Said unit shall be consistent with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

E. Size

The total floor area, not including a garage, for a granny second unit shall not exceed 1,200 square feet.

F. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:

1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or
2. That it is not permitted anywhere else in the City.

G. Water Equivalencies and Other Public Facilities

The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.

H. Compliance with Title 14

A granny second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

I. Use Limitation

Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.

17.48.325 WET BARS AND BATHROOMS

Sinks or lavatories in residential units, except in bathrooms, kitchens, garages or rooms clearly used only for laundry purposes, shall be prohibited unless and until a deed restriction



AGENDA NO: B-2

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 14, 2016

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

SUBJECT: Resolution No. 20-16 Initiating Proceedings to Levy the Annual Assessment for the Cloisters Park and Open Space Landscaping and Lighting Maintenance Assessment District

RECOMMENDATION

Staff recommends City Council adopt Resolution No. 20-16 ordering the preparation of an Engineer 's Report detailing the expenses projected for Fiscal Year 2016-17 for the maintenance of the Cloisters Park and Open Space.

FISCAL IMPACT

The Fiscal Year 2015-16 assessments provided \$148,944 for the maintenance of the Cloisters Park and Open space totaling 34 acres.

BACKGROUND

On July 8, 1996, the City Council accepted lots 121 and 122 of the Cloisters Sub-division, thirty-four (34) acres of open space and organized park. On September 23, 1996, the City Council passed Resolution No. 69-96, which accepted the final map for Tract 1996, known as the Cloisters Subdivision, consisting of 124 lots. Lots 1 through 120 were for single-family residential purposes; Lots 121, 122 and 124 (dedicated for a fire station) were offered to the City subject to completion of the public improvements; and Lot 123 was offered to the State. (Lot 122 is now Parcel 1 and Lot 123 is Parcel 2, as a result of subsequent MBAL 97-240 lot line adjustment.) Prior to the acceptance of the final map and pursuant to the Conditions of Approval, an assessment district was formed to cover the cost of maintenance of the parkland and open space. The assessment district formation proceedings began in August 1996 and concluded with the final public hearing for formation on September 23, 1996, which levied the annual assessment of \$148,944 for the maintenance of the thirty-four (34) acres of parkland and open space.

On January 26, 1998, the City Council adopted Resolution No. 10-98 which accepted the public improvements for Cloisters Tract 1996. Although the public improvements were completed, the developer was responsible for their maintenance for the one year warranty period, with the City taking over the maintenance of the area on January 26, 1999.

Prepared By: RL

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

After the initial formation of the assessment district; each year, beginning in April, the City must hold a series of three (3) public hearings to confirm the levy of assessment for the upcoming fiscal year. The first public hearing initiates the annual levy process and directs the preparation of an Engineer's Report; the second hearing approves the Engineer's Report and notices the intent to levy the assessment; and the third public hearing actually levies the assessment for the upcoming fiscal year.

DISCUSSION

After the first public hearing and upon adoption of Resolution No. 20-16, which initiates the proceedings to levy the annual assessment, an Engineer's Report will be prepared for review and acceptance at the May 10, 2016 City Council meeting, which will be the second public hearing. At that second hearing will be a resolution for consideration declaring the City Council's intent to levy and collect the assessment. That Resolution will list the improvements, name the district and give its general location; it also refers to the proposed assessment and gives notice of the time and place for the third and last public hearing regarding the levy of the proposed assessment, as well as stating whether or not the proposed assessment is an increase from the previous year. The Government Code states the third and final public hearing must be noticed ten (10) days prior to the actual hearing, which is tentatively scheduled for June 28, 2016.

The Cloisters Landscaping and Lighting Maintenance Assessment District is a separate fund from all other City funds and can only be utilized for improvements within the District. Once set, the annual assessment is transmitted to the County Auditor for recording on the County assessment role. The assessment amount will then appear each year on the parcel owner's property tax bill.

In conformance with Proposition 218, The Right to Vote on Taxes Act, passed in 1996 by the voters in the State of California, the Cloisters Landscaping and Lighting Maintenance Assessment District was approved by one hundred percent (100%) of the owners for which the assessment is to be levied. All property owners were fully apprised of the costs and benefits associated with the district, prior to its approval by them.

CONCLUSION

Resolution No. 20-16 has been prepared for City Council review and adoption. The Resolution serves as the initiation of the annual assessment proceedings and orders the preparation of the Annual Engineer's Report detailing the proposed costs for the maintenance of the Cloisters Park and Open Space for the purpose of assessing private property owners of Tract Map No. 1996 (excluding the City's property). The Resolution also gives notice that a public hearing on the intent to levy the assessment, review and acceptance of the Engineer's Report, will be held on May 10, 2016.

RESOLUTION NO. 20-16

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT
FOR CLOISTERS LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT PURSUANT TO THE
“LANDSCAPING AND LIGHTING ACT OF 1972”
(STREETS AND HIGHWAYS SECTIONS 22500 *ET SEQ.*)**

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

WHEREAS, the City Council has placed certain conditions on the development of Tract 1996, The Cloisters, requiring formation of a property Maintenance Assessment District encompassing and coterminous with the proposed subdivision to provide for the maintenance of a public park, bicycle pathway, right-of-way landscaping, coastal access ways, ESH restoration area, and other common area improvements to be held by or dedicated to the City of Morro Bay as required by City Ordinance and;

WHEREAS, these conditions are more specifically identified in Vesting Tentative Tract Map (condition 10e) and Precise Plan (condition 2c) as required by City Ordinance; and

WHEREAS, the owners of the real property within the proposed district (the “Owners”) have consented in writing to the formation of the district pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code sections 22500 *et seq.*) (the “Act”), and are the only owners of property to be subject to assessments within the district; and

WHEREAS, the Owners of real property within the proposed district have dedicated in fee and in perpetuity, Lot 121 (Parcel 1) and Lot 122 of Tract 1996, and the City has accepted that Offer of Dedication; provided that the costs of maintenance thereof, are borne by an assessment district as required by the Conditions of Approval of the project; and

WHEREAS, one hundred percent (100%) of the property owners, at the time of the subdivision of the land, approved formation of the district to assure conformance with the “Right to Vote on Taxes Act” (Proposition 218, California Constitution Act XIII C & D); and

WHEREAS, subsequent owners of the lots within the subdivision have received “constructive notice” of the existence of the assessment district through the real estate disclosures, title report process, and publically available records.

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

1. The City Council of the City of Morro Bay hereby declares its intent to initiate the proceedings to levy and collect assessments pursuant to the Act.

2. The improvements to be subject to assessment for maintenance by such District shall include those enumerated in the conditions of project approval and in Section 22525 of the Act, which were installed by the developer as a condition of approval of Tract 1996; pursuant to the Final Improvement Plans for the Cloisters Project as approved by the City.
3. The Assessment District is a District located in the City of Morro Bay, County of San Luis Obispo. A map showing the boundaries of the District is attached as Exhibit A which is hereby incorporated herein.
4. An Engineer's Report will be prepared for consideration at a public hearing to be held on May 10, 2016, by the City Council.
5. This District is called the "Cloisters Landscaping and Lighting Maintenance Assessment District."

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March, 2016 by the following vote:

AYES:

NOES:

ABSENT:

Jamie L. Irons, Mayor

ATTEST:

Dana Swanson, City Clerk



AGENDA NO: B-3

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 14, 2016

FROM: Rob Livick, PE/PLS – Public Works Director/City Engineer

SUBJECT: Resolution No. 21-16 Initiating Proceedings to Levy the Annual Assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District

RECOMMENDATION

Staff recommends the City Council hold a public hearing and adopt Resolution No. 21-16, ordering the preparation of an Engineer's Report detailing the expenses projected for Fiscal Year 2015-16 for the maintenance of the North Point Natural Area.

FISCAL IMPACT

The Fiscal Year 2015-16 assessments provided \$5,645 for the maintenance of the North Point Natural Area.

BACKGROUND

On June 27, 1994, the City Council accepted Lot 11 of the North Point subdivision and accepted the final map for Tract 2110. As per the conditions of approval, a Landscaping and Lighting Maintenance Assessment District was formed for the ongoing maintenance of the 1.3 acre natural area. The area includes a non-irrigated meadow area, decomposed granite and asphalt walkways, stairway/beach access, parking lot, drip irrigation system, public access signage and parking lot.

On December 9, 1996, the City Council adopted Resolution No. 89-96 which ordered the formation of the North Pint Landscaping and Lighting Maintenance Assessment District and confirmed the yearly assessment of \$5,645. On January 13, 1997, the City Council adopted Resolution No. 01-97 which approved and accepted the on- and off-site improvements for Tract 2110. By adoption of Resolution No. 01-97, the City officially started the maintenance of the North Point Natural Area.

Prepared By: RL

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

After the formation of the assessment district, each year beginning in April the City must hold a series of three (3) public hearings to confirm the levy of assessment for the upcoming fiscal year. The first public hearing initiates the annual levy process and directs the preparation of an Engineer's Report; the second hearing is to consider approval of the Engineer's Report and notices the intent to levy the assessment; and the third public hearing actually levies the assessment for the upcoming fiscal year.

DISCUSSION

Upon adoption of Resolution No. 21-16, which initiates the proceedings to levy the annual assessment, an Engineer's Report will be prepared for review and acceptance at the second public hearing scheduled for the May 10, 2016 City Council meeting. Also included will be a Resolution declaring the City Council's intent to levy and collect the assessment. The Resolution also lists the improvements, names the district and gives its general location, refers to the proposed assessment, gives notice of the time and place for the third and last public hearing regarding the levy of the proposed assessment as well as states whether or not the proposed assessment is an increase from the previous year.

The Government Code states the third and final public hearing must be noticed ten (10) days prior to the actual hearing, which is tentatively scheduled for June 28, 2016. The assessment amount cannot be increased over the highest assessment on record, \$5,645, without following the procedures specified in Proposition 218.

The North Point Natural Area Landscaping and Lighting Maintenance Assessment District is a separate fund from all other City funds and can only be expended for improvements authorized for the District. Once set, the annual assessment is transmitted to the County Auditor for recordation on the County assessment role. The assessment amount will then appear each year on the parcel owner's property tax bill.

In conformance with Proposition 218, "The Right to Vote on Taxes Act," passed in 1996 by the voters in the State of California, the North Point Natural Area Landscaping and Lighting Maintenance Assessment District was approved by one hundred percent (100%) of the owners for which the assessment is to be levied. All property owners were fully apprised of the costs and benefits associated with the district, prior to its approval by them.

CONCLUSION

Resolution No. 21-16 has been prepared for City Council review and adoption. The Resolution serves as the initiation to the annual assessment proceedings and orders an Engineer's Report detailing the proposed costs for the maintenance of the North Point Natural Area for the purpose of assessing private property owners of Tract Map No. 2110 (excluding the City's property). The Resolution also gives notice a public hearing on the intent to levy the assessment, review and accept the Engineer's Report will be held on May 10, 2016.

RESOLUTION NO. 21-16

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT
FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT PURSUANT TO THE
“LANDSCAPING AND LIGHTING ACT OF 1972”
(STREETS AND HIGHWAYS SECTIONS 22500 *ET SEQ.*)**

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

WHEREAS, the City placed certain conditions on the development of Tract 2110 “North Point,” requiring formation of a property Landscaping and Lighting Maintenance Assessment District encompassing and coterminous with the proposed subdivision to provide for the maintenance of a natural area, parking lot, landscaping, decomposed granite and asphalt walkways, and coastal access stairway and other common area improvements to be held by or dedicated to the City of Morro Bay; and

WHEREAS, those conditions are more specifically identified in the Precise Plan (condition F1-F7) related to North Point; and

WHEREAS, the owners of the real property within the proposed district (the “Owners”) consented to the formation of the district pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code sections 22500 *et seq.*) (the “Act”), and are the only owners of property to be subject to assessments within the district; and

WHEREAS, the Owners of real property within the proposed district offered in fee and in perpetuity, Lot 11 of Tract 2110, and the City accepted that Offer of Dedication; provided, that the cost of maintenance, thereof, would be borne by an assessment district as required by the Conditions of Approval of North Point; and

WHEREAS, one hundred percent (100%) of the property owners, at the time of the subdivision of the land, approved formation of the District to assure conformance with the “Right to Vote on Taxes Act” (Proposition 218, California Constitution Act XIII, C & D); and

WHEREAS, subsequent owners of the lots within the subdivision have received “constructive notice” of the existence of the assessment district through the real estate disclosures, title report process, and publically available records.

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

1. The City Council of the City of Morro Bay hereby declares its intent to initiate the proceedings to levy and collect assessments pursuant to the Act.

2. The improvements to be subject to assessment for maintenance by the District shall include those enumerated in the conditions of approval of North Point and in Section 22525 of the Act, which were installed by the developer as a condition of approval of Tract 2110 or which are hereafter installed by developer; pursuant to the Final Improvement Plans for North Point as approved by the City.
3. The Assessment District is a District located in the City of Morro Bay, County of San Luis Obispo. A map showing the boundaries of the proposed District is attached as Exhibit A which is hereby incorporated herein.
4. An Engineer's Report will be prepared for consideration at the May 10, 2016 City Council meeting and that date is set for a public hearing to review that report.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March, 2016 by the following vote:

AYES:

NOES:

ABSENT:

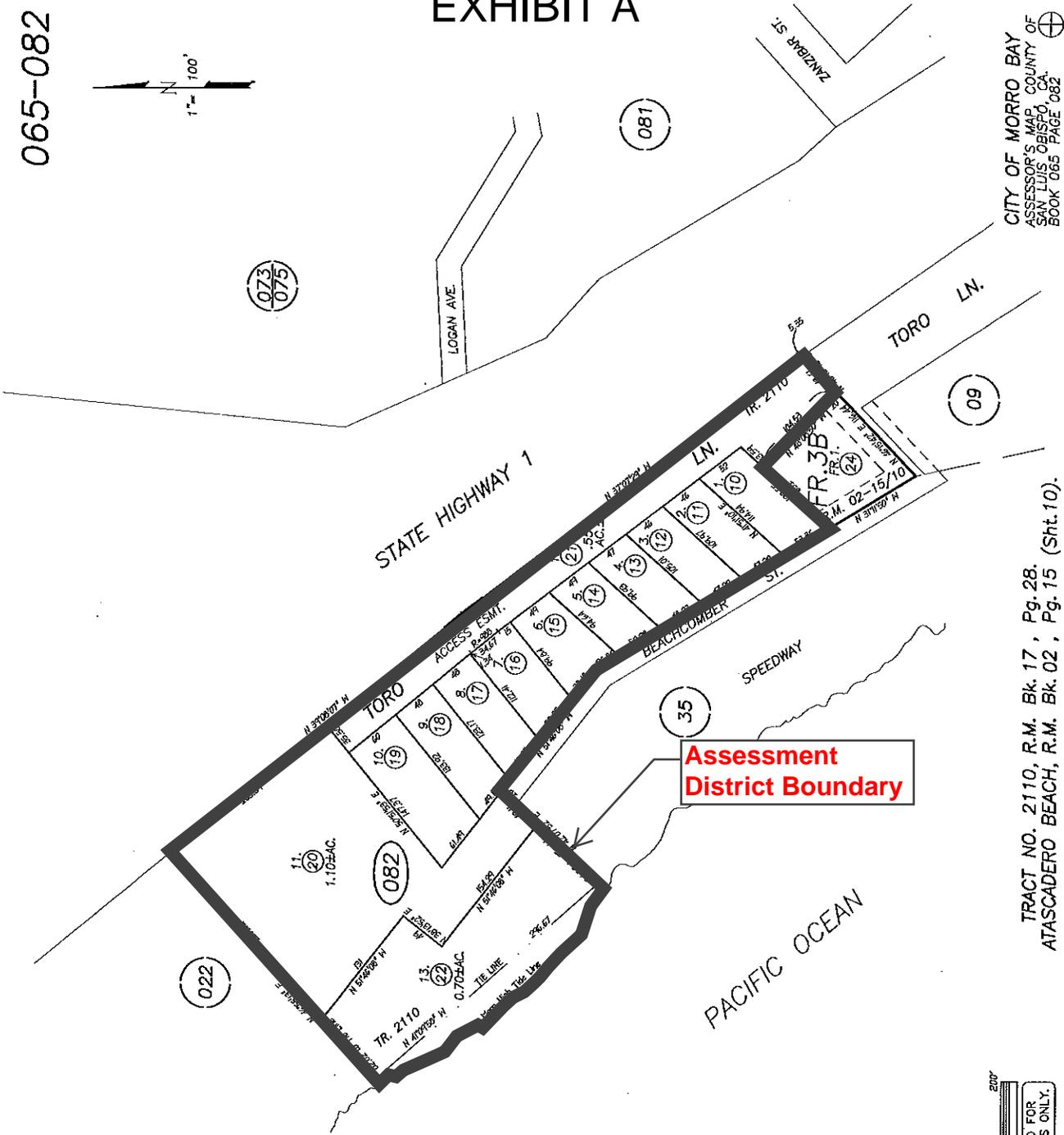
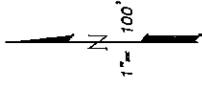
Jamie L. Irons, Mayor

ATTEST:

Dana Swanson, City Clerk

065-082

EXHIBIT A



Assessment District Boundary

CITY OF MORRO BAY
ASSESSOR'S MAP COUNTY OF
SAN LUIS OBISPO, CA
BOOK 065 PAGE 082

TRACT NO. 2110, R.M. Bk. 17, Pg. 28.
ATASCADERO BEACH, R.M. Bk. 02, Pg. 15 (Sht. 10).



065-082

REVISIONS	
T.S.	DATE
1A	03-22-07
09-025	04-16-08

50' 0 100' 200'

THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY.

CB 09-25-94



AGENDA NO: C-1

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: March 11, 2016

FROM: Dana Swanson, City Clerk

SUBJECT: Community Enhancement (Code Enforcement) Program Status/Discussion

BACKGROUND

This item was continued from the March 8, 2016 City Council meeting. The previous staff report is attached for reference and discussion purposes.

Prepared By: DS

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

City staff conducted a recruitment for two part-time Code Enforcement Officers in September/October of 2015. Tim Kristofek and David Crockett were hired in October/November of 2015. The next phase in the proactive Code Enforcement program involved public education, which is currently ongoing. The public education phase of the program has taken many forms, including sending out a utility bill mailer in December identifying the top ten code violations (flyer provided in Attachment 3), publication of two informational news articles in the Bay News by the City Manager, posting of information on the City's website at morrobay.gov/codeenforcement, press releases to the media, and information posted to the City's Facebook site at facebook.com/cityofmorrobay. The City also held a public presentation, where staff outlined the Code Enforcement program roll out, in September 2015 with the City Council.

Once the Code Enforcement Officers were hired in Fall 2015, most of the City's Code Enforcement activities have been funneled through them. That means, in addition to their current efforts on proactive Code Enforcement, complaints received, as a normal course of business (reactive Code Enforcement), are also processed by the Officers. Complaint driven Code Enforcement is discussed in greater detail further along in this report. For proactive Code Enforcement, the Officers are currently engaged in a focused three-month outreach effort, which started in January of 2016, and includes the preparation and dissemination of informational handouts related to the top ten code enforcement issues. The top ten list of code violations includes the following:

1. Water use
2. Improper Parking of RV's and Boats
3. Fences & Hedges
4. Garbage Can Placement
5. Signs
6. Storage of Inoperable Vehicles
7. Storage/accumulation of Junk and Debris
8. Illegal Camping
9. Shrubbery and sight distance issues
10. Illegal placement of improvements in the right of way

The Officers have focused their initial outreach efforts on item 2 above, Improper Parking of RV's and Boats. The process took the form of preparation of a flyer (see attachment 4 for a copy of the RV/Boat Flyer) that identifies where RV's/Boats can and cannot be stored. Once the flyer was prepared, the Officers started canvassing the City and developing lists of properties that contained RV's/Boats that were stored in violation of current City Policy. To date (February 24, 2016), the Officers have canvassed approximately ¾'s of the City for RV/Boat violations and 97 flyers have been distributed. The flyers are accompanied by a Code Enforcement Notice that indicates the Officers will be following up in April (see Attachment 5 for a copy of the CE Notice).

Reactive Code Enforcement.

We continue to conduct enforcement on a reactive basis for complaints that are received by the Code Enforcement Division. Since November of 2015, the Code Enforcement Officers have responded to 100 complaints, achieving compliance on 52 of the cases. The remaining 48 cases are in various stages

of the compliance/notice process, meaning final deadlines have not yet been reached. It should be noted our Code Enforcement Officers are given significant leeway in bringing about compliance. They have the ability to work with residents and business owners to remedy violations in a manner and timeframe that works for both the resident/business owner and the City. The intent behind that process is to achieve compliance, not to issue citations.

DISCUSSION

The goal behind the Code Enforcement program is to bring to the attention of property and business owners any existing code violations, which could have a negative impact on the neighborhood, property values, and the City of Morro Bay as a whole. The intent behind the program is to obtain voluntary compliance and cooperation and to instill an atmosphere of personal responsibility for the wellbeing of the community. A successful program will help make Morro Bay a better place to live, work, visit, shop, and recreate.

The following paragraphs discuss the Code Enforcement process starting with noticing, running through the administrative citation process and culminating in a discussion about remedies through the courts. Also included in this report is a discussion of issues and concerns that have arisen recently in relation to enforcement of RV/Boat storage requirements, Fence/Hedge height requirements and lastly, regarding portions of the Morro Bay Municipal Code (MBMC) that may require revision.

Code Enforcement Notice

As noted in the background section of the report, we are currently in the educational and outreach phase for proactive Code Enforcement and those efforts will continue until April of 2016 when actual enforcement will start.

Similar to how we conduct reactive Code Enforcement, proactive Code Enforcement, starting in April of 2016, will commence with issuance of a 30-day courtesy notice being sent to property owners/tenants of properties where any violations are identified. The Officers will follow up after 30 days to see if the violation persists. If, after 30 days the violation remains, then the Officers will send out a 10-day warning notice, followed by a 5-day warning notice if compliance has not been achieved. If the violation remains after the 5-day warning notice, then an administrative citation may be issued.

Administrative Citation

If the code violation notification process fails to achieve compliance, then the Officers have the ability to issue administrative citations consistent with Chapter 1.03 of the Municipal Code. The fine schedule is as follows:

1. Up to \$100.00 for First Violation
2. Up to \$200.00 for Second Violation of same ordinance or permit within one year of the first violation
3. Up to \$500.00 for each additional violation of same ordinance or permit within one year of the first violation.

Citation Appeal Process

Any recipient of an administrative citation may challenge that citation by contending there is no violation or he or she is not the responsible party. The challenge must be in writing and filed within thirty calendar days after the date of issuance of the citation and request a hearing.

The City Manager is responsible for designating the hearing officer for an administrative citation hearing. The hearing officer cannot be a City of Morro Bay employee.

After conducting the hearing, the hearing officer is responsible for rendering a written decision to either uphold or cancel the administrative citation. Reasons supporting that decision must be included in the written decision. The decision of the hearing officer is final and not appealable to the City Manager, City Council or any other City entity. However, judicial review is available to any person aggrieved by the administrative decision of the hearing officer.

What Happens when Fines Don't Bring about Compliance (The Courts)?

When fines are unsuccessful in bringing about compliance, the City can pursue compliance through the courts. The City may choose to pursue compliance through criminal and civil court actions.

The criminal court process involves treating the violation as either an infraction or misdemeanor. The decision to pursue criminal prosecution remains at the sole prosecutorial discretion of the City Attorney's Office and cannot involve City Council case-by-case consideration or authorization.

Pursuing a civil lawsuit to achieve code compliance would require Council approval. Therefore, prior to filing a civil action, direction to pursue that civil remedy would be brought to the City Council for consideration and decision in a closed session, as authorized by the Brown Act.

Direction Requested

Council, in the past, has expressed concern regarding the pursuit of code compliance through the criminal court process and staff would like the Council to discuss this issue and provide direction moving forward.

We believe it is best for the Council to leave the option of criminal prosecution as one of the tools available to ensure code compliance. However, even if the Council retains that tool, Council could determine the preferred method of achieving compliance is through the civil process and direct staff to use criminal prosecution as a last resort.

Again, the decision whether to initiate a civil lawsuit in order to bring about code compliance requires Council approval. It does not appear anything needs to be decided on this issue as Council retains complete discretion.

What Happens When Compliance is Achieved?

Ultimately, when compliance is achieved, the Officers will send out a thank you letter, which both shows our appreciation for bringing the property into compliance with current code requirements and serves as notice the violation has been rectified.

RV/Boat Storage Issues/Concerns

Regardless of the amount of outreach conducted, enforcement of codes in a proactive manner, when codes have not been enforced in that way in the past, is bound to generate some discontent on the part of City residents and business owners. To date, the Officers have sent out 97 flyers related to RV/Boat storage and in return they have received 47 responses, either via phone or written correspondence (see RV/Boat Storage Flyer provided in Attachment 4). The Officers report there is some awareness on the part of the public the City was intending on moving forward with proactive code enforcement. In other words receiving the flyer was not a surprise. That means the City outreach efforts have at least been somewhat effective in making citizens aware of the program.

The fact many citizens are aware the City was moving toward active Code Enforcement does not mean they are necessarily happy with the specific enforcement being pursued. The City has received quite a bit of input from citizens who are unhappy the MBMC does not allow RV/Boat storage within the front or street side yards of a residential lot. Concerns mostly center on the cost of storing RV/Boats in a storage yard, the lack of convenience of doing so and the overall lack of commercial storage opportunities within City limits.

It should be noted staff has also has received correspondence in favor of enforcing the MBMC, including specifically the RV/Boat storage requirements. Most comments that favor the current code are based on neighborhood aesthetics, access to light and air, or safety concerns related to maneuvering in and out of a driveway adjacent to an RV/Boat stored in the front yard (sight distance).

Staff anticipates a significant amount of public input on this subject at the meeting.

Fence and Hedge Concerns

Staff regularly receives complaints related to fence and hedge height violations throughout the City. The complaints that seem to garner the most angst center more on hedges, because when they are not maintained they tend to get very large/tall. Most complaints focus on one of the following three issues: the blocking of site distances up and down the street, blockage of light and air, and most commonly view blockage (although the MBMC provisions do not mandate unfettered viewsheds).

The City's Fence and Hedge height requirements can be found in Subsection 17.48.100(D) of the MBMC, which limits heights of open (open to passage of light and air for 50% or more of the surface) fences and hedges in the front yard to 4 feet and 3 feet if solid. Fences and Hedges in the rear yard and interior side yard are allowed at a height not to exceed six feet six inches.

It is fairly common for City's that regulate fence height to also regulate the height of hedges, as they can also serve the same or similar purpose. Allowing hedges to grow unfettered can have rather dramatic impacts on how a neighborhood looks and feels. See hedge example pictures below

1. Hedge blocking views and some site distance issues



2. Hedge blocking view of front of home



3. *Hedges at appropriate height*



In any case, staff has received some negative feedback related to hedge height enforcement. Most push back centers on people wanting to grow vegetation in whatever manner suits them or the fact they want more privacy than is provided by the allowed heights under the current ordinance. Staff anticipates some public comments on hedge height limitation at the meeting.

Update of MBMC

There has been concern noted on the part of some of the public related to the fact the City is moving forward with proactive code enforcement without first conducting a comprehensive review of all City policies that are being enforced.

Realistically, such a review would likely take years given current workloads and the fact we are already involved in a comprehensive update of the General Plan/Local Coastal Program and Zoning Code. However, it is possible, as we move forward with proactive Code Enforcement, there might arise the need to address/revise problematic portions of the MBMC or to eliminate certain code language that no longer reflects the values of Morro Bay. One way to deal with those types of items is to bring them forward to Council for discussion as the issues are discovered or there could be a fixed schedule placed on the Council agenda, possibly on a quarterly or biannual basis, where those types of items are brought forward. If the Council determines there are particular provisions of the MBMC that should be changed immediately, then providing that direction to staff at this time would also be appropriate.

CONCLUSION

This report serves as a status update on Code Enforcement efforts in the City, to date. Input, discussion and direction from the Council is desired in the specific areas of overall process, how enforcement is conducted through the Courts, and on whether there are portions of the MBMC that the Council desires to revise.

Staff recommends the City Council review the information provided in the staff report and comments from the public and provide appropriate comment/direction to Staff.

ATTACHMENTS

1. May 2015 Grand Jury Letter
2. City Grand Jury Response Letter
3. December 2015 Utility Bill Mailer, Top 10 Code Violations
4. RV/Boat Informational Handout
5. Code Enforcement Notice Letter
6. Public correspondence received as of March 2, 2016

MORRO BAY MUNICIPAL CODE ENFORCEMENT: BAND-AID OR PROCESS?

Should the City of Morro Bay make a transition from a citizen complaint-driven municipal code enforcement process to a proactive, managed code enforcement process?

INTRODUCTION

Municipal codes help establish the administrative framework for the health and safety of a community, its residents and visitors. Code enforcement also affects the visual and environmental aspects of a community.

Over the past decade, economic events such as loss of power plant funds and significant reductions to the fishing industry have resulted in a renewed interest by Morro Bay officials to revitalize its waterfront and increase other tourist-friendly projects. These activities can provide the potential for increases in revenues to support needed city services such as code enforcement which can improve tourist impressions.

This investigative report presented by the 2014-2015 San Luis Obispo County Grand Jury (Grand Jury) describes deficiencies in the current approach to municipal code enforcement and offers recommended changes that may benefit Morro Bay, its residents and visitors.

ORIGIN

Following a review of a Morro Bay citizen complaint, the Grand Jury solicited additional comments from Morro Bay residents about the lack of municipal code enforcement. This led to investigation of the process and effectiveness of current enforcement and how violations of these codes are addressed.

AUTHORITY

California Penal Code section 925 authorizes the Grand Jury to investigate and report on the operations, accounts and records of cities within the county.

METHOD

The Cities and Special Districts Committee of the Grand Jury interviewed relevant city officials, staff and Morro Bay residents for this report. In addition, it reviewed pertinent Morro Bay municipal codes and ordinances and Morro Bay's website with its links to departmental web pages. Finally, it researched how several other cities in the county manage municipal code enforcement.

BACKGROUND

Morro Bay is a seaside community incorporated as a city in July 1964 and currently has a population of approximately 10,500. During its 2002-2003 fiscal year Morro Bay experienced a 27% decrease in its General Fund revenues (\$13.2M to \$9.7M) due to the loss of power plant funds. At the same time the Operating Expenses increased 10% (\$9.7M to \$10.8M).¹ As a result plans were put into place requiring priority setting to reduce expenses. In response the position of code enforcement officer was vacated in 2005 and code enforcement was reduced to a complaint-driven process that continues today.

NARRATIVE

Municipal code enforcement includes application processing with inspection and follow-up of compliance. Municipal code responsibilities also fall under multiple departments within city administration. Most city officials interviewed agree that code enforcement is an important component in maintaining the health and safety of the community, residents and visitors. Additionally, these interviewees agree that proactive management in enforcement could provide

¹ *Assessment of City Organization and Financial Options-2008* report by Management Partners, Inc.

cost-effective citywide compliance. Based on these comments, the Grand Jury examined what steps should be taken for effective code enforcement management. These include the city's ability to receive, address and track complaints to resolution; and the ability of individuals to easily report violations and to be apprised of the outcome of complaints.

Reporting a Municipal Code Violation

The City of Morro Bay makes this process flexible, possibly too much so. Individuals may, and reportedly do, telephone or e-mail the mayor, any city council member, city manager, city hall or any city department with complaints and comments. Frequently, multiple departments receive the same complaint. Morro Bay's website provides a link with telephone and e-mail contact information for the police department operations commander to report code violations. This website also provides a link to the "Let Us Know" web page where completed report forms are directed electronically to specific city departments. Individuals may also complete and submit a complaint form at any city office. While this approach helps ensure individuals are not restricted in their communications with city officials and staff, some city officials admit significant resources are used in attempting to direct complaints to the appropriate department.

The Complaint Investigation Process

When city officials or staff receive an individual's complaint of a possible code violation, their first action is to direct the complaint to the department with the responsibility to resolve it. When staff is not certain which department has the primary responsibility, the complaint is submitted to the city attorney's office for distribution to the appropriate department(s). The investigation process may include discussions with the complainant and possible violator as well as a site visit. City staff attempts to work with violators to obtain voluntary compliance. Many complaints are investigated and resolved by the appropriate department while more complex complaints are referred to an interdepartmental team for resolution.

The Code Enforcement Committee

In 2009 under the guidance of the city attorney and police chief, the Code Enforcement Committee (CEC) was established to address interdepartmental issues and serious health and

safety code violation complaints. Representatives from the city attorney's office, police department, fire department, public services department and building services comprise this committee. Any city staff member may refer a complaint to the CEC. It meets on an as-needed basis (typically every other month) to assign responsibility for these complaints and to confirm status and progress on previously reported but unresolved complaints. To ensure complaints are tracked to resolution, the CEC uses a manual-entry spreadsheet identifying each complaint, the assigned responsible committee member and the current status of the complaint up to and including resolution. This spreadsheet does not track all complaints received by the city, only those referred to the CEC.

City officials acknowledge their current approach only corrects a single violation, instead of addressing similar violations throughout the city. It also requires the time and resources of multiple departments resulting in taking personnel away from their primary job. City officials interviewed agree the employment of a code enforcement officer as a single point of contact would provide a more complete, expedient and efficient process.

Responding to Complainant

City officials explain that while efforts are made to report resolutions to complainants, there isn't a formal process. Individuals may contact city hall staff to inquire about the status of a complaint. Without a readily accessible tracking system, the current status may not be available to staff who are left unable to respond to citizen inquiries.

CONCLUSIONS

While Morro Bay officials provide a wide range of options for its residents to communicate with them, the effectiveness of these communications cannot be determined and so many options may lead to confusion. Efforts to address code violations via a complaint-driven process can create the impression that city personnel do not see problems unless reported.

While the current complaint-driven process may result in correction of a single violation, similar violations at other locations in the city are not identified and therefore not addressed. This results in inconsistent enforcement which can be perceived as unfair.

Absent the existence of effective code enforcement tracking capabilities, comprehensive programs to ensure enforcement plans cannot be developed. The ability to track repeat municipal code violators is also limited.

Perception is reality. The inability to effectively communicate the actions taken and resolutions of reported code violations creates the impression that no action was taken and increases frustration levels among Morro Bay residents.

City officials agree that a focused municipal code enforcement process can:

- Allow department personnel to focus on their primary job
- Track code related application and licensing ensuring fees and penalties are collected
- Provide the capability for citywide enforcement compliance
- Provide the ability to track compliance and code violation complaint resolution

FINDINGS

F1: Morro Bay does not have a code enforcement officer.

F2: Municipal code enforcement in Morro Bay is complaint-driven.

F3: Complaint processing is distributed across multiple departments of the city government and therefore is a drain on city resources.

F4: Code enforcement targets only the violation at a specific location identified in a complaint resulting in the appearance of unfairness and inconsistency.

F5: Comprehensive tracking of all complaints and code violations by Morro Bay does not exist.

F6: Effective preventive actions or proactive management plans cannot be developed without comprehensive tracking.

F7: City hall staff is unable to quickly and effectively provide responses to questions about the status of code violation complaints.

RECOMMENDATIONS

R1: Establish a proactive managed code enforcement process.

R2: Fund and hire a full-time municipal code enforcement officer.

R3: Acquire, install and use a municipal code management software package to track all code violation complaints.

R4: Train staff on use of the new system.

REQUIRED RESPONSES

The mayor of the City of Morro Bay shall respond to Findings 1 through 7 and Recommendations 1 through 3.

The responses shall be submitted to the presiding judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Dodie Harman Superior Court of California 1035 Palm Street, Room 355 San Luis Obispo, CA 93408-1000	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403-4910 GrandJury@co.slo.ca.us

California Penal Code Sections 933 through 933.05

Section 933 – Final Reports

- (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- (c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.
- (d) As used in this section "agency" includes a department.

933.05. Findings and Recommendations

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.

- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
 - (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
 - (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
 - (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

RESPONSE TO GRAND JURY REPORT

Report Title: Morro Bay Municipal Code Enforcement

Report Date: May 4, 2015

Response by: _____ Title: _____

FINDINGS

1. I (we) agree with the findings numbered: _____
2. I (we) disagree wholly or partially with the findings numbered: _____
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons.)

RECOMMENDATIONS

1. Recommendations numbered _____ have been implemented.
(Attach a summary describing the implementation actions.)
2. Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
3. Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of the publication of the Grand Jury report.)
4. Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: _____ Signed: _____

Number of pages attached: _____



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

July 14, 2015

The Honorable Dodie Harman
Superior Court of California
1035 Palm Street, Room 355
San Luis Obispo, CA 93408

Dear Presiding Judge Harman,

The City of Morro Bay is in receipt of the grand jury report titled *Morro Bay Municipal Code Enforcement: Band-Aid, or Process?* (the "Report"). That report confirmed the steps the City had already begun to take were appropriate. Although we are not responding in a point-by-point manner to the issues the Report raises, the below provides a complete response to those points and meets the spirit and intent of the Penal Code. The actions taken and to be taken by the City, as described below, were the result of the City Council exercising its local authority to govern the community of Morro Bay as the Council determines most appropriate, after considering applicable legal, financial and practical considerations.

While over some years code enforcement in Morro Bay has been neglected, new leadership in the City is serious about markedly improving the quality of life in the community through a more effective code enforcement program. It should be noted during the Fiscal Year 2014 - 2015 budget process a code enforcement position was proposed however Council elected to invest in a City assessment by an independent firm to evaluate the City as a whole. This City Assessment served as valuable tool for our community and the City Council to identify needs and concerns and take appropriate action. In fact, on February 18 of this year the Council adopted seventy-three specific Fiscal Year 2015-2016 objectives. Objective 4-d is titled "Code Enforcement" and reads: "Bring a proposal for a proactive code enforcement program to Council for decision and immediate implementation." A copy of those adopted objectives is attached.

The findings in the Report are not inconsistent with the Council's own observations. Those observations served as the driving rationale for adopting that above-noted code enforcement objective, and the action the City Council has subsequently taken. The City Council has already acted on our Code Enforcement objective and, as a result, the City staff is in the process of implementing a proactive community enhancement/code enforcement program. Specifically:

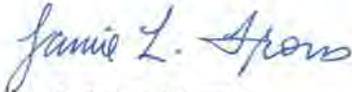
- The City of Morro Bay 2015-2016 Budget, adopted on June 9, 2015, allocated \$100,000 to hire one or more code enforcement officers. Staff anticipates advertising for those positions this month.

Superior Court of California
July 15, 2015
Page 2

- Staff is currently developing a thoughtful, proactive code enforcement system and process. The preparatory phase for implementation is in progress and includes staff training, community information and technology emplacement. A complete staff briefing on our code enforcement system is currently scheduled for the Council agenda for September 22, 2015, with the goal of the proactive system going live on October 1st.
- The adopted budget includes funding for code management software that will be synchronized with our website to allow seamless and transparent receipt, processing and disposition of code enforcement concerns.

Thank you for the opportunity to respond to the Report. In addition, we appreciate a fundamental goal of the San Luis Obispo Civil Grand Jury is to provide input to assist local decision-makers with reviewing constituents' legitimate concerns, as we work to make our jurisdictions better places to live, work and visit.

Respectfully,



Jamie L. Irons, Mayor

C: San Luis Obispo County Grand Jury



City of Morro Bay

December Information

Community Enhancement

Learn more at morrobayca.gov/codeenforcement

The City of Morro Bay Community Enhancement Staff (Code Enforcement Officers) are part of the Community Development Department. The Code Enforcement Officers investigate community complaints on issues such as excessive water use, parking, fencing, storage of garbage cans, illegal signs, accumulation of junk, trash, debris and inoperable vehicles, illegal camping, shrubbery and sight distance issues, and non-permitted improvements in the right of way. These items are regulated by the City of Morro Bay Municipal Code and violations can lead to fines and in extreme circumstances, liens on homes. These items also affect the appearance and safety of our community. The City is enhancing its code enforcement to be proactive and is beginning a three-month educational campaign where the code enforcement officers will visit and provide information on issues. After this three-month period, code enforcement officers will be more likely to issue citations for violations of the code. It is important to be familiar with City codes and ordinances that impact private property. To this end the Community Enhancement Staff has put together information regarding the 10 most common violations.

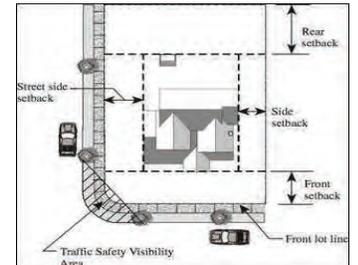
#1 Water Use

The City has implemented mandatory water conservation requirements for severely restricted water supply conditions. Sprinkler irrigation of private landscaping is prohibited between 10 a.m. and 4 p.m. Sprinkler irrigation is permitted on Wednesdays and Sundays for even numbered addresses and on Tuesday and Saturdays for odd numbered addresses. Use of water for cleaning driveways, patios and other hardscape is prohibited.



#2 Improper Parking of RVs and Boats

Recreational Vehicles (RVs) including boats are permitted on private property, but must be located outside of any required front or side yard setbacks. RVs cannot be utilized for sleeping quarters, sanitary or cooking facilities. Also, RVs may not be connected to utilities, including, but not limited to, electricity, gas, water or sewer. RVs and boats cannot be parked in the street for more than 72 hours.



#3 Fences

Fences, walls and hedges, that are open to the passage of air and light over 50 percent or more of the surface area may not exceed a height of four feet in the front or street side yard. Solid fences, walls and hedges not exceeding three feet in height may be located in any street or front yard. Fences, walls and hedges occupying the interior or side or rear yard may not exceed six feet six inches in height.

#4 Garbage Cans—Visible from Street

Refuse containers should be stored in a location that is not visible from the street. Containers should be placed at the curb for collection no earlier than 8 a.m. on the day preceding collection and removed no later than 8 p.m. on the day of collection.





City of Morro Bay

November Information

Community Enhancement

#5 Signs

All permanent commercial signs require approval of a sign permit issued by the Planning Division and may require approval of building permits as well. Temporary signs may be permitted for a limited period of time for special sale or business announcements. Prohibited signs include, but are not limited to, roof-mounted signs, signs that flash or move, tire stacks, signs affixed to utility poles, A-frame signs and non-permanent banner-type signs.

#'s 6 & 7 Junk, Trash, Debris and Inoperable Vehicles on Private Property

The City's Municipal Code con-

siders it a public nuisance for any owner or occupant to allow the accumulation, abandonment or storage of trash, rubbish, junk, automobiles and other vehicles, dismantled, in whole or in part, that are situated on private property, in public view or in view of abutting properties. These conditions can negatively impact public health and result in dangerous and unsanitary conditions.



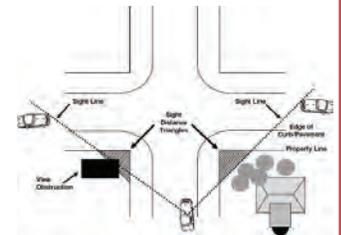
#8 Illegal Camping

Camping is only allowed in City-approved campgrounds, and Recreational Vehicle parks. It is unlawful for any person to erect, occupy or maintain a tent, tent camp, tent trailer, the living quarters of any camper, house car, bus, camp trailer or trailer coach, in any area where such activity is not specifically permitted between the hours of 10 p.m. and 6 a.m. of the following day.



#9 Shrubbery—Sight Distance

Landscaping or other solid objects located in and around local street intersections should be maintained such that they do not exceed a height of three feet in order to avoid creating sight distance safety issues. The sight distance area to be kept clear of visual obstruction is a triangular area measuring a minimum of 10 feet along each street.



#10 Improvements in the right of way/Encroachments

Any improvements or alterations proposed within the right-of-way require acquisition of either an encroachment permit or encroachment agreement, which can be obtained through the City's Public Works Department.

Community Enhancement staff includes two code enforcement officers, Tim Kristofek and David Crockett, and is overseen by Community Development Manager Scot Graham. Over the coming weeks staff will be developing individual handouts for the Top 10 items noted above. The handouts will be posted on the City's website at morrobayca.gov/codeenforcement.

The Community Development Department can also be reached by calling (805) 772-6261.





City of Morro Bay

Information Handout

Contact Code Enforcement (805) 772-2223

Code Enforcement

The City of Morro Bay Community Enhancement Staff (Code Enforcement Officers) are part of the Community Development Department. The Code Enforcement Officers investigate community complaints on issues such as Recreational Vehicle parking, fencing, inoperable vehicles, and non-permitted improvements in the right of way. These items are regulated by the City of Morro Bay Municipal Code and violations can lead to fines and in extreme circumstances, liens on homes. These items also affect the appearance and safety of our community. The City is enhancing its code enforcement to be proactive and is beginning an educational campaign where the code enforcement officers will visit and provide information on issues. To this end, the Community Enhancement Staff regards Recreational Vehicle storage as one of the 10 most common community violations.

Recreational Vehicle and Boat Storage

The purpose of the Recreational Vehicle (RV) code is to clearly define what is considered an RV and to identify locations and standards for storage of RVs and Boats in residential zones and to protect the integrity, value and character of residential neighborhoods along with public health and safety.

17.12.495 - Recreational vehicles, motor home or travel trailer.

"Recreational vehicle," "motor home" or "travel trailer" means a vehicle which is designed or used for human habitation for recreational purposes and which may be moved upon a public highway without a special permit or chauffeurs license or both, without violating any provision of the Vehicle Code.

17.48.060 - Motorhomes or recreational vehicles.

Motorhomes, recreational vehicles or other vehicles shall not be used for human habitation or occupied for living or sleeping quarters except when installed within a licensed trailer court, recreational vehicle park or mobile home park. Recreational vehicles, motor homes or boats maintained upon any lot, piece or parcel of land, other than a trailer court, trailer park or mobilehome park, shall comply with the following conditions:

- A. Outside Maintenance.** Such vehicle or boat shall not be maintained in any required front yard or side street yard.
- B. Used as a Residence.** Such vehicle or boat shall not be used for sleeping quarters nor shall any sanitary or cooking facilities contained therein be used.
- C. Connected to Utilities.** Such vehicle or boat shall not be connected to utilities, including but not limited to electricity, gas, water or sewerage.



Learn more at morrobayca.gov/codeenforcement

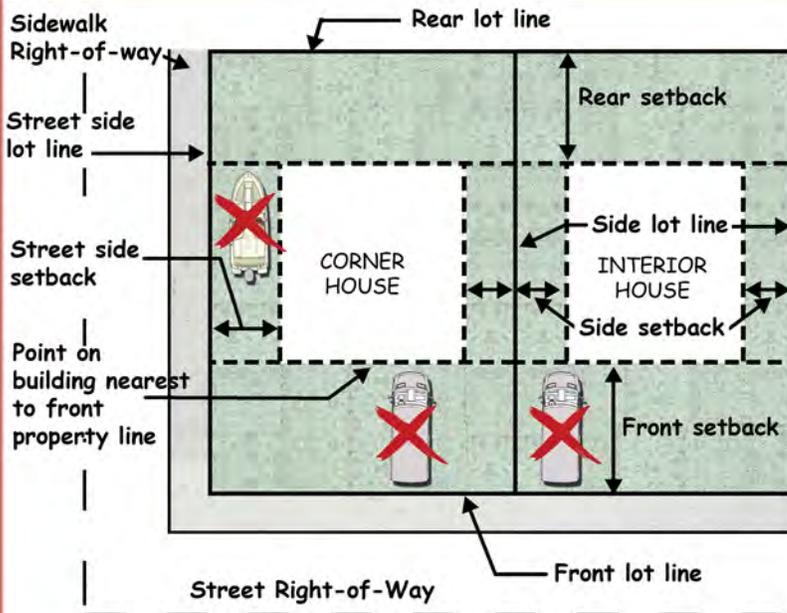


City of Morro Bay

Information Handout

Contact Code Enforcement (805) 772-2223

Recreational Vehicle and Boat Storage



Definitions

"Lot line" means a line separating the frontage from a street; the side from a street or adjoining property; the rear from an alley or street or adjoining property.

"Setback line" means a line established by this title to govern the placement of buildings or structures with respect to lot lines, streets or alleys.

"Side and front of corner lot" means the narrowest frontage of a corner lot facing the street is the front and the longest frontage facing the intersection street is the side, irrespective of the direction in which the dwelling faces.

"Front yard" means a yard extending across the front of the lot between the side lot lines and measured from the front line of the lot to the required minimum front setback.

"Side yard" means a yard between the side line of the lot and the required minimum setback and extending from the front yard of the lot to the rear yard.

Questions and Answers

Question: What is a Recreational Vehicle (RV)?

Answer: It is a vehicle which is designed or used for human habitation for recreational purposes and which may be moved upon a public highway without a special permit or chauffeurs license or both, without violating any provision of the Vehicle Code.

Question: What is a "side street yard"?

Answer: The yard adjacent to any side street.

Question: If I cover my boat or Recreational Vehicle (RV) can I store it in my front or side yard?

Answer: No, covering the Recreational Vehicle (RV) or Boat does not make the storage legal.

Question: Can a Recreational Vehicle (RV) or Boat be parked in the driveway that is in the front yard or a side street yard?

Answer: A Recreational Vehicle (RV) or boat cannot be parked in a driveway in the front yard or on the side of the house adjacent to a side street.

Question: If I put a fence around my Recreational Vehicle (RV) or Boat in my front or side street setback does that comply with the Municipal Code?

Answer: Screening a Recreational Vehicle or Boat in these yards is not allowed storage.



CODE ENFORCEMENT NOTICE

Date: February 3, 2016

Dear Owner/Occupants:

Address: _____

Morro Bay, CA 93442

The City of Morro Bay partners with community members for strong community enhancement by ensuring that nuisances and other code violations related to public health and safety are remedied efficiently and professionally.

Community enhancement involves Community Development Department code enforcement staff and other City staff members first working to educate the community about the municipal code. Voluntary compliance of the City's laws on nuisances is our first priority. Should education and voluntary compliance be ineffective, however, Code Enforcement will then utilize various laws to remedy the nuisance.

The City of Morro Bay hired two (2) part time code enforcement officers (David Crockett and Tim Kristofek) to enforce the city ordinances. At this time the officers are responding to called in complaints on properties. On April 1, 2016 the officers will take a pro-active stance. This means if they see a code violation on properties, owners and occupants will receive a 30 day letter explaining the violation and options on how to comply.

For the months of January, February and March the officers are doing neighborhood sweeps and sending flyers explaining and educating the public on specific City violations.

Once April 1st arrives official letters will be sent out to all violators.

The following check marks (with flyers attached) are violations observed on your property during a neighborhood inspection.

- | | |
|---|---|
| <input type="checkbox"/> 1. RV and Boat Parking on front or street side yard. | <input type="checkbox"/> 5. Fence - Hedge height, location. |
| <input type="checkbox"/> 2. Garbage cans – visible from street. | <input type="checkbox"/> 6. Parking inoperable vehicles. |
| <input type="checkbox"/> 3. Improvements in the right of way or encroachments. | <input type="checkbox"/> 7. Shrubbery – site distance. |
| <input type="checkbox"/> 4. Unsightly conditions on private property-junk/trash on a lot. | <input type="checkbox"/> 8. Illegal camping. |
| | <input type="checkbox"/> 9. Illegal signs. |
| | <input type="checkbox"/> 10. Excessive water use. |

Please feel free to call either Code Enforcement Officer Tim Kristofek or Code Enforcement Officer David Crockett at (805) 772-2223 to discuss any matters or question you have concerning this program.

Dana Swanson

RECEIVED
City of Morro Bay

From: Sue DeVoe
Sent: Tuesday, March 01, 2016 12:16 PM
To: Council
Subject: Code Enforcement Boats/RVs

MAR - 1 2016

Administration

Dear Sirs and Ms.,

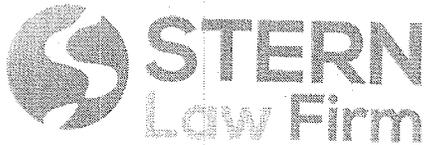
Morro Bay is a fishing community! The new push to punish boat owners/ fishermen for having their boats parked on their own property seems ridiculous.

Please consider changing the law regarding this. I have owned property in Morro Bay since 1973 and have enjoyed being able to launch my little skiff when conditions are right for a day of fishing. Where are residents supposed to store their boats? The increase in our sewer/water bills was enough for this senior and now I am expected to pay another \$100.00 to store my boat?

The current CODE ENFORCEMENT feels very similar to belonging to a Home Owners Association. I moved from Orange County to avoid this type of restriction 43 years ago. It troubles me to see Morro Bay go in this direction and I feel it puts an unfair financial burden on citizens.

Sincerely,

Susan DeVoe



March 1, 2016

Morro Bay City Council
955 Shasta Avenue
Morro Bay, CA 93442

**RE: RECOMMENDATION TO CITY COUNCIL FOR AMENDMENT TO
CODE SECTION MBMC 17.48(100D)(2)(3), AND WALLS AND FENCES**

Dear Members of Morro Bay City Council:

I represent Linda F. Marsh and her sister, Judy Van Hoy, two senior citizens who have been under extreme duress and the infliction of emotional distress since receiving two notices of code violation on or about August 7, 2015 from the Morro Bay Community Development Department. The duress and distress stem from the fact the City ultimately seeks to kill approximately 125 cypress trees that served as their playground as children in the 1930s, when their parents purchased the property, and which has been part of Morro Bay's history and landscape ever since.

The initial notice of violation was likely triggered by a neighbor who acquired their property well aware of the existence of the trees, but speculated that their property value would increase greatly with the potential of an enhanced ocean view. Despite providing substantial evidence of vested property rights in these trees 30-40 years before Morro Bay became a city, and likely 70 years before the current hedge/tree/fence code was adopted (attached), one of the City's new enforcement officers rifled off another code violation notice. Mr. Kristofek's letter provides four options, two of which would kill more the 125 trees, one option would kill about 60 trees, and the last option, a request for a variance, he states that staff would not support.

Based on this analysis, there seems to be very little knowledge of - and respect for - the pre-existing, vested property rights of Morro Bay residents. As well as to the creation of Ex Post Facto Laws that apply to no more than aesthetic perspectives. As we can agree, perspectives on what's aesthetically pleasing changes from the composition from one city council to the next, but once you chop down 60 or 125 trees with 90 years of history - they're gone!

1026 Palm Street, Suite 215
San Luis Obispo, CA 93401

A Professional Law Corporation

www.Stephensternlawfirm.com
Stephen@Stephensternlawfirm.com

Page 2/2: Morro Bay City Council

Therefore, I respectfully request that this City Council re-evaluate its applicable codes with a focus on preserving Morro Bay's History while also respecting the vested property rights of its citizens and residents. This should not only include trees and hedges, but also walls and fences.

Towards that end, I recommend the Council initiate an administrative process that proactively certifies grandfathered, nonconforming property based on the obviousness of the circumstances, such as my client's vested property rights. This certification would preempt the homeowner from any current or future applicable codes, subject to a compelling government interest for health, safety and welfare and that code is narrowly tailored for that particular purpose.

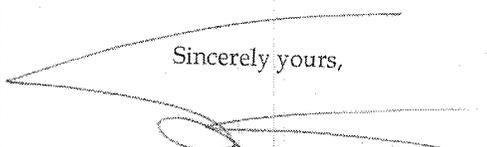
For properties that are not so obviousness (based on either determining tree age by a licensed arborist or historical photos), the City should provide direct and indirect notice to all homeowners of an open registration period to apply for the certification. The application should contain a request for evidence (tree age/historical photos) to receive the certification for code preemption.

For those homeowners who are unable to provide evidence of pre-existing, vested rights, the City should provide the opportunity for neighbors to work together to resolve these issues within a certain timeframe. If unsuccessful, then the city should proceed with its code enforcement efforts.

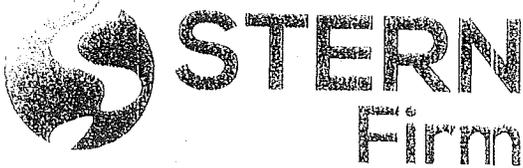
This same process should apply to pre-existing walls and fences that homeowners also invested in many years ago and which have also become part of the Morro Bay landscape.

In closing, I would respectfully request that the City immediately rescind the wrongful allegations of code violations against my client. The ongoing threat of removal or litigation continues to wear heavily on their emotional and physical state, which is extremely unhealthy and dangerous for senior citizens.

Sincerely yours,



Stephen M. Stern, Esq.



November 13, 2015

City of Morro Bay
 Community Development Department
 Ms. Joan Gargiulo, Contract Planner
 Mr. Clark Lockridge, Building Inspector
 955 Shasta Avenue
 Morro Bay, CA 93442

Re: Morro Bay
 Alleged violation of MBMC 17.48(100D)(2),(3)

Dear Ms. Gargiulo and Mr. Lockridge:

I represent Ms. Linda F. Marsh and her sister, Judy Van Hoy, the owners of the property located at _____ Please note that your letter of August 7, 2015 (Exhibit A) states an alleged violation of MBMC Section 17.48100(D) at 381 Kern Avenue, Morro Bay, which does not exist according to the San Luis Obispo County Recorder's Office and the Assessor's Office. Based on the co-referenced Assessor Parcel Number _____ your letter may have intended to reference the cypress trees located at _____

Ms. Marsh and Ms. Van Hoy, both in their late seventies, have resided -- off an on -- at _____ since the late 1930s. Their parents, Emerson W. Fisher and Ednah H. Fisher purchased this house on July 14, 1936 (Exhibit B, Deed of Conveyance, SLO County Recorder), which Ms. Marsh and Ms. Van Hoy inherited.

The house was built in 1918 (See Exhibit C, Residential Building Record, SLO Assessor's Office) and Ms. Van Hoy and Ms. Marsh believe the cypress trees, allegedly in question, were planted in the late 1920s. Ms. Marsh and Ms. Van Hoy recall playing around these cypress trees throughout their adolescence. Kevin J. Small, an ISA Certified Arborist (WE-733A) who inspected the cypress trees, estimates that they are approximately 90 years old.

1026 Palm Street, Suite 215
 San Luis Obispo, CA 93401

Page 2 of 2/City of Morro Bay

Therefore, the trees were planted and nurtured at their current location for approximately 45 years before the City of Morro Bay was incorporated in July 1968, and likely an additional 30 years prior to the enactment of any related municipal codes focusing on tree or hedge height.

Moreover, the cypress trees are legal non-conforming under their grandfathered roots, which dovetails with MBMC 17.12.464 **Nonconforming Use**:

"Nonconforming use" means a use of a structure or land which was lawfully established and maintained prior to the adoption of the ordinance codified in this title but which under said ordinance does not conform with the use regulations for new uses within the district in which it is located (ord. 445 § 3 (part), 1995).

Through my client's rights are firmly rooted with approximately 75 years of grandfathering, it's also important to note that according to Mr. Small, cutting the cypress trees to conform to a three-foot height would kill all the cypress trees. Based on an average annual maintenance cost of \$100 per tree for more than 100 trees over a period of 90 years, this would be a tremendously expensive government taking of property. (See Exhibit D, The Costs and Benefits of Trees).

Lastly, the property and its trees located at 880 Ridgeway Street are part of the larger landscape and history of Morro Bay. This property stands as visual testimony to the early pioneer spirit that helped build this city and for the natural beauty that surrounds it. Most important, it would be a tremendous loss to the entire City of Morro Bay to lose its history over ever-changing interpretations of aesthetic beauty from one council to the next.

Therefore, we respectfully request an official written determination that the cypress trees located at _____ are a legal, nonconforming use.

Respectfully yours,



Stephen M. Stern, Esq

C: Ms. Van Hoy, Ms. Marsh

EXHIBIT A



CITY OF MORRO BAY
COMMUNITY DEVELOPMENT DEPARTMENT
955 Shasta Avenue
Morro Bay, CA 93442

rec'd 8/15/15

August 7th, 2015

Linda Fisher Marsh

Santa Barbara, CA 93103

RE: Morro Bay Municipal Code Enforcement: Morro Bay

Dear Ms. Fisher Marsh,

The Community Development Department has become aware of vegetation located within the exterior side-yard setback of your property at

Pursuant to MBMC Section 17.48.100(D) General Fencing, Hedge, and Wall Standards, the hedge within the side setback along below: must be trimmed to a height of no more than three feet. See code section

17.48.100(D)

(2) **Solid Fences, Walls, and Hedges.** Solid fences, walls, hedges not exceeding three feet in height may occupy any street yard area.

(3) **Side or Rear Yard Areas.** Fences, walls, and hedges not exceeding six feet, six inches in height may occupy any side or rear-yard area, provided:

- a. That such fence, wall, or hedge does not extend into any required front yard;
- b. That in the case of a corner lot, such fence does not extend into the street side yard.

Based upon the above mentioned Sections of the MBMC, the vegetation shall be trimmed, removed, or otherwise modified to comply. Please contact the Public Works Department concerning vegetation allowed within the public right-of-way; Damaris Hanson is a good contact, her telephone number is (805) 772-6265. Following corrective action, please contact this office, as soon as possible, to schedule an inspection to verify compliance with the applicable Codes.

You have until September 7, 2015 to comply with this notice.

Thank you for your cooperation in this matter. If you have any questions, please contact Joan Gargiulo, Contract Planner or Carl Lockridge, Building Inspector at the contact information listed below.

Sincerely,

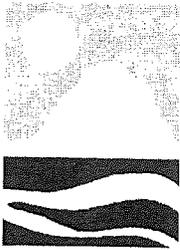
Joan Gargiulo
Joan Gargiulo
Contract Planner

jgargiulo@morro-bay.ca.us
(805) 772-6270

Carl Lockridge

Carl Lockridge
Building Inspector

clockridge@morro-bay.ca.us
(805) 772-6214



CITY OF MORRO BAY

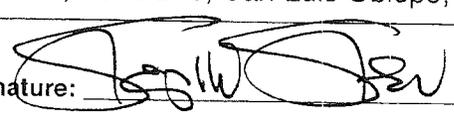
Public Services Department
Planning Division

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:		Morro Bay
Appeal from the decision or action of (governing body or City officer):		<input checked="" type="checkbox"/> City Code Enforcement officer
<input type="checkbox"/> Administrative Decision <input type="checkbox"/> Planning Commission <input type="checkbox"/> City Council		
Appeal of action or specific condition of approval: Appeal from Alleged Code Violation MBMC Section 17.48.100(D)		
Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision):		
Date decision or action rendered: January 6, 2016		
Grounds for the appeal (attach additional sheets as necessary): Vested rights based on trees at issue being planted and maintained since the 1920s, which predates by 45 years the City of Morro Bay's incorporation in 1968. and the ex post facto codes at issue. Prosecution of stated vest rights would also amount to a taking of property, valued at more \$100,000 based on planting, maintenance and watering costs of more than 100 trees during the past 90 years. The Owner/ Occupants inherited the property from their parents who purchased the property in the 1930s. (see attached letter dated Nov. 13, 2015).		
Requested relief or action: City of Morro Bay dismisses its pending allegation of code violation with prejudice based on pre-existing vested legal rights, non-conforming.		
Appellant (please print):	Phone:	
Linda Marsh/Judy Van Joy via Stephen M. Stern, Esq	(805) 543-5297	
Address:		
1026 Palm Street, Suite 215, San Luis Obispo, CA 93401		
Appellant Signature:		Date: 2/5/2016

FOR OFFICE USE ONLY

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



CITY OF MORRO BAY

955 Shasta Avenue
Morro Bay, CA 93442

January 6, 2016

Stephen M. Stern, Esq.
1026 Palm Street, Suite 215
San Luis Obispo, CA 93401

Subject: **HEDGES OVER 3 FEET HIGH AT**

MORRO BAY, CA.

Mr. Stern:

Thank you for your letter expressing your concerns about the hedges at Street, Morro Bay, CA.

One of your concerns was that the cypress trees are a legal non-conforming use. The cypress trees are not a recognized use within the City of Morro Bay Municipal Code. The use of a parcel means the purpose of which land or a building is designed, or arranged or intended or for which either land or building is or may be occupied or maintained. Therefore the use of this property was not to grow cypress trees in the 1920's. The cypress trees were planted for landscaping purposes and must be maintained to meet standards set by the City of Morro Bay.

I am one of two code enforcement officers hired the first part of December 2015. On Monday, January 4, 2016 I went out to the property to re-inspect the situation and found that the hedges in question are in fact approximately ten (10) feet high and must be trimmed down to three (3) feet. (See attachment)

This leaves you with four options: (1) trim the hedges down to three (3) feet high along the side street; (2) trim the hedge such that space is provided between each cypress tree so that they are no longer considered a hedge. The distance between the canopies of individual trees would need to be a minimum of two feet so as to no longer be considered a hedge; (3) remove the hedges; or (4) submit an application to the Planning Division for a variance from the City's hedge requirements. A variance request would require approval by the Planning Commission: however staff would not support such a request.

Please call me at your earliest convenience to discuss the matter further. I am in the office on Monday - Wednesday - Friday from 9:00 - 3:30. My phone number is 805-772-2224.

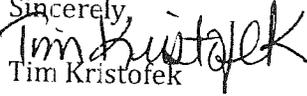
Please resolve the above issue within thirty (30) days (**February 8, 2016**).

CODE ENFORCEMENT

The City of Morro Bay partners with community members for strong community enhancement by ensuring that nuisances and other code violations related to public health and safety are remedied efficiently and professionally.

Voluntary compliance of the City's laws on nuisances is our first priority. Should education and voluntary compliance be ineffective, however, City staff then utilize various laws to remedy the nuisance

Sincerely,

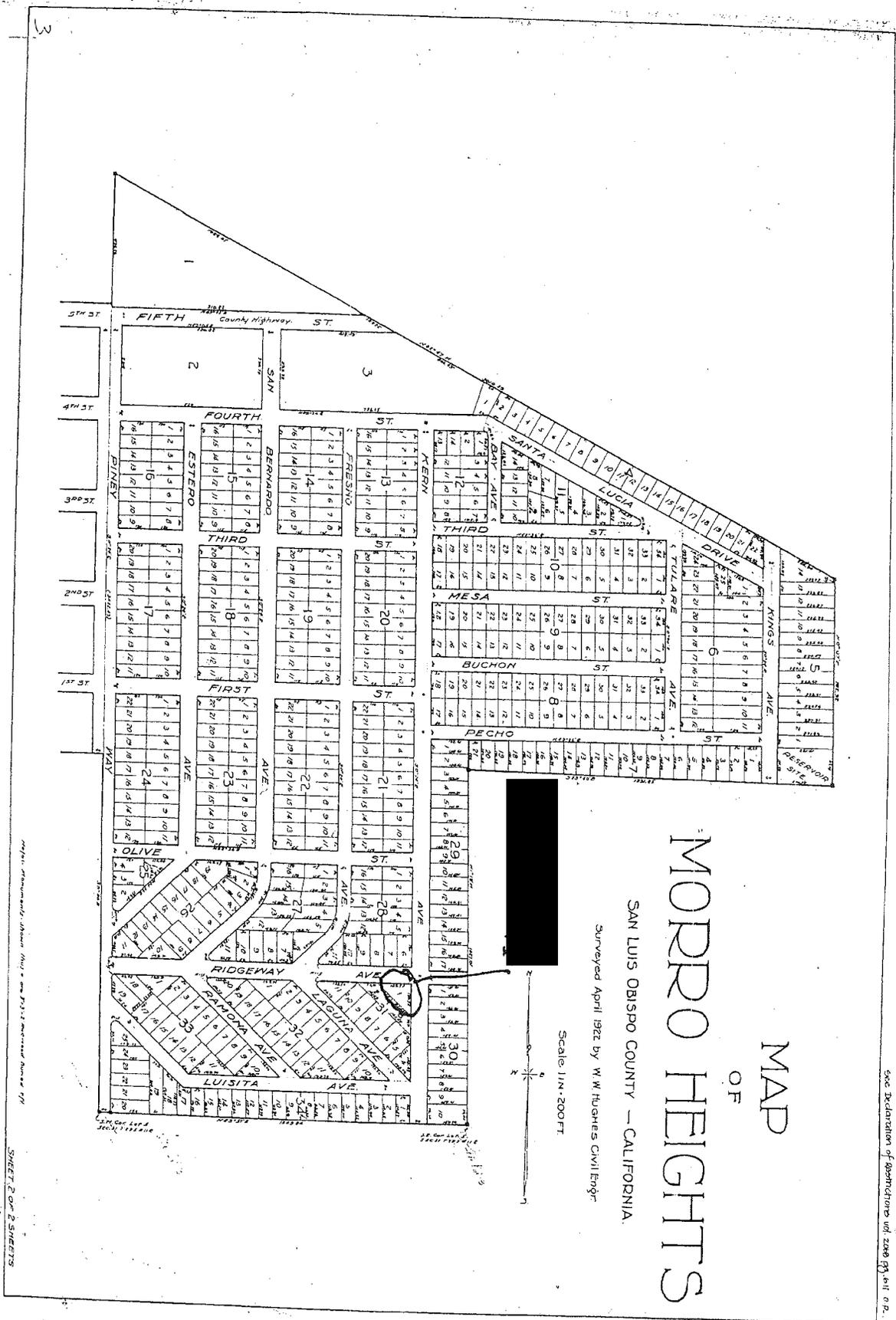

Tim Kristofek

Code Enforcement Officer

(805)-772-2224

EXHIBIT B

EXHIBIT C



MAP
OF
MORRO HEIGHTS
SAN LUIS OBISPO COUNTY - CALIFORNIA

Surveyed April 1922 by W. W. Hughes Civil Engineer

Scale 1/4" = 200 FT.

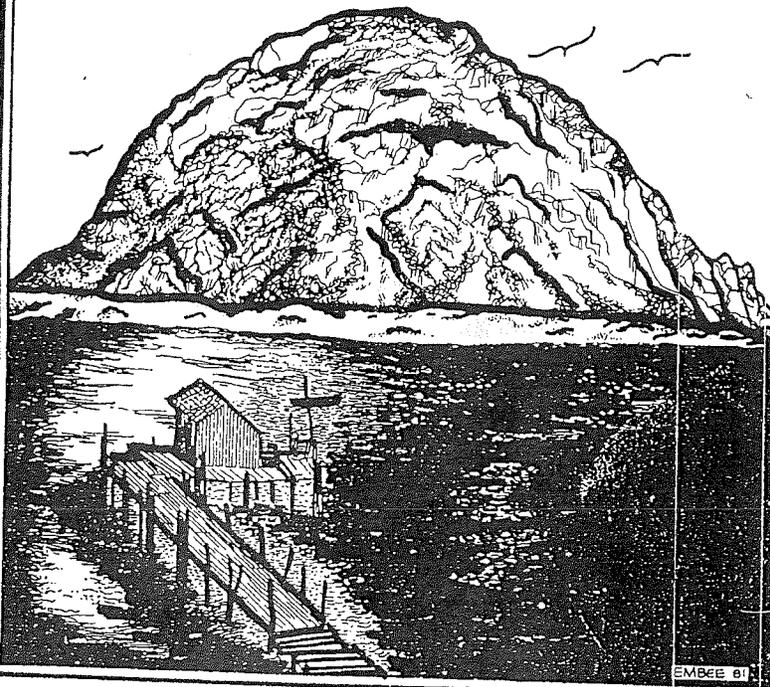


Sheet 2 of 2 SHEETS

See Declaration of Assentions with 2288 89 041 0 0 0

17

MORRO BAY'S YESTERDAYS



RETURN TO
CARPUS/OCEANOGRAPHY LIBRARY

Vignettes of Our City's
Lives & Times

DOROTHY L. GATES
JANE H. BAILEY



BILL ROY

Bill Roy in Fresno during 1920's promoting lot sales in Atascadero Beach Tract, E.G. Lewis development.

at the time. The Board sold the Atascadero Beach properties to John Den Dulk.

What happened to the Cloisters Inn? Tom Hopkins was managing it at the time of Pearl Harbor. There was much fear for the safety of the West Coast, and a regiment of Coast Artillery was quickly brought to guard the Union Oil property between Morro and Cayucos. Hopkins made arrangements with the state to have the armed forces housed at the Inn. Soldiers, all of them were black, stayed in the cottages, and the white officers had rooms at the Inn

itself.

About two years later it became evident that no foreign enemy was a danger to the Pacific Coast, and the artillery was withdrawn and sent overseas. For about a year thereafter, the government maintained a small military guard at the Inn property, but after it was withdrawn, the empty buildings were quickly destroyed by vandals. The hardwood floors were ripped up and removed, as lumber was at a premium. The Spanish roofing tiles disappeared gradually. In a very short time, the Cloisters Inn was no more.

D.L. Gates

A LITTLE BIT OF EDEN Part 2

The E.G. Lewis Atascadero Beach development lay on what was then the very outer fringes of Morro. The first real subdivision within the town proper was that promoted by James Goulding and his Morro Heights Syndicate. The lots went on sale in 1922. Mr. Goulding had been manager of both the Paso Robles Inn and the Andrews Hotel in San Luis Obispo. He was also an insurance agent.

The Morro Heights Syndicate purchased the Olmstead ranch, which was bounded approximately by what is now Piney Way, Luisita, Kern, down to Pecho, then jogged east and went up to Kings. For this ranch they paid \$25,000.

Shares in the syndicate were about \$1,660 each, and each share represented 1/15 of the capital.

James Goulding held three shares, J.H. Knickerbocker of the Union Oil pipeline owned two shares, and most of the other shareholders had one share each. They included Dr. Wilmar of Paso Robles, Bill Groundwater, head of the Union Oil pipelines in San Luis Obispo, and William C. O'Donnell, who was later for many years postmaster of San Luis Obispo. Mr. O'Donnell, who was the source of our information, whimsically said that he had to borrow money to buy his share.

Lots on Ridgeway were \$500 each, on Kern Street, about \$150. Lots averaged \$300 each.

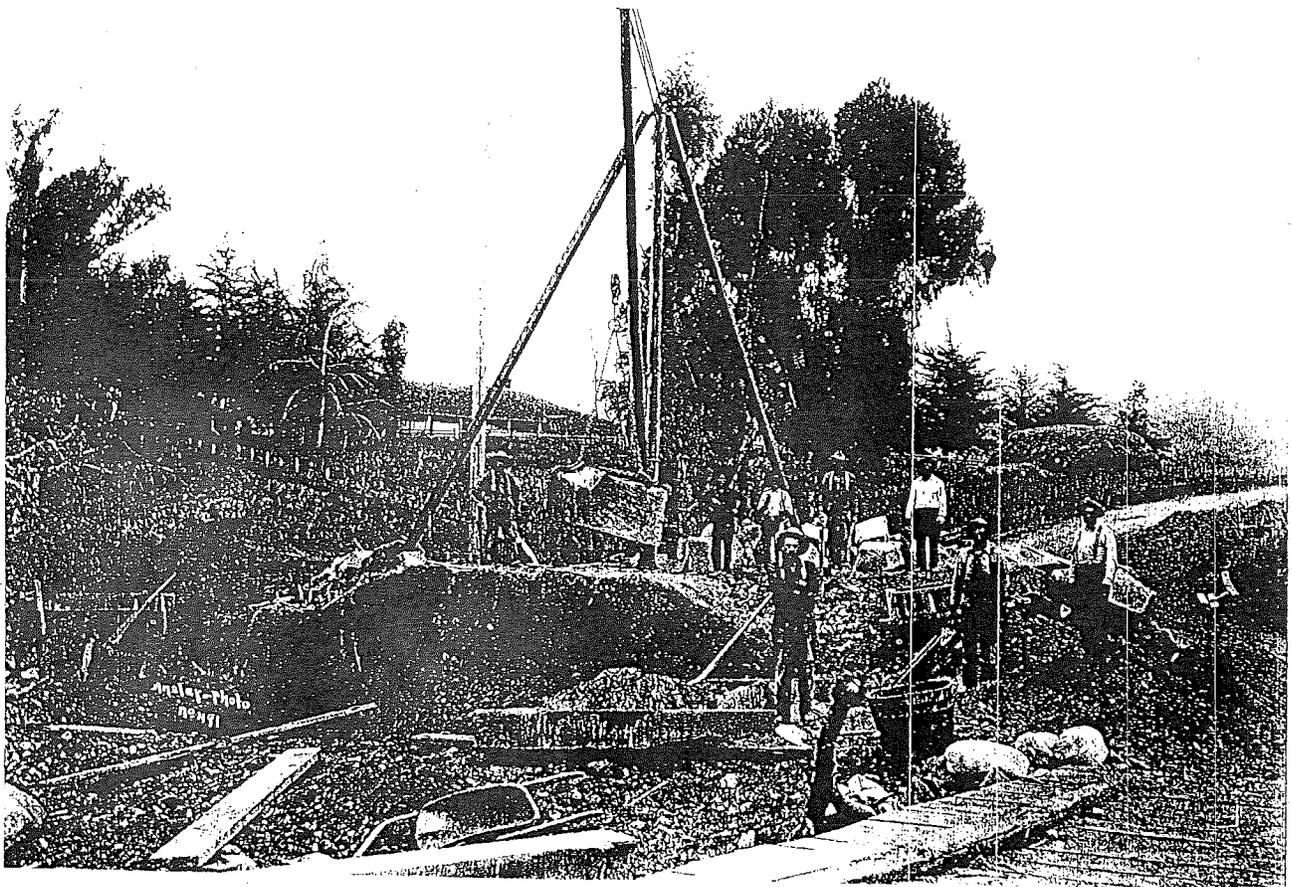
The Depression of the 1930's hit before all the lots were sold. The syndicate was liquidated by deeding the unsold lots to individual members of the syndicate, proportionately. Mr. O'Donnell got eleven lots at that time. After the end of World War II, he bought some houses used by the Army for recreational purposes in Pismo Beach, set them up and built three, which sold readily when placed on his lots. He sold the last of his Morro Heights lots in 1956.

Mr. and Mrs. Goulding were great additions to the community of Morro Bay, from 1920 until the 1950's. They lived at first in a redwood house on the southwest corner of Ridgeway and Kern. Stella Goulding organized the first Women's Club in Morro, Las Amigas, in 1928, whose membership has remained always limited to fifty. This club did a great deal toward "putting Morro on the map," in the 1920's and 1930's. They met first in T.J. Lawrence's Administration building on Kings Street. Their clubhouse was built later on Piney Way, on land donated by A. Manford Brown, that colorful real estate promoter of early Morro Bay. They had \$1200 on hand when they built the

clubhouse, and raised another \$1200 by unceasing effort through several years. Their attractive building has been free of debt for a long time.

When President Warren G. Harding died in August, 1923, Mr. Goulding arranged a community memorial service for the dead president in the tiny park in the center of town, with a troop of high school-age Girl Scouts from Atascadero, who were camping in the Willows. They sang Kipling's "Recessional," dressed in their uniforms. This author, who happened to be one of these girls, vividly remembers being entertained afterward at the Goulding's home—and the beautiful sunset they watched from the living room window on Ridgeway, the view unobstructed by other houses or trees!

James Goulding was very active in the Chamber of Commerce, and in all projects directed toward building and promoting the town of Morro. One of these projects was an outboard motorboat race down the bay channel, in the summer of 1932. Originally set for a date in June, this conflicted with a big project of the Monday Club in San Luis Obispo to sponsor tours of the Hearst Castle (very private property then) to make money for building the Monday



TONINI FAMILY

Building the bridge over San Bernardo Creek in the early twenties when the road between San Luis Obispo and Morro was constructed. Stone is from Bishop's Peak, the building is the "Morro Castle" or Canet Adobe. Ben Tonini, road foreman, stands in foreground at right. Other are: Pedro Marquez, Ralph Kester, and John Reis.

Clubhouse. Planning meetings for the motorboat race were held over a period of several months in Goulding's office. But the race was finally held on July 15th, with six classes of boats, and brought considerable favorable publicity to the town. Mr. Goulding had gotten the Motorboat Association of Fresno to sponsor it.

Goulding planted the Monterey Pines along Ridgeway, Piney Way and Kings Street about 1925, which greatly enhance the beauty of the area. Mrs. Goulding about the same time, scattered the sweet alyssum and linaria, which even into the 1980's added a touch of loveliness to the few vacant lots left in that part of town.

As the Depression of the 1930's deepened and fewer lots were selling, the Gouldings moved from their home on Ridgeway to an apartment back of the real estate office which Mr. Goulding had built on the corner of Morro Bay Boulevard and Bernardo Avenue, which in the mid-1970's was occupied by a ceramics studio, then a silver crafts studio. About this time James Goulding contributed a nostalgic poem to *The Scribblers' Quarterly*, which was published in 1933 by a group of Morro friends who managed to have a good time doing creative things during the Depression. The poem commemorates the old highway from Atascadero to Morro, a road which was narrow and steep; the dangerous summit was called Devil's Gap. With its curves encouraging motion sickness the road was called "butterfly highway" by many oldtimers. A new highway was under construction.

Remembering the difficulties of those times, we quote a part of Mr. Goulding's poem:

The New Road

Soon, by a perfect highway, scorning hills,
The rush of traffic will be gliding free,
With the old grade unknown or soon forgot,
But a warm, living memory to me.
The old grade! By the stream, then up the slope
With many a sudden pitch and bootless quirk,
Sharp corners where the opposing frightful truck
Or vagrant cow seemed purposely to lurk.
But oh! the beauty of it! Trees came close,
Wild mustard's banks of gold, and chaparral,
And with each crazy curve the vista grew;
The world will not remember, but I shall.
I shall remember (as I see their purpose)
The jolts of life with blessing, not with blame,
Shall deem the bad curves precious, somehow miss them,
Like the old road before the highway came.

A person of quite a different type from James Goulding, yet also a dreamer of sorts, was A. Manford Brown, referred to as having donated the land for the Las Amigas clubhouse. His nickname, "Pickhandle Brown," came from his having been previously the railroad section foreman at Paso Robles. When oil wells began producing in the Kettleman Hills area, in the early 1920's, he felt there would be big developments there. But when Standard Oil Company

developed the town of Avenal, Kettleman City died.

However, Pickhandle Brown had not put all his eggs in one basket. He had seen even better possibilities in Morro Bay. He sold lots for James Goulding's Morro Heights development, then started his own "A. Manford Brown Acres," about three miles south of town, approximately where the Ashhurst religious commune, Roandoak, was situated in the 1970's. Later he built the "Log Cabins," Morro Bay's first good motel.

Everyone who remembers Morro Bay in the 1920's and 1930's speaks of "Pickhandle Brown," an unforgettable character. When Amy Warner's husband, Francis Gillette Warner, a very dignified gentleman, and probably the wealthiest man in town, put a gate across the end of the street near his home (Morro Street near South Street), A. Manford Brown crashed through the gate purposely with his car. Mr. Warner never replaced it!

"Pickhandle Brown" was responsible for bringing to Morro Bay the Rohrberg family, who soon joined the leading real estate developers of the community, with almost entirely local capital.

John Rohrberg, a real estate sales manager from Aberdeen, Washington, was enroute with his family to Los Angeles, then a mecca for people in that business. Staying at a cabin in Morro Bay, they were impressed with the attractiveness of the beach, the bay, and the town in general. A. Manford Brown's real estate office was directly across the street from their cabin. He told them about the bright prospects for land sales there, and it wasn't long before Rohrberg had a small real estate office across from the Cloisters Inn, with a fountain in front. He was the subdivider and broker for Ocean Heights. Later, this little building stood on the corner of Harbor and Shasta Streets where the City Hall was later located, and later still, with quite an addition, it became a dwelling near the Halfway Market on Atascadero-Morro Road.

John Rohrberg was also the subdivider and broker for Morro Strand, on both sides of the highway.

In 1927 the Rohrbergs founded the Morro Bay Holding Company, to buy the Joe Enos ranch on Atascadero Road, west of the present Masonic Hall. It consisted of 320 acres, which they were to buy for \$32,000. However, the Depression hit before much was accomplished with this, so they got the release only on 50 acres, and the rest went back to Mr. Enos, who had a dairy. He sold it later to Dr. Wilmar of Paso Robles, who had other Morro Bay investments, and he later sold a good deal of it to the Texaco Company. The Morro Bay Holding Company had among its stockholders "Pete" Peterson, editor of *The Midway Driller*, Chet Schlegel, Jr., his father, Chet Sr., and Harold Gott of Taft.

Milton Rohrberg and his brother, Ted, both got their real estate license as soon as they were eighteen years old, and were involved with the Morro Bay Holding Company.

Soon after the end of World War II, Curt Davis, a famous baseball player, bought two houses from Milton Rohrberg in Cambria. He had been a pitcher for the Brooklyn Dodg-

EXHIBIT D

The Costs and Benefits of Trees

SDA Conference - Keystone

9/20/12

Bob Howey

Tree Analysis Group, LLC

Crash Course on Trees

- The Benefits of Trees
- The Costs of Trees
- Tree Management - Planting, Pruning, PHC, and Removals
- Trees: FAQ's / Hot Topics
- Q & A

The Value of Trees

- Trees in both natural and urbanized areas are important to people and our lives.
- Trees evoke emotional benefits to us all and to some even spiritual significance.
- All of us are innately drawn to trees - both consciously and subconsciously.

The Functions of Trees

- Most trees in cities or communities are planted or preserved to provide beauty, shade, or other important functions.
- Trees serve many purposes and it is helpful to consider the functions that they may fulfill. Trees provide: shading, cooling, screening, producing oxygen, absorbing pollutants, food, wildlife habitat, provide privacy, and creating a sense of place.

Community Benefits of Trees

- Though trees may be on private property, their size and location often makes them part of the community.
- Since tree canopies can occupy considerable space, planning is required for all to benefit.
- With proper selection and maintenance, trees can enhance and function on one property without infringing on the rights of neighbors and can be beneficial to the adjacent properties – the converse is also true.

Environmental Benefits

- Trees alter the environment in which we live by moderating climate, improving air quality, conserving water, and harboring wildlife.
- Climate control from trees is obtained by moderating the effects of sun, wind, and rain.
- The leaves of deciduous trees absorb or reflect radiant energy in the summer and when the leaves fall, this allows warming sun on a building or area in the winter.

Environmental Benefits

- Wind speed and direction can be affected by trees. The more dense the foliage is on a tree or group of trees, the greater the influence as a windbreak.
- Trees should be planted on the windward side of the prevailing winds, but consider also possible snow drifting that can occur downwind of these breaks.

Environmental Benefits

...

- Trees make the environment cooler in the summer and warmer in the winter by regulating the sun's radiant energy and by transpirational cooling.
- To obtain these benefits, is best to plant deciduous trees on the West, East, and South side of homes or buildings.

Environmental Benefits

...

- The downward fall and impact(s) of rain, sleet, and hail is initially absorbed or deflected by trees, which provides some protection for the people and property below.
- Trees intercept precipitation, slow its flow and release, store some water, help reduce storm water runoff, and lessen the possibility of flooding.

Environmental Benefits

- The temperatures in the vicinity of trees are cooler than it is away from or without trees.
- The larger the tree canopy, the greater the shading and transpirational cooling that is provided.
- By using trees in the cities, we are able to moderate the heat-island effect caused by pavement and buildings in urban areas.

Environmental Benefits - Last

- Air quality can be improved through the use of trees. Leaves filter the air we breathe removing pollutants, harmful gases, dust, and other particulates.
- Trees take up and absorb carbon dioxide from the air and also absorb air pollutants—such as ozone, carbon monoxide, and sulfur dioxide—and they generate and give off oxygen as a by-product.
- Carbon sequestration - Carbon “captured” from the air and is used or stored by trees and they serve to reduce the carbon dioxide in the atmosphere that comes from the burning of various fuels.
- By planting trees in areas, we create a more natural, more inviting, and a less artificial environment. Birds and other wildlife are also more attracted to areas with trees.

Economic Benefits

- Trees have value and that can be appraised, but the variability of species, size, condition, location, and their function makes determining their economic value more complex and requires a consulting arborist to determine.
- Trees can add 5-20% to the appraised value of a property and trees generally increase in value from the time they are planted until they are mature.
- The economic benefits of trees are both direct and indirect. Direct economic benefits are usually associated with reduced energy costs and increased property values.

Economic Benefits

- Indirect economic value and benefits are tied to the trees' added aesthetics and beauty which are harder though still possible to value.
- Lowered electricity bills are paid by customers when power companies are able to use less water in their cooling towers, build fewer new facilities to meet peak demands, use reduced amounts of fossil fuel in their furnaces, and use fewer measures to control air pollution.
- Communities also save if fewer facilities must be built and maintained to control storm water.

Savings from Trees

- The energy savings, lessening of runoff, reduce pollution, and carbon sequestration benefits which can be accurately valued and are worth calculating especially when discussing larger quantities of trees.
- These cost savings can be calculated and given hard valuation via the USDA Forest Service UFORE and/or American Forests - City Green models. Let me know if you would like more information about or help in calculating these cost savings.

Costs: Trees Require an Investment

- An investment is required for trees to provide the desired benefits.
- The single biggest, one time cost of a tree occurs when it is purchased and planted. Planting should include an irrigation system and also supplemental watering during establishment.
- Leaf clean up, pruning, fertilization, insect/disease control, removals, and the disposal can be costly and should be planned and accounted for.

Costs: Trees Require an Investment

- To function well in the landscape, trees require ongoing care, attention, and maintenance. A professional arborist, whether on staff or under contract, should be utilized to manage and maintain trees. Arborists have the knowledge and equipment needed to prune, spray, fertilize, and otherwise maintain trees.
- Ongoing tree care is the often underestimated and not adequately budgeted for. It also is an easy budget line item to cut or defer. When tree maintenance gets cut from the budget (and maybe not reappear), this often leads to poor or substandard trees over time.
- A Consulting Arborist, Community Forester, or Extension Agent can provide unbiased answers about tree maintenance, suggested treatments, or recommend qualified arborists and tree care companies for providing the needed tree services.

Tree Costs - 20 year Cost of Ownership

The following are my own estimates/projections of tree care costs based on actual field experience for the 20 year tree care, "retail" costs for a tree and tree care. All costs will vary especially with tree quantities involved and quality of work factors, but this provides at least a starting point for decision making, budgeting and other considerations.

- Installation/Planting: \$630 - 2" Deciduous or 6 foot Evergreen tree
 - staked and mulched, connected with irrigation system
 - Maintenance excluding Fall leaf clean up and special watering:
 - > Pruning - every 4 years \$60 average x 5 = \$300, lower in early years
 - > Plant Healthcare - Annual Spraying \$15 x 20 = \$300
 - Fertilization - every 3 years \$10 x 7 = \$70
 - ≥ Irrigation Maintenance/Water Cost - ongoing \$30 x 20 = \$600
- TOTAL - 20 Year Cost = \$1940 per tree**
- \$1270 (\$62.50/year) Maintenance plus Initial Planting \$670

Annual Tree Maintenance Costs

- A study published by Virginia Tech University listed annual tree maintenance costs at \$84 to \$100 per tree per year depending on the size of the tree. Virginia Cooperative Extension, Publication #420-121
- Most Properties/Communities/Metrodistricts do not allow for anywhere near this much in their budget to maintain their tree assets. It is often just 10-25% of this needed amount.

**For more tree questions,
information, or assistance - please
contact us:**



Bob Howey

ISA Certified Arborist and ASCA Consulting
Arborist, QS, Horticulturist, MBA

303-726-1952 or bob@treeanalysis.com

Please contact us if we can help you with any tree management, water conservation, or landscape issues or advisement - both one time items or ongoing support.

February 22, 2016

To: City of Morro Bay council@morrobayca.gov
 Attn: Mayor and City Council
 595 Harbor Street
 Morro Bay, CA 93442

City of Morro Bay
 FEB 29 2016
 Rec'd City Hall

From: Walter Schob
 Morro Bay, CA 93442

Subject: Code Enforcement Notice---"1. RV and Boat Parking on front or street side yard"

Dear Mayor and City Council:

I received subject Code Enforcement Notice dated 2/8/2016 (Attachment 1). I request relief from this Code Enforcement Notice for the following reasons:

I bought my house in Morro Bay 20 years ago (7/22/1996) and one of the items, pointed out by the real estate agent, that influenced my purchase, was the special feature: "a paved parking area for an RV or a boat".

I have lived in my house for 20 years and have parked (like a car) my RV (trailer) on the paved parking area during the days when my wife and I are not on the road camping in the trailer.

When parked, the trailer is not used for human habitation and is not connected to utilities. It is parked on a paved driveway area designed for an RV and/or a boat and is not maintained in any required front yard or side street yard.

I can find nothing in Morro Bay Municipal Code, Title 8, Chapter 8.04---Health Codes and Chapter 8.14---Public Nuisances

That applies to parking my trailer on a paved parking area specifically designed for RV or boat parking.

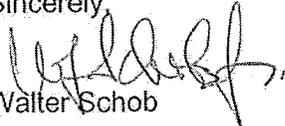
That mentions any health and safety issues with parking my trailer on a paved parking area specifically designed for RV or boat parking.

When parked, the trailer CANNOT be considered harmful and/or deleterious to public health, safety and welfare of the citizens of Morro Bay. And DOES NOT affect the appearance and safety of my/our community. It is kept clean, covers conceal the tires and foliage that conceals the West side of the trailer is kept neatly trimmed.

I have attached two pictures showing the trailer parked on the paved parking area specifically designed for RV parking.

I request relief from this Code Enforcement Notice.

Sincerely,


 Walter Schob

Attachment 1: Code Enforcement Notice---"1. RV and Boat Parking on front or street side yard"
 Attachment 2: Two pictures of trailer parked on the paved parking area designed for RV parking

CODE ENFORCEMENT NOTICE



Date: 2/18/2016

Dear owner/occupants: _____

Address: _____

Morro Bay, CA 93442

The City of Morro Bay partners with community members for strong community enhancement by ensuring that nuisances and other code violations related to public health and safety are remedied efficiently and professionally.

Community enhancement involves Community Development Department code enforcement staff and other City staff members first working to educate the community about the municipal code. Voluntary compliance of the City's laws on nuisances is our first priority. Should education and voluntary compliance be ineffective, however, Code Enforcement will then utilize various laws to remedy the nuisance.

The City of Morro Bay hired two (2) part time code enforcement officers (David Crockett and Tim Kristofek) to enforce the city ordinances. At this time the officers are responding to called in complaints on properties. On April 1, 2016 the officers will take a pro-active stance. This means if they see a code violation on properties, owners and occupants will receive a 30 day letter explaining the violation and options on how to comply.

For the months of January, February and March the officers are doing neighborhood sweeps and sending flyers explaining and educating the public on specific City violations.

Once April 1st arrives official letters will be sent out to all violators.

The following check marks (with flyers attached) are violations observed on your property during a neighborhood inspection.

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1. RV and Boat Parking on front or street side yard. | <input type="checkbox"/> 5. Fence - Hedge height, location. |
| <input type="checkbox"/> 2. Garbage cans – visible from street. | <input type="checkbox"/> 6. Parking inoperable vehicles. |
| <input type="checkbox"/> 3. Improvements in the right of way or encroachments. | <input type="checkbox"/> 7. Shrubbery – site distance. |
| <input type="checkbox"/> 4. Unsightly conditions on private property-junk/trash on a lot. | <input type="checkbox"/> 8. Illegal camping. |
| | <input type="checkbox"/> 9. Illegal signs. |
| | <input type="checkbox"/> 10. Excessive water use. |

Please feel free to call either Code Enforcement Officer Tim Kristofek or Code Enforcement Officer David Crockett at (805) 772-2223 to discuss any matters or question you have concerning this program.

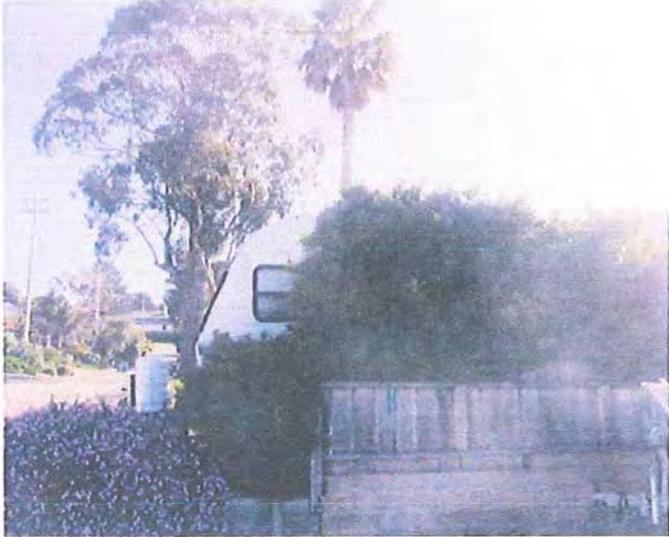
Tim Kristofek

Attachment 2:

Pictures of trailer parked on paved parking area designed for RV parking



Looking West



Looking East

Dana Swanson

From: CHARLES AWBREY <
Sent: Sunday, February 28, 2016 7:27 PM
To: Council
Subject: Citation of Cypress Hedge on Kern Street

FEB 28 2016
Administration

Mrs. Van Noy, a long time resident of Morro Bay, has lived here since 1938. The hedge in question is on the
of her property and stretches about 71 yards. The triangular lot borders and the backyards of
homes on Avenue.

We live on Avenue. The removal of the hedge would affect us due to the increase in noise from traffic on

The hedge has been in place since before Morro Bay was incorporated as a city. It does not impede turning
from I

Cutting the existing hedge down to three feet would undoubtedly kill these old growth plants. The cypress
hedge has been home to

small nesting birds, keeping them safe from hawks. Where are they now to go?

Compliance with this citation does nothing but satisfy an inflexible rule without regard to the cost or the overall
privacy of the resident.

Respectfully,

Carol and Bill Awbrey

Morro Bay

Dana Swanson

From: Don Lockwood < >
Sent: Sunday, February 28, 2016 11:19 AM
To: Council; Jamie Irons; Christine Johnson; Matt Makowetski; John Headding; Noah Smukler; Don Lockwood
Subject: Storm brewing

FEB 29 2016

Administration

Hi to the MB City Council

First: My name is Don Lockwood, I am a citizen of Morro Bay, and I have lived here for forty years. I have also served on your Harbor Advisory Board and was the Chairman for about ten years.

The subject of this message is The Code Enforcement question. To start with I am of the school of "Don't fix it if it aint broke." Unfortunately with your recent policy change I feel you may have broke something. I have read with interest that change in the code enforcement policy i.e. to "Proactively enforce the various ordinances." As I interpret that policy it seems that you are preparing to aggressively enforce the ordinances where ever and when ever the officers can find them. That they will actively go on patrol looking for violations. I am assuming that since the Fire Department, the Building Department, the Harbor Department and the Police Department all have code enforcement duties and responsibilities, that the two new code enforcement officers will be primarily concerned with the Public Nuisance ordinances. I'm sorry but I think you have opened a large can of worms.

Considering how poorly that ordinance is written those two officers will have no trouble documenting more than enough violations to justify their positions. As an example read the following taken directly from the ordinance:

"Public nuisance" means and includes anything which is injurious to health, or is **indecent or offensive to the senses.**"

I guess my question is who gets to decide what is indecent, who gets to take offense and which of the five senses are to be employed?

Having spent many hours sitting up on the podium, like you, listening to people complain, I am very sympathetic to your situation. So instead of just griping I will offer what may be a solution to the fire storm that is brewing.

First, call off the enforcers at least until the code or codes have been cleaned up.

Second, establish an advisory panel made up of Morro Bay citizens to study and recommend changes to code or codes identified by you. I suggest the panel should have no more than seven members none of which are employees of The City of Morro Bay. To function in a productive manner it should have access to all Departments, be able to call public input meetings and establish small independent working groups to address specific problem areas.

Last, they should be free of all but minimal input or control from the City Manager. The reason for this is that there is a growing concern here in North Morro Bay that he is part of the problem not the solution.

I think if you had something along these lines in the works you might be able to defuse a volatile problem situation before it starts.

Thank you for being our Council. I feel you have done a fine job. There is still a lot of work to do. Please don't let this problem distract you.

Kindest regards Don

Dana Swanson

FEB 29 2016

From: Steve Francis <
Sent: Friday, February 26, 2016 4:56 PM
To: Council
Subject: Letter in Support of Morro Bay Code Enforcement
Attachments: Letter in support of Morro Bay Code Enforcement - Steve and Cathy Francis.pdf

Administration

Please see attached letter. We support the recent code enforcement actions.

Steve Francis

Steve and Cathy Francis

Morro Bay, CA 93442

February 26, 2016

Letter Regarding Enforcement of the City Code:

We were glad to receive the Community Enhancement information in the mail. We live in the Beach Tract, where lots are very small and houses are close together. We have seen some flagrant code violations:

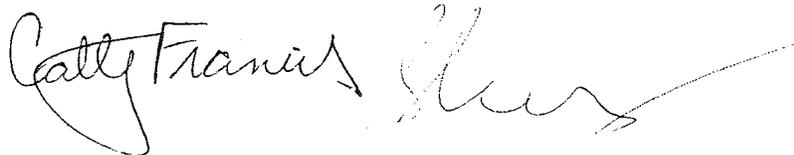
1. neighbors parking a horse trailer in their front yard
2. people camping on the street in their RVs (with power cords plugged into the house).
3. neighbors continually parking in front of the mailboxes and the mail carrier refused to deliver the mail at that point. This resulted in the mailbox owners having to pay a contractor to have the mailbox moved because these people kept parking their boat and truck in front of the mail boxes.

In all cases, polite requests to the neighbors asking them to be more considerate have resulted in profanity, anger, and no positive change.

Human nature being what it is, most people seem to think that they should be able to do anything that they want to. Often there is little thought for how their actions affect other people. The guy who wants his boat or RV in his side yard doesn't think about the fact that his neighbors don't really want to look at his boat or RV (or his trash cans) and views these things as an eyesore. We have a motor home that we think is beautiful! However, we don't think it looks beautiful sitting on the side of our lot or in the street in front of our house. Our neighbors probably agree with this thought.

Another issue solved by the enforcement of the city codes is neighborhood aesthetics. Aesthetics contribute to property values and to the ability to attract visitors to this community, supporting our tourism industry. Property values will go down and visitors will be less inclined to visit and pay top dollar when the place they are visiting looks tacky.

So we support the city of Morro Bay enforcing the existing codes. Note that we think that the city of San Luis Obispo has gone a little overboard with their zealotry. But when we drive around Oceano we see strong value in code enforcement.

A handwritten signature in black ink, appearing to read "Cathy Francis" followed by a stylized flourish.

Steve and Cathy Francis

Dana Swanson

RECEIVED
City of Marina Bay

From: CRAIG PORTER ·
Sent: Friday, February 26, 2016 10:09 AM
To: Council
Cc: Noah Smukler
Subject: code enforcement.

FEB 26 2016

Administration

AS a resident as well as someone who uses their boat as a source of income, the new code enforcement tactics are concerning. In recent weeks I have had numerous residents stop by my house and express concern about the new policies being put in place by this council. Boats, RV's and trailers not in public parking spaces in our town, but rather in the owners private property should cause little concern to anyone. If you have done your homework you will understand that in other coastal cities such as Santa Barbara, or Monterey the boat owners play 72 hour shuffle with their boats in on street parking. Our beautiful city's image is not harmed by people owning or parking these items in their yards, but having these items parked on street all over town will do no one any good. Also of concern is the rule that a boat can not be hooked up in any way to utilities. I plug my boat into electric to maintain the batteries so I don't get stuck offshore. I have talked to over 100 people who have expressed the same opinions on this. I appreciate your time and look forward to a response..

E. Craig Porter

Dana Swanson

From: Lou Kranz <
Sent: Thursday, February 18, 2016 2:14 PM
To: Council
Subject: Code Enforcement

Hi - I will be out of town on March 8th and unable to attend the meeting. That being said, I can't tell you how happy I am that we have code enforcers. I moved from a city with a strict HOA and all of the yards and houses looked nice. We were not able to park RV's, boats, or trailers on our property. This kept the neighborhood looking very nice. When it came time to sell my house, it sold quickly and I moved here. As I walk around Morro Bay, I am appalled at some of the things I see. Some streets look like junk yards. If I had it to do all over again, I wouldn't move here. I realize that people feel that since it is their own property, they can do as they please, but this affects the property values.

I say, ENFORCE, ENFORCE, ENFORCE !

Thanks,

An unhappy homeowner

RECEIVED
City of Morro Bay

FEB 16 2016

Administration

Memorandum - Two Pages

Date: February 16, 2016
To: Morro Bay City Council
From: Ron Reisner, Morro Bay Resident
Subject: City of Morro Bay Municipal Ordinances and Code Enforcement

With all the talk concerning tight budgets and fiscal responsibility in our little town, I find myself confused by certain aspects of the current state of Municipal Ordinance Code enforcement - enforcement which now represent at least \$100,000 of annual City budget, without regard to the inevitably associated costs of other City employees and City resources.

I and other citizens are familiar with the May 2015 San Luis Obispo County (SLO) Grand Jury findings concerning City of Morro Bay Code Enforcement. As we know, the Grand Jury made four recommendations:

- R1: Establish a proactive managed code enforcement process.
- R2: Fund and hire a full-time municipal code enforcement officer.
- R3: Acquire, install and use a municipal code management software package to track all code violation complaints.
- R4: Train staff on use of the new system.

We are also familiar with Mayor Irons July 14, 2015 response to judge Harman following the Grand Jury findings.

Unfortunately, neither the Grand Jury investigation and its findings, nor the Mayor's response to the court, nor the City's current Goals and Objectives item 4.d., nor the City's code enforcement process to date seem to include the all-important element of a comprehensive City Municipal Ordinance review. Or, perhaps I am ignorant of the City sharing with its citizens the results of such a comprehensive review.

Given that Ordinances are laws created by the City, and Codes are standards or administrative interpretations of those Ordinances, the question is not whether a City needs Ordinances (and the Code enforcement of those Ordinances), but rather what City Ordinances are appropriate and necessary?

No responsible citizen would argue against the need for City Municipal Ordinances that meaningfully protect health and safety. However, two exemplar issues regarding current City health and safety Ordinances raise questions regarding meaningfulness. The first relates to the storage of non-derelect recreational vehicles and boats on private property, irrespective of whether some portion of those RV's or boats sit on a zoning set-back within the boundaries of that private property. The second relates to the height of hedges on private property when the height does not interfere with traffic sight lines. It is difficult to understand how these two examples of private property use have a negative impact on the City's health or safety.

My question is, since the May 2015 SLO Grand Jury findings, and the subsequent actions of the City of Morro Bay relative to Municipal Ordinance Code enforcement, have those actions been preceded by and/or included a comprehensive review of City Municipal Ordinances, as well as the associated public input?

In the City's December "Information" release, the "10 most common [Code] violations" are featured. Taking them in turn: Water conservation, which under present circumstances cannot be argued; Control of commercial signage, very likely necessary; Prohibiting public nuisance junk, debris, and trash on private property, which makes sense; Prohibiting shrubbery heights that impeded traffic safety – sure; Prohibitions against encroaching on City property – understandable; Prohibition against illegal camping – if only that one was actually enforced. That leaves us with City Ordinances addressing: "Improper Parking of RV's and Boats"; "Fences"; "Garbage Cans – Visible from Street".

So, seven of the 10 most common violations appear worthy of being City Municipal Ordinances, while in the light of rational review, three of the 10 (or portions thereof) may not. In order to justify the application of City resources, City budget, and City taxpayer funds to Ordinance enforcement, it is logical that an Ordinance must materially and specifically contribute to public "health and safety". What then is the litmus test for such contribution, and who decides?

I do not know how many Morro Bay Municipal Ordinances exist that relate to health and safety, as well as to the associated use by private land owners of their property, but there appears to be a need for comprehensive and substantial review. Using the example of the 10 most common violations, approximately 30% of existing Municipal Ordinances relating to public health and safety might be called in to question relative to their rationale and relevance. If even a fraction of this is the case, a reasoned and rational review of Morro Bay Municipal public health and safety Ordinances is necessary. This is especially true in light of the impact on the City budget and taxpayer dollars from the Code enforcement process. Even if the City were awash in budget funds and taxpayer funding, a reasoned and rational approach to the specific nature and existence of City Municipal Ordinances, much less their enforcement, is a prime responsibility of City government.

Please advise relative to your position regarding the need for a comprehensive and substantive review of City Municipal Ordinances, especially those relating to public health and safety – a review which focuses on reasonableness and relevance, and which factors in the responsible use of public funds for enforcement. Further, please advise as to your position regarding conducting that review prior to expending City budget and taxpayer dollars on relevant aspects of Municipal Ordinance enforcement.

I look forward to your response.

Sincerely,

Ron Reisner
Morro Bay Resident



AGENDA NO: C-2

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: March 14, 2016

FROM: Eric Endersby, Harbor Director

SUBJECT: Withdrawal of Previous Consent of Landowner Agreement Approval for Lease Site Improvements for Lease Site 86/86W at 801 Embarcadero (Embarcadero Grill, Caldwell) Issued October 15, 2013, and Approval of a New Consent of Landowner Agreement to File a New Application for Lease Site Improvements and Allow Staff to Enter Into Lease Negotiations

RECOMMENDATION

Staff recommends Council withdraw the original Consent of Landowner Agreement for proposed lease site improvements on Lease Site 86/86W issued October 15, 2013, and approve a new Consent of Landowner Agreement (included as Attachment 1) for the Leaseholder's new proposed site remodel project (included as Attachment 2), and direct the City Manager to execute the agreement.

Additionally, staff recommends the Council provide any preliminary general comments concerning the Leaseholder's proposed new project plans, and authorize staff to begin lease negotiations with the Leaseholder, based on the proposal at the appropriate time in the Planning review process.

ALTERNATIVE

Do not withdraw the original Consent of Landowner Agreement issued October 15, 2013, and direct staff and the Leaseholder to continue working on the site redevelopment project as originally proposed and approved in 2013.

FISCAL IMPACT

There is no negative fiscal impact to the City by approving this proposal. The retention of the second floor and renovation into 11 boutique hotel rooms will result in increased TOT revenues to the City of \$80-100K per year in addition to the increased revenue anticipated from a new modern lease format that includes percent-of-gross sales obligations.

Prepared By: EE

Dept Review: EE

City Manager Review: DWB

City Attorney Review: JWP

BACKGROUND

Lease Site 86/86W is a 50-year Pipkin lease that expires in September 2018. Pursuant to the Lease Management Policy, in 2012 the tenant submitted a written proposal for a redevelopment project that consisted of a joint two-story mixed-use redevelopment project with the neighboring lease tenant to the north. At the June 11, 2013, City Council meeting, that proposal was heard by Council; however, Council moved to direct the two tenants to resubmit separate proposals for their respective lease sites.

On October 8, 2013, the City Council considered a new proposal from the Leaseholder of 86/86W consisting of demolition of the existing two story building in its entirety and construction of a new one-story building to house a restaurant, themed pub and limited on-site brewery. The proposal also included a roof-top view deck on the western portion of the building, 8-foot sidewalk setbacks, a 12-foot wide public seating and promenade corridor between the Leaseholder's building and the lease site building to the north, a 10-foot wide Harborwalk access and options for either continued vehicle parking in the current substandard five parking spaces on the lease site, or conversion of those parking spaces to additional promenade and landscaping area that would include two parallel parking spaces. Council approved a Consent of Landowner Agreement for that proposal and opted for the additional promenade/landscaping version of the plans, and the Agreement was issued on October 15, 2013.

Given the success of recent waterfront lease redevelopment projects in Morro Bay that include transient occupancy upper floor hotel uses, and in order to maximize lease revenues, the Leaseholder of Lease Site 86/86W recently brought a new proposal forward to staff that entailed leaving the existing building largely intact with restaurant/pub and retail on the ground floor and including transient occupancy units on the second floor. During real property negotiation in closed session of the City Council on December 8, 2015, regarding this lease site, the new remodel preliminary proposal was discussed and initial City Council direction was to bring the full proposal forward in a future regular meeting of the Council for consideration.

DISCUSSION

The Leaseholder's full new remodel proposal for Council's consideration consists of the following major elements:

- Retention of a two-story building with restaurant/pub and retail uses on the ground floor, and transient occupancy hotel use on the second floor.
- Historical fish processing western section of the existing building retained and repurposed, while eastern section of the existing building largely removed and remodeled.
- New 10-foot wide Harborwalk access on the west and southwest portions of the site.
- 10-foot sidewalk/setback from the street; 12-foot view corridor/promenade between proposed building and existing lease site building to the north; hotel loading/unloading zone and open space where current substandard parking spaces exist on southeast portion of the site.
- Existing building square footage of 8,726 SF; proposed building 8,614 SF Existing lot coverage 55%; proposed coverage 48%.

The Leaseholder has worked with staff on developing this new proposal in order to better utilize the site

by increasing the visitor-serving nature of the development, along with improving the economic potential of this lease site, including a preliminary plan review by Community Development personnel who have found it feasible from a planning and permitting standpoint. It must be understood, however, while Council may provide preliminary input to this proposal in terms of general design elements or guidance, this proposal, like any other, must go through the full public review process, which includes both concept and precise plan approvals. Council cannot make land use decisions or approvals as part of the Consent of Landowner process, as a Consent of Landowner is only approval for the a leaseholder to submit plans for the concept and precise plan approval process.

Staff believes this remodel and mix of restaurant/retail use on ground floors and transient occupancy hotel use on upper floors is the best way to maximize the economic potential of this site, while still allowing for redevelopment or remodeling to more modern code, design and access standards. In our normal interaction with business and lodging professionals in Morro Bay, staff recognized the value of retaining the second floor of this historic building for use as TOT-producing hotel rooms. Staff presented this to the leaseholder who concurred and has provided this updated proposal. Staff sees this as a wise use encouraged by our general economic development and fiscal sustainability goals.

Public Benefits. This proposal includes a number of significant public benefits compared to both the existing lease site, and the previously considered improvements, including the following:

- Provides a new 12' view corridor and public use area between the subject property and the Off the Hook building,
- Preserves a portion of the old Fish canning plant as a nod to the historical roots of the building,
- Provides a 10' public lateral access way on the bay side where none exists,
- The 10' lateral access will be designed to allow connection to the adjacent Off the Hook lease site when that lease site is redeveloped,
- Reduces the overall height of the building to 25',
- Increases sidewalk width from 5' to 10', and
- The public benefit of approximately \$100,000 a year of increased TOT is substantial. For example, that sum represents around 20% of what we spend annually. With the increased TOT from the project the public could benefit from a 20% increase in general fund spending on streets.

CONCLUSION

Staff is seeking Council approval to continue to work with Burt Caldwell, the Leaseholder on Lease Site 86/86W, on his new lease site remodeling proposal by revoking a previous Consent of Landowner Agreement for his original project, and entering into a new Consent of Landowner Agreement for the project now being proposed, and authorizing staff to begin negotiations on a new long term lease agreement as appropriate.

ATTACHMENTS

1. New Consent of Landowner Agreement for Leaseholder's proposal on Lease Site 86/86W.
2. Leaseholder's new proposed site remodel plans.

City of Morro Bay
Tidelands Trust Grant Properties
Consent of Landowner Agreement Form

Consent For:

Redevelopment of Lease Site 86/86W by Tenant, Burt Caldwell, 801 Embarcadero LLC, commonly known as Embarcadero Grill, as proposed in attached site plan and negotiation of new lease.

Site Location: Lease Site 86/86W, 801 Embarcadero, Morro Bay, CA 93442

Property Owner: City of Morro Bay Telephone: 805-772-6254

Address: 595 Harbor St. City: Morro Bay State: CA Zip: 93442

Applicant: Burt Caldwell, 801 Embarcadero LLC Telephone: 805-441-1867

Address: 1342 Garden Street City: San Luis Obispo State: CA Zip: 93401

I, as representative of the City of Morro Bay, the owner of record of the fee interest in the above noted land for which an application for a building permit is being requested by the Applicant, do certify Consent of Landowner is given for the preliminary site plans presented to the City Council on March 22, 2016 and to be submitted to the City of Morro Bay Community Development Department for processing.

This Consent of Landowner Agreement will expire on July 1, 2016, if a complete application for the Planning Commission to review a Concept Plan has not been filed by the Applicant on or before June 30, 2016, 4:00 p.m. Also, if due to any reason within the control of Applicant, as reasonably determined by the City Manager, a Concept Plan has not been approved by the Planning Commission on or before June 30, 2017, then this Consent of Landowner Agreement will expire on July 1, 2017.

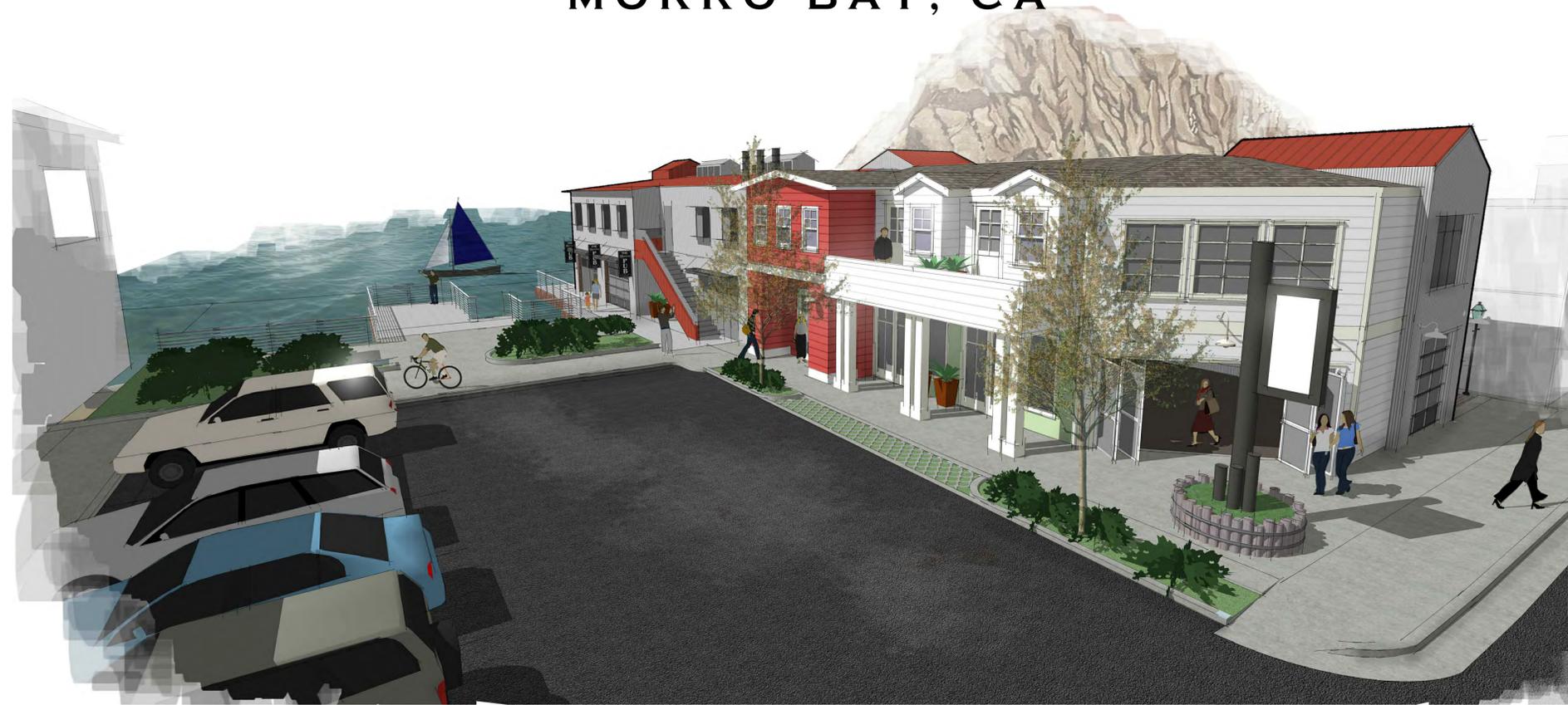
In addition, unless evidence of sufficient financial and organizational capacity to fund, manage, complete and maintain the project as-proposed, as reasonably determined by the City Manager, is not provided in writing to the City Manager or his/her designee on or before December 31, 2016, at 4:00 p.m., the City Council may revoke this Consent of Landowner Agreement at its sole discretion.

One or more extensions to any or all of these compliance dates may be granted by the City Council in its sole discretion.

David W. Buckingham, City Manager

Date

A REMODEL FOR LIBERTINE BREWERY MORRO BAY, CA



BUILDING SUMMARY

PROPOSED USE:	RESTAURANT / PUB & HOTEL
EXISTING USE:	RESTAURANT / PUB
CONSTRUCTION TYPE:	TYPE VB, FIRE SPRINKLERED (DESIGN BY OTHERS)
NUMBER OF STORIES:	2 STORY
BUILDING HGT CALCS:	MAX BUILDING HEIGHT 25'-0"
OCCUPANCY GROUP(S):	M, A-3, R-3, S-2 (BASEMENT)
EXISTING BLDG AREA:	8,726 SQFT
PROPOSED BLDG AREA:	
BASEMENT:	870 SQ.FT.
1ST FLOOR:	3,894 SQ.FT.
2ND FLOOR:	3,850 SQ.FT.
TOTAL:	8,614 SQ.FT.

SITE SUMMARY

LEGAL DESCRIPTION:	801 EMBARCADERO MORRO BAY, CA 90442
APN:	066-322-001
LOCAL ZONING:	WF, WATERFRONT; H, HARBOR
OVERLAY ZONING:	PD, PLANNED DEVELOPMENT / S.4, DESIGN CRITERIA
ADJACENT USE:	NORTH COMMERCIAL/RETAIL SOUTH MORRO BAY BLVD / COMMERCIAL EAST EMBARCADERO RD. WEST OCEAN
PROPOSED USE:	RESTAURANT / PUB
EXISTING USE:	RESTAURANT / PUB
● BICYCLE PARKING SPACES:	
PROVIDED:	10 SPACES
● TOTAL LOT COVERAGE:	
EXISTING:	55%
PROPOSED:	48%

DIRECTORY

OWNER:	BURT CALDWELL 1342 GARDEN STREET SAN LUIS OBISPO, CA 93401 TEL: (805) 441-1867 EMAIL: burtcaldwell@gmail.com
ARCHITECT:	MW ARCHITECTS 330 S. HALCYON ROAD ARROYO GRANDE, CA 93420 TEL: (805) 544-4334 FAX: (805) 904-6268 REP: MIKE PEACHY EMAIL: mikep@mwa.bz

PROJECT DESCRIPTION

THIS IS A REMODEL OF THE EXISTING EMBARCADERO GRILL RESTAURANT & LIBERTINE PUB BUILDING AT 801 EMBARCADERO ROAD IN MORRO BAY, CA. THE EXISTING TWO STORY STRUCTURE WILL BE REMODELED TO PULL IT AWAY FROM THE ADJACENT SITE, CREATING A PUBLIC VIEW AND ACCESS ALONG THE NORTH SIDE OF THE SITE.

PARKING CALCULATIONS:

SPACES	AREA	RATIO	REQUIRED
PROPOSED SALES AREA	544	1:300	2
PROPOSED RESTAURANT SF	1,154	1:90	12.82
PROPOSED HOTEL SF	N/A	1:ROOM (1:100 (1:200)@)	12

EXISTING AREAS SQ. FT.

1ST FLOOR	3164
2ND FLOOR	3698
BASEMENT	1045
2ND DECK	819
TOTAL	8726

AGENCIES

MORRO BAY COMMUNITY DEVELOPMENT 995 SHASTA ST. MORRO BAY, CA 93442 (805) 772-6261	PACIFIC GAS & ELECTRIC 406 S. HIGUERA SAN LUIS OBISPO, CA 93401 (805) 922-1711
MORRO BAY CITY FIRE DEPT. 715 HARBOR STREET MORRO BAY, CA 93442 (805) 772-6242	CHARTER COMMUNICATIONS 270 BRIDGE STREET SAN LUIS OBISPO, CA 93401 (805) 489-2653
CITY POLICE DEPARTMENT 850 MORRO BAY BLVD. MORRO BAY, CA 93442 (805) 772-6225	THE GAS COMPANY 750 INDUSTRIAL WAY SAN LUIS OBISPO, CA 93401 (805) 427-2000
UNDERGROUND SERVICE 800-642-2444	

PROPOSED LEASE LINE ADJUSTMENT

SEE SITE DIAGRAMS		
EXISTING LEASE:	LEASE SITE - 86 LEASE SITE - 86W	2944 SQFT 1485 SQFT
PROPOSED :	EXTEND LEASE SITE - 86 NO CHANGE TO LEASE SITE - 86W	2860 SQFT 1485 SQFT

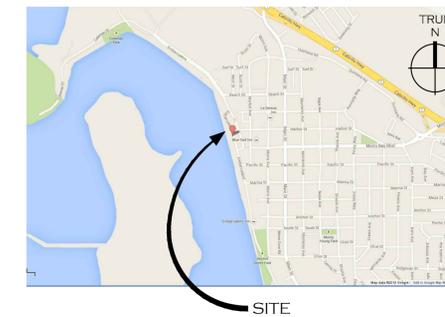
GENERAL NOTES

A. OCCUPANCY SQUARE FOOTAGE CALCULATED BY USEABLE CUSTOMER SPACE ONLY

PILING COUNT

EXISTING PILINGS:	14
NEW PILINGS	10
TOTAL PILINGS	24

VICINITY MAP



SHEET INDEX

DP1	TITLE SHEET
DP2	SITE PLAN
DP3	FLOOR PLANS
DP4	EXTERIOR ELEVATIONS
DP5	EXTERIOR PRESPECTIVES
DP6	SIGNAGE DETAILS

TOTAL: 6 SHEETS



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FAX: (805) 904-6268
E-MAIL: MWA@MWA.BZ

LIBERTINE BREWERY
MORRO BAY, CA

JOB TITLE

TITLE SHEET

SHEET TITLE

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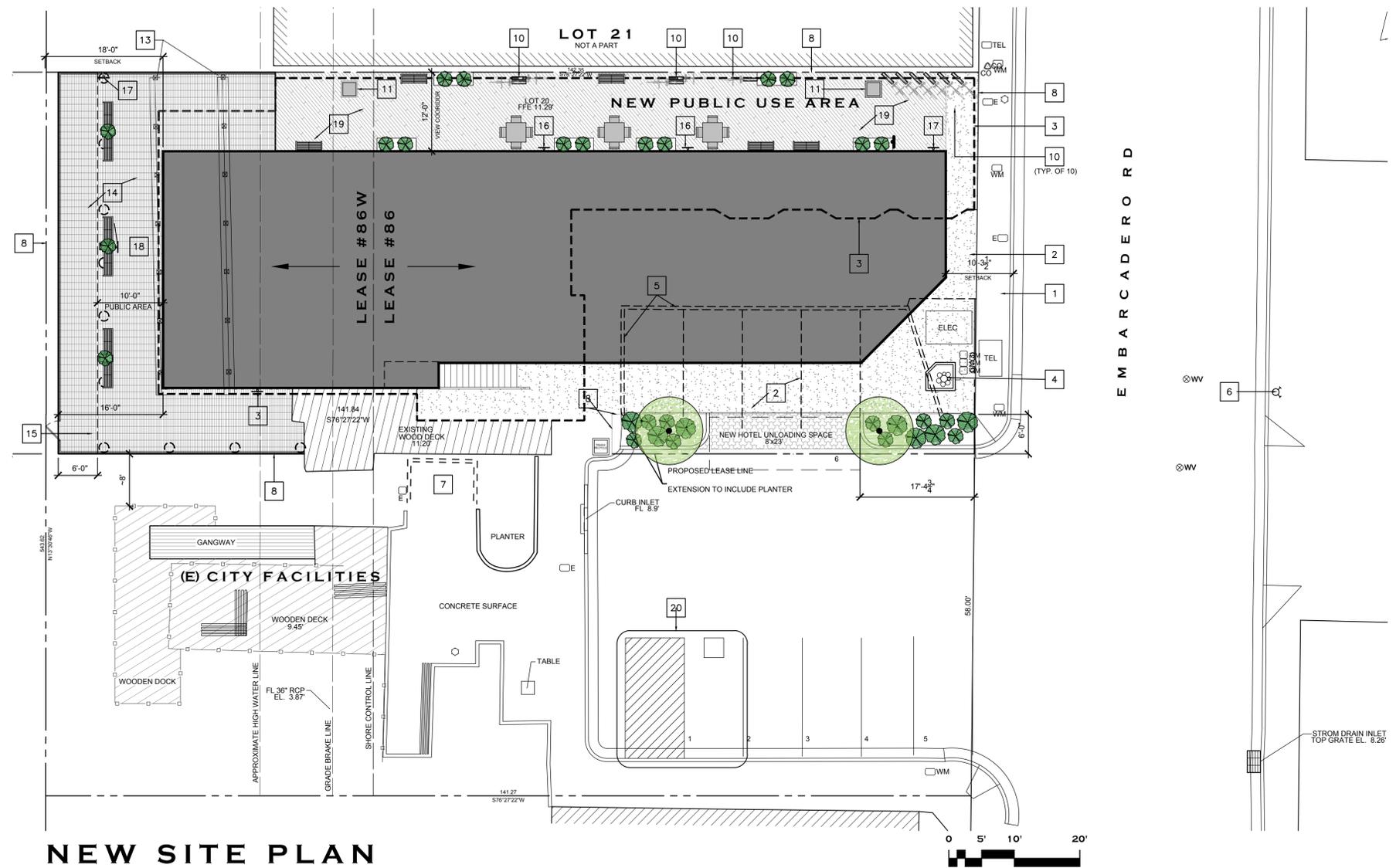
REVISIONS

JOB NUMBER SHEET NUMBER

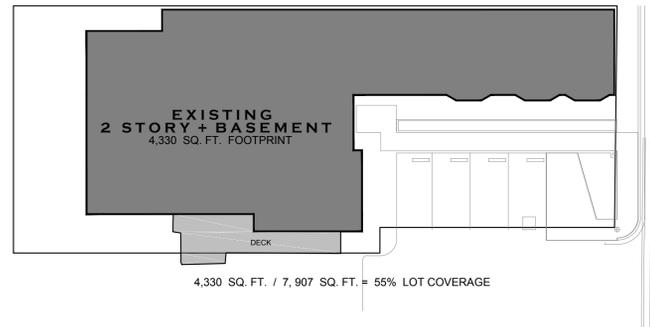
DATE
3.1.16

APPL. NO.

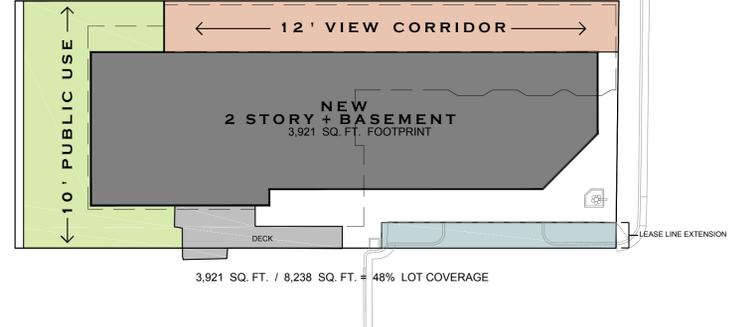
DP1



NEW SITE PLAN



SITE DIAGRAMS



0 10' 20' 40'

SETBACK NOTES

FRONT SETBACK: 10' - 3"
 PER WATERFRONT MASTER PLAN:
 *BUILDING SETBACKS: THE MINIMUM FIRST FLOOR FRONT SETBACK ON BOTH SIDES OF THE EMBARCADERO SHALL BE AN AVERAGE OF 5 FEET. THE SECOND FLOOR SETBACK SHALL BE A MINIMUM OF 10 FEET FROM THE RIGHT OF WAY (PAGE 5-4).
 PORTIONS OF THE FIRST FLOORS OF THE BUILDINGS MAY BE BUILT TO THE BACK OF SIDEWALKS. THE TEN FOOT FRONT YARD SETBACK CURRENTLY REQUIRED IN THE 10'X5' ZONE ON THE EAST SIDE OF THE EMBARCADERO SHOULD BE MODIFIED AS INDICATED IN #3 ABOVE OR IN ORDER TO ALLOW BUILDING CONSTRUCTION TO EXTEND TO THE BACK OF THE SIDEWALK. (PAGE 5-5)

REFERENCE NOTES

1. EXISTING PUBLIC SIDEWALK
2. NEW HARDSCAPE
3. EXISTING BUILDING TO BE REMODELED
4. EXISTING MONUMENT SIGNAGE TO BE REMODELED
5. EXISTING PARKING TO BE REMOVED
6. EXISTING FIRE HYDRANT
7. NEW TRASH ENCLOSURE
8. EXISTING LEASE LINE
9. VISUAL CORNER CLEARANCE PER CITY STANDARDS
10. NEW BICYCLE PARKING
11. NEW TRASH/RECYCLING RECEPTALS
12. NEW STEEL PILES TO SUPPORT NEW DECK - 10 TOTAL
13. EXISTING PILES AND SUPPORT BEAMS TO REMAIN (14 TOTAL)
14. NEW 10' WALKWAY ALONG WATER W/ FIBERGLASS GRATING
15. OPENING IN RAIL FOR NEW DOCK
16. PUBLIC DINING AREA SIGN PER XXXXXX
17. COASTAL LATERAL ACCESS SIGN PER XXXX
18. INTERPRETIVE SIGNAGE
19. NEW HARDSCAPE - STAMPED CONCRETE W/ WOOD PLANK PATTERN
20. CONVERT EXISTING PARKING SPACE INTO ACCESSIBLE

SITE LIGHTING REQUIREMENTS

- A. ALL EXTERIOR LIGHTING PROPOSED SHALL BE SHIELDED AND DIRECTED DOWNWARDS INTO THE DEVELOPMENT, FULLY CONTAIN DIRECT GLARE ON SITE, AND SHALL BE HOODED AND SHIELDED ACCORDINGLY.
- B. THE HEIGHT OF LIGHT STANDARDS SHALL BE NO HIGHER THAN DETERMINED ABSOLUTELY NECESSARY FOR ITS SPECIFIC APPLICATION.
- C. LIGHT INTENSITY SHALL BE NO MORE THAN DETERMINED NECESSARY FOR SAFETY PURPOSES.
- D. LIGHT SOURCES SHALL BE OF ENERGY EFFICIENT DESIGN (E.G. SODIUM-BASED, METAL HALIDE, ETC.).
- E. NON-GLARE LIGHTING SHALL BE USED THROUGHOUT THE PROPOSED PROJECT.
- F. ANY SECURITY LIGHTING SHALL BE SCREENED SUCH THAT LIGHTS ARE NOT VISIBLE AT A DISTANCE OF 30 FEET.

CONSTRUCTION NOTES:

1. NO WORK WITHIN NOR ANY USE OF ANY PUBLIC RIGHTS OF WAY SHALL OCCUR WITHOUT AN ENCROACHMENT PERMIT. ENCROACHMENT PERMITS ARE AVAILABLE AT THE CITY'S PUBLIC SERVICES OFFICE LOCATED AT 855 SHASTA AVE. THE ENCROACHMENT PERMIT SHALL BE ISSUED CONCURRENTLY WITH THE BUILDING PERMIT.
2. DAMAGE TO ANY OF THE CITY'S FACILITIES (SUCH AS CURB/BERM, STREET, SEWER LINE, WATER LINE, OR ANY PUBLIC PROVIDER'S INFRASTRUCTURE) DIRECTLY OR INDIRECTLY FROM CONSTRUCTION OPERATIONS RELATED TO THIS PROJECT SHALL BE REPAIRED AT NO COST TO THE CITY.



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 EMAIL: MWA@MWA.BZ

JOB TITLE

SITE PLAN

SHEET TITLE

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REVISIONS

JOB NUMBER SHEET NUMBER

DATE: 3.2.16

APPL. NO. **DP2**



MW ARCHITECTS



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LIBERTINE BREWERY
MORRO BAY, CA

JOB TITLE

FLOOR PLAN

SHEET TITLE

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REVISIONS

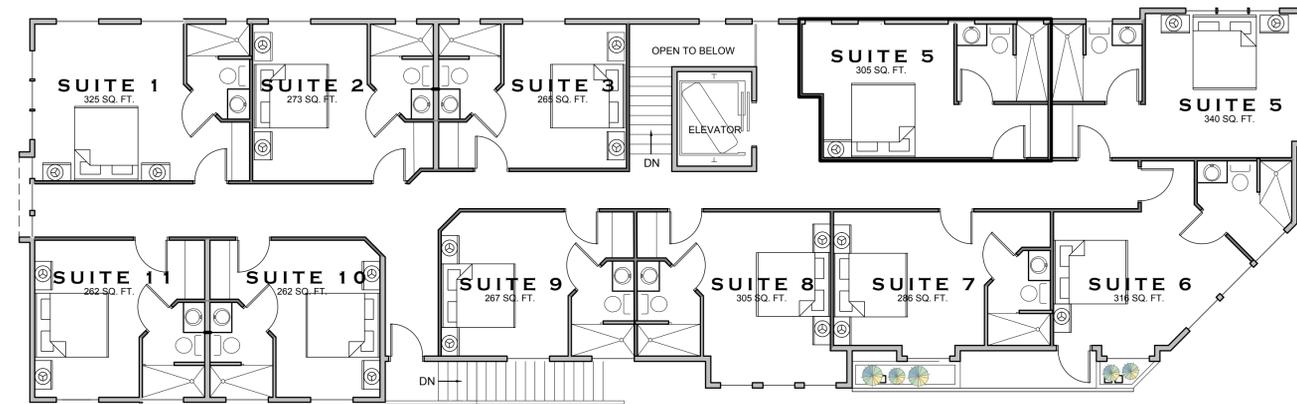
JOB NUMBER

SHEET NUMBER

DATE
3.1.16

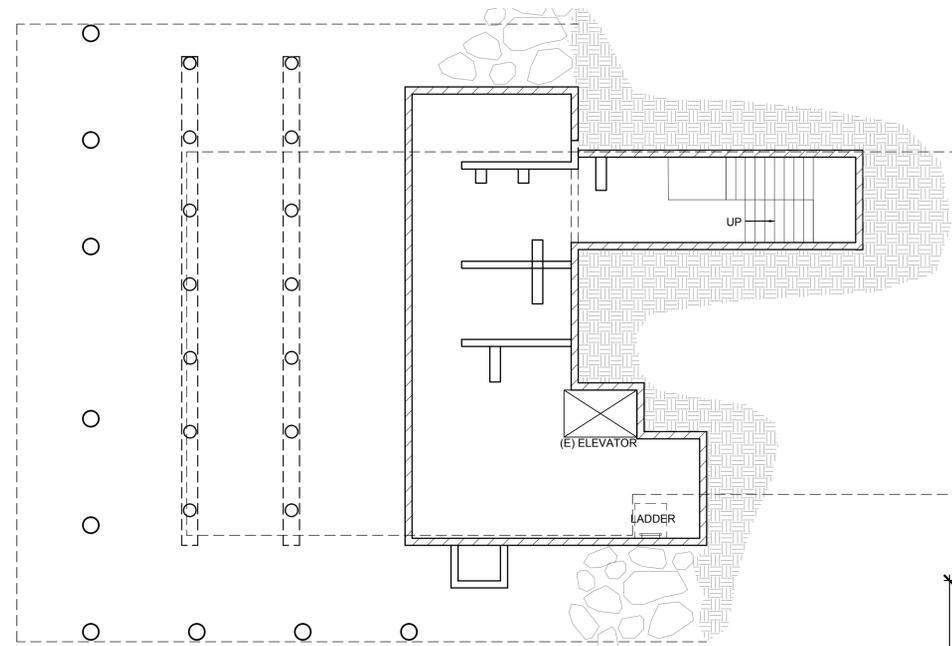
APPL. NO.

DP3



SECOND FLOOR

BASE VERSION DATE: 1:40 PM TIME: NOT CURRENT



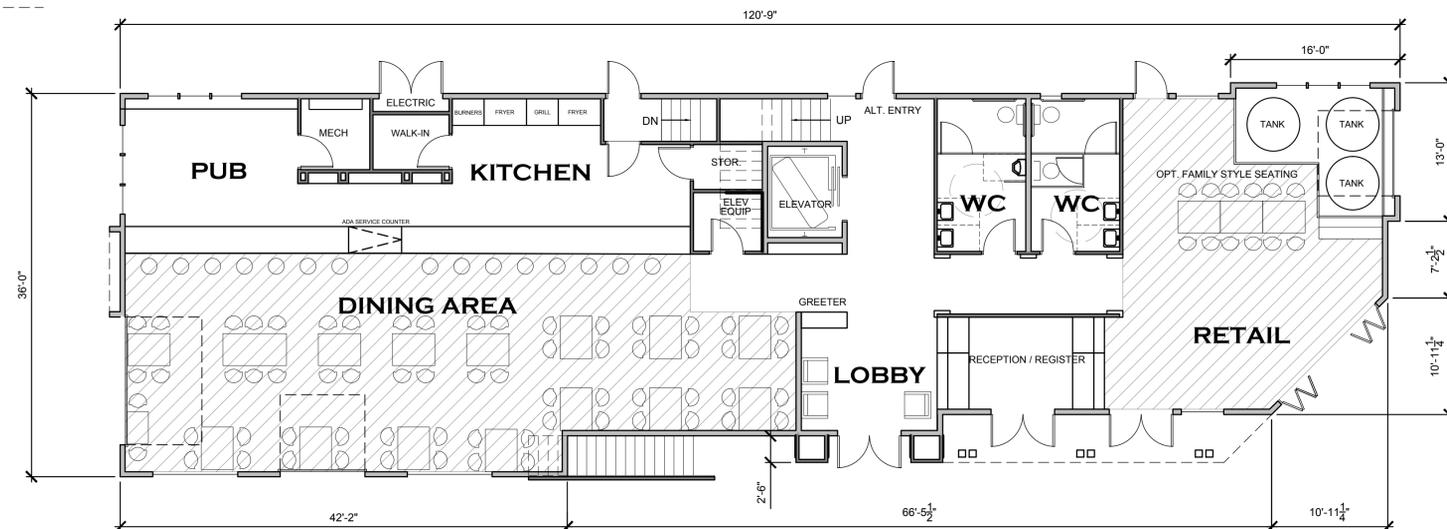
BASEMENT

GENERAL NOTES

1. LANDSCAPING PLANT MATERIALS WILL BE NATIVE AND DROUGHT TOLERANT
2. BIRD STRIKE PREVENTION: NEWLY INSTALLED WINDOWS SHALL BE TREATED WITH PERMEABLE BARRIERS. THREE WINDOW-ALERT DECALS WILL BE APPLIED TO THE EXTERIOR SIDE OF EACH WINDOW PANEL TO CREATE A VISUAL BARRIER TO AVOID BIRDSTRIKES.

PATRON AREAS FOR PARKING

	RESTAURANT -	1,154 SQ. FT.
	RETAIL -	544 SQ. FT.



FIRST FLOOR



CONCEPTUAL FLOOR PLANS



NORTH



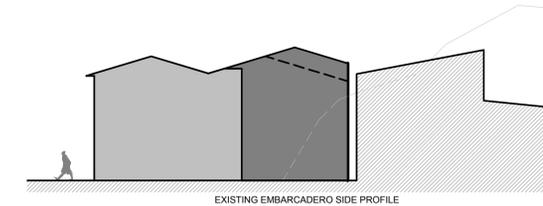
SOUTH



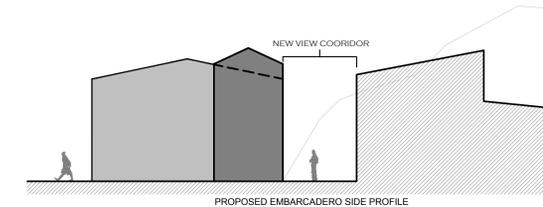
EAST



WEST



EXISTING EMBARCADERO SIDE PROFILE



PROPOSED EMBARCADERO SIDE PROFILE

MATERIAL AND COLOR DESIGNATIONS

MATERIAL DESIGNATION	COLOR DESIGNATION
1	A
2	B
3	C
4	D
5	E
6	F
7	A
8	B
9	C
10	D
11	E

GENERAL NOTES

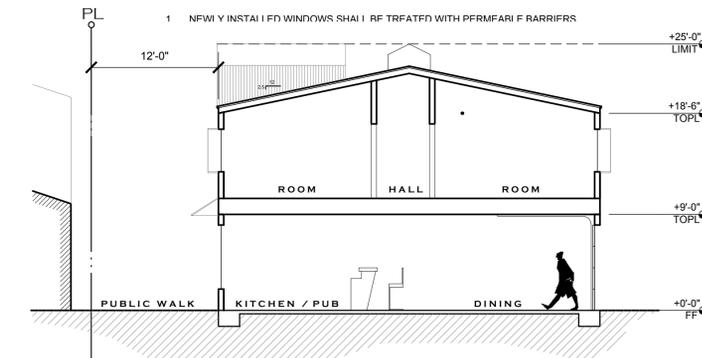
- LIGHTING**
- ALL LIGHTING SHALL HAVE CUT OFF HOOD TO PREVENT SPILL OVER ONTO ADJACENT PROPERTIES.
 - PLAZAS AND PUBLIC OUTDOOR AREAS SHALL HAVE LIGHTING FIXTURES THAT ARE CONGRUENT TO AND COMPLIMENT ARCHITECTURAL DETAILS ON BUILDINGS.
 - FLOURESCENT LIGHTING PLACED IN SOFFITS SHALL ILLUMINATE
 - SIGNAGE SHALL BE ILLUMINATED WITHBACK LIGHTING
- SIGNAGE**
- ALL MONUMENT SIGNAGE SHALL BE LOW PROFILE AND NO MORE THAN FOUR FEET IN HEIGHT. BUILDING OR OTHER SIGNAGE SHALL NOT BE "BACKLIT"
 - ALL SIGNAGE SHALL BE PROPERLY ILLUMINATED FOR NIGHT VISIBILITY.
 - ALL SIGNAGE IS SCHEMATIC AND ARE INTENDED TO SHOW LOCATIONS ONLY. A SEPARATE SIGN APPLICATION WILL ADDRESS SIGNAGE FOR ENTIRE PROJECT.

LANDSCAPING

- LANDSCAPING PLANT MATERIALS WILL BE NATIVE AND DROUGHT TOLERANT

BIRDSTRIKE PREVENTION

- NEWLY INSTALLED WINDOWS SHALL BE TRAFATED WITH PERM-FARIR F BARRIERS



SECTION



EXTERIOR ELEVATIONS



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JOB TITLE
LIBERTINE BREWERY
MORRO BAY, CA

SHEET TITLE
EXTERIOR ELEVATIONS

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REVISIONS

JOB NUMBER SHEET NUMBER

DATE
3.1.16

APPL. NO.

DP4



EMBARCADERO SIDE



PARKING LOT SIDE



BIRD'S EYE 1



BIRD'S EYE 2

EXTERIOR PERSPECTIVES



MW ARCHITECTS



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EXTERIOR PERSPECTIVES

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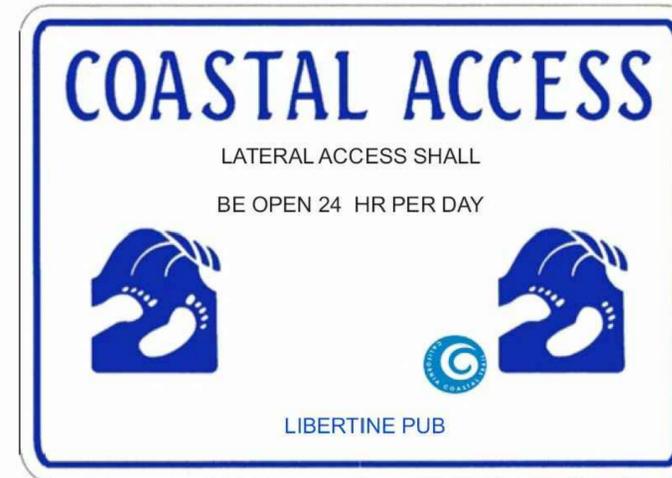
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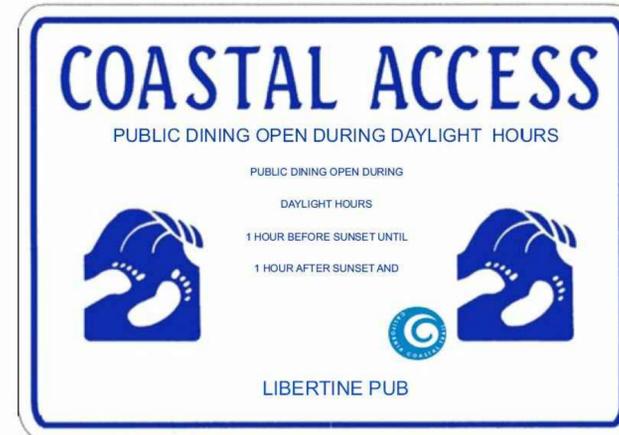
APPL. NO.

DP5



NOTE: SIGNAGE SHALL BE 24" W
METAL SIGN WITH WHITE BACKGROUND & BLUE LETTERING.

01 LATERAL ACCESS SIGN



NOTE: SIGNAGE SHALL BE 24" W
METAL SIGN WITH WHITE BACKGROUND & BLUE LETTERING.

02 PUBLIC DINING SIGN



MW ARCHITECTS



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LIBERTINE BREWERY
MORRO BAY, CA

JOB TITLE

DETAILS

SHEET TITLE

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REVISIONS

JOB NUMBER

SHEET NUMBER

DATE

APPL. NO.

DP6



AGENDA NO: C-3

MEETING DATE: March 22, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: March 14, 2016

FROM: David Buckingham, City Manager

SUBJECT: Resolution No. 22-16 Authorizing the City Manager to Implement the Early Retirement Management Program for 2016/17

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 22-16, which authorizes the City Manager to implement the Early Retirement Management Program ("ERMP") for the 2016/17 fiscal year.

FISCAL IMPACT

The likely maximum cost in the first half of the 2016/17 budget year is around \$100,000. The City will likely recover approximately \$60,000 of this in the second half of 2016/17, and then approximately an additional \$120,000 in fiscal year 2017/18, and a declining additional amount totaling another \$100,000 or so in future fiscal years. The actual cost and recovery cannot be known precisely because we are unsure how many employees will apply for this early retirement program, and when they might otherwise have retired.

SUMMARY

Retirement incentives were offered to employees for the four fiscal years 2009/10 - 2012/13, resulting in the retirement of thirteen CalPERS Tier 1 employees. In refilling those vacated positions, seven were filled with CalPERS Tier 2 employees, five were filled with CalPERS Tier 1 transfers/promotions, and one position was left unfilled. This previous program was essentially enduring and had the appearance, perhaps, of a retirement bonus.

With current 2016/17 budget preparations underway, City staff is requesting Council's approval for a one-time ERMP incentive of 20% of base salary. Presently, there are twenty-eight, ERMP program-eligible employees working for the City. (Eligibility requirements of the program are summarized below.) All program-eligible employees are CalPERS Tier 1 members, which require a City retirement contribution of 34%. Tier 1 employees are expensive and cost approximately 25% more than Tier 2 and Tier 3 employees. Staff estimates that eight to ten eligible employees will elect to participate in this program. This one-time program will be available for fiscal year 2016/17. The City manager does not intend to offer this program in FY 2017/18, FY 2018/19 or FY 2019/20 and perhaps not again.

Prepared By: SS/DWB

Dept Review: _____

City Manager Review: DWB

City Attorney Review: MCH

BACKGROUND

On August 10, 2009, the City Council authorized an incentive program to encourage eligible employees to retire from City service. This program was offered in the 2009/10 fiscal year, and provided \$10,000 to eligible employees. Benefitted part-time employees received a pro-rated portion of this amount, depending on their status (¾ time or ½ time). Department heads were offered the \$10,000 or a 4% salary increase, which would affect their CalPERS single highest year. Two Department Heads (4%) and two employees (\$10,000 each) took advantage of the program, with the City paying out a total of \$28,295.

In 2010/11, the same program was offered, and the City paid out \$10,000 for one employee. In 2011/12 and 2012/13, the program was offered, and four employees, in each year, took advantage of the program for a total City payout of \$80,000. In 2013/14, the Council decided to suspend the retirement incentive program.

In summary, between 2009 and 2013, early retirement incentive programs resulted in the City paying out \$118,295 in incentives. The 2013/14 computation of savings, as a result of these retirements, was \$254,600 in salary and \$102,100 in benefits, for a total of \$356,700. Reducing this by the incentive payouts provided a net savings to the City of \$238,405.

In refilling those vacated positions, seven were filled with CalPERS Tier 2 employees, five were filled with CalPERS Tier 1 transfers/promotions, and one position (Chief Building Official) was left unfilled.

DISCUSSION

Below is a comparison of the average CalPERS miscellaneous employee’s salary, under each of the three plans the City offers:

<u>COST OF AVG CALPERS MISC EMPLOYEE BY PLAN OFFERED</u>				
<u>Salary</u>	<u>CalPERS Benefit Tier</u>	<u>Cost Percentage</u>	<u>Pension Cost</u>	<u>Savings</u>
\$70,000	Tier 1: 2.7% @ 55, SHY	33.66%	\$23,763	
\$70,000	Tier 2: 2% @ 60, 36 mos	7.16%	\$5,011	\$18,552
\$70,000	Tier 3: 2% @ 62, 36 mos	6.62%	\$4,631	\$18,932

Notes:

1. For Tier 1, SHY = Single Highest Year; this is the 12 month period used when calculating annual income
2. Tiers 2 & 3, 36 mos; this is the average highest 36 month period to be used when calculating annual income

The annual savings between the Tier 2 and Tier 3 plans versus the Tier 1 plan are due to the Tier 2 and Tier 3 funding status. Tier 1 was more fully funded at the time the City enhanced the plan from 2% @ 55, SHY, to 2.7% @ 55, SHY (9/27/03). Those benefits were retroactive to all employees, but the contributions were not deposited for those prior years. This factor, combined with the economic downturn in the previous decade, negatively impacted the funding status for the City’s Tier 1 plan.

With the upcoming 2016/17 fiscal year budget, staff is requesting the City Council's approval of an Early Retirement Management Program as described herein and subject to the conditions detailed below. This program, once executed by the employee is irrevocable, as the City has structured its 2016/17 budget to include the salary and benefit savings.

The program is subject to the meet and confer process with the bargaining units. The groups have been notified and upon completion of the meet and confer process, the City Manager will be authorized to implement the program.

Below are the conditions/details of the ERMP:

CONDITIONS:

1. Must be eligible to retire, per CalPERS requirements of eligibility for service retirement, which is the CalPERS normal age of retirement (at least 50 years of age) and vested with CalPERS (minimum 5 years' service).
2. Must be an active, full-time CalPERS-benefitted employee with continuous employment with the City of at least 5 years as of the end of the application period for this program (June 15, 2016).

PROGRAM DETAILS:

1. City employees meeting the required conditions above may apply within the open application period, which begins April 15, 2016, and ends at 5 p.m. on June 15, 2016 ("Participants").
2. Applications submitted before or after the application period will not be accepted, unless specifically authorized in writing by the City Manager.
3. Participation in the ERMP is completely voluntary.
4. In order to participate in the ERMP, Participants will be required to execute a standard employment release agreement pertaining to claims against City related to participation in the ERMP, as specified in the agreement.
5. Participants must agree to a separation/ retirement date no earlier than October 30, 2016, and no later than December 30, 2016.
6. Participants complying with the conditions and details of the program will receive 20% of their base salary then in effect in one of the forms below, as selected by the Participant on the ERMP application:
 - a. Lump-sum payment; or
 - b. Contribution to existing deferred compensation plan; or
 - c. Deposit to City Retirement Health Savings plan.

There are currently 28 eligible employees, based on age and status with CalPERS, and qualifying with the condition in the ERMP, requiring five years continuous City of Morro Bay employment in a CalPERS-benefitted position. Staff believes eight to ten employees may take advantage of this program, based on preliminary feedback received from eligible employees.

The cost of the program, based on seven participants, is estimated around \$100,000. Should seven employees apply for the program, the cost savings to the city from Jan 1, 2017 to June 30, 2018 will be around \$180,000.

RECOMMENDATION

Staff recommends the City council authorize the City Manager to implement the ERMP as outlined above as a one-time only program not to be offered again for several years, if at all.

RESOLUTION NO. 22-16

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AUTHORIZING THE CITY MANAGER TO IMPLEMENT THE EARLY
RETIREMENT MANAGEMENT PROGRAM FOR THE FISCAL YEAR 2016/17**

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

WHEREAS, the City Council of the City of Morro Bay (“City”) appreciates its employees and their outstanding service to the community; and

WHEREAS, the City Council previously offered a retirement incentive program to certain eligible employees for the fiscal years 2009/10 through 2012/13; and

WHEREAS, the City now desires to offer a retirement incentive program analogous to the retirement incentive program previously offered by the City; and

WHEREAS, City staff has developed an Early Retirement Management Program (“ERMP”) for consideration by City Council, which will provide eligible employees with 20% of their base salary then in effect as a retirement incentive in exchange for their separation/ retirement from the City; and

WHEREAS, employee participation in the ERMP would be purely voluntary; and

WHEREAS, there are twenty-eight City employees who meet the proposed ERMP eligibility requirements, and staff believes approximately ten of these employees would be interested in participating in the ERMP; and

WHEREAS, participation in the ERMP would require the employee participants to execute a standard release agreement, which once effective, would be irrevocable; and

WHEREAS, City staff has determined that it is in the best fiscal interests of the City to allow eligible employees to elect to participate in the ERMP.

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

Section 1. The ERMP is hereby adopted, and the City Manager is authorized to implement the ERMP for the fiscal year 2016/17.

Section 2. The City Manager shall be authorized to execute release agreements with participating employees on behalf of the City in order to carry out implementation of the ERMP, as well as prepare and execute on behalf of the City any other documents needed in order to implement the ERMP.

Section 3. An employee of the City must meet the following requirements in order to be eligible to participate in the ERMP: i) must be eligible to retire, per CalPERS requirements of eligibility for service retirement, which is the CalPERS normal age of retirement (at least 50 years of age) and vested with CalPERS (minimum 5 years' service) and ii) must be an active, full-time CalPERS-benefitted employee with continuous employment with the City of at least 5 years as of the end of the application period for this program (at latest June 15, 2016).

Section 4. The ERMP shall be administered in accordance with and subject to the following requirements:

- a) City employees meeting the required conditions in Section 3 above may apply within the open application period, which begins April 15, 2016, and ends at 5 p.m. on June 15, 2016 ("Participants").
- b) Applications submitted before or after the application period will not be accepted, unless specifically authorized in writing by the City Manager.
- c) Participation in the ERMP is completely voluntary.
- d) In order to participate in the ERMP, Participants will be required to execute a standard employment release agreement pertaining to claims against City related to participation in the ERMP, as specified in the agreement.
- e) Participants must agree to a separation/ retirement date no earlier than October 30, 2016, and no later than December 30, 2016.
- f) Participants complying with the conditions and details of the program will receive 20% of their base salary then in effect in one of the forms below, as selected by the Participant on the ERMP application:
 - i. Lump-sum payment; or
 - ii. Contribution to existing deferred compensation plan; or
 - iii. Deposit to City Retirement Health Savings plan.

Section 5. Implementation of the ERMP shall be subject to the City meeting and conferring with the City's represented bargaining units pursuant to the requirements of the Meyers-Milias-Brown Act ("MMBA"), Government Code section 3500 *et seq.*

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March, 2016, on the following vote:

AYES:

NOES:

ABSENT:

Jamie Irons, Mayor

ATTEST:

Dana Swanson, City Clerk

ORDINANCE NO. 602

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING SECTION 3.22.120 OF THE MORRO BAY
MUNICIPAL CODE TO INCREASE THE NUMBER OF
MEMBERS ON THE CITIZENS OVERSIGHT COMMITTEE**

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

WHEREAS, the City Council adopted Ordinance No. 519 in 2006 adding Section 3.22 of the Morro Bay Municipal Code (MBMC) establishing, among other things, the Citizens Oversight Committee;

WHEREAS, Committee Membership is defined in Subsection 3.22.120 (B) as a Committee of 5 citizens-members; and

WHEREAS, the Committee has requested to increase its membership from five to seven members to assist with the additional duties it has been assigned when acting in the capacity of the Citizens Finance Committee.

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

SECTION 1: Subsection 3.22.120 B. of the MBMC is hereby amended to read as follows:

B. Committee Membership. The Committee shall have seven citizen-members appointed by the City Council for six year terms with initially three members serving three years, and four members serving six years. Appointees shall be residents of the City; however, no member of the Committee shall be an elected official.

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 of the City Council of Morro Bay, held on the 22nd day of March, 2016 by motion of _____, seconded by _____.

PASSED AND ADOPTED on the 12th day of April, 2016.

AYES:
NOES:
ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

JOSEPH W. PANNONE, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 22nd day of March, 2016, and hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the 12th day of April, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2016.

City Clerk of the City of Morro Bay