



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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*The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.*

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## **Regular Meeting - Tuesday, August 22, 2017 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  
RECOGNITION  
CLOSED SESSION REPORT  
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS  
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS  
PRESENTATIONS

- Chuck Davison, Visit SLO CAL

### **PUBLIC COMMENT PERIOD**

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 city of residence 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. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE AUGUST 8, 2017 SPECIAL CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE AUGUST 9, 2017 SPECIAL CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 ADOPTION OF RESOLUTION NO. 46-17 APPROVING A FIXING AMERICA'S SURFACE TRANSPORTATION (FAST) COOPERATIVE AGREEMENT; (PUBLIC WORKS)

**RECOMMENDATION: Council review and approve Resolution No. 46-17, authorizing a Cooperative Agreement with the San Luis Obispo Council of Governments (SLOCOG), authorizing the Public Works Director/City Engineer to execute said Cooperative Agreement (following approval as to form by the City Attorney, and in substance as attached), and authorizing the Public Works Director/City Engineer to act on behalf of the City in regards to said Cooperative Agreement.**

A-4 ADOPTION OF RESOLUTION NO. 47-17 APPROVING AMENDMENT NO. 1 TO THE NEW LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND BOATYARD LLC FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO, AND COMMONLY KNOWN AS THE BOATYARD; (HARBOR)

**RECOMMENDATION: Council adopt Resolution No. 47-17, approving Amendment No. 1 to the new Lease Agreement for Lease Site 89/89W, as proposed.**

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 ADOPTION OF RESOLUTION NO. 45-17 AMENDING THE COUNCIL POLICIES AND PROCEDURES TO ELIMINATE THE 7:00PM START TIME FOR PUBLIC HEARINGS, AND CONSIDERATION OF A COUNCIL SUBCOMMITTEE TO REVIEW THE COUNCIL POLICIES AND PROCEDURES AND ADVISORY BOARD BY-LAWS; (MAYOR/CITY CLERK)

**RECOMMENDATION: Council adopt Resolution No. 45-17 amending Section 1.2.7 of the Council Policies & Procedures to eliminate the 7:00 p.m. start time requirement for public hearings. Staff also recommends the Council consider establishing a subcommittee to work with staff to review the Council Policies & Procedures and Advisory Board Bylaws in their entirety, consider the possible revisions discussed below and any others deemed necessary, then return to Council with proposed revisions for consideration and adoption.**

C-2 CONSIDERATION OF APPROVAL OF CONDITIONAL CONSENT OF LANDOWNER PERTAINING TO REQUEST FOR PROPOSALS AWARD ON LEASE SITE 87-88/87-88W LOCATED AT 833 EMBARCADERO (OFF THE HOOK) TO TLC FAMILY ENTERPRISES; (HARBOR)

**RECOMMENDATION: City Council consider granting Conditional Consent of Landowner (COL) approval to TLC Family Enterprises (TLC) for their proposal to redevelop Lease Site 87-88/87W-88W after reviewing the updated proposal information from TLC and additional staff analysis of the proposal.**

**Staff further recommend the City Council provide staff direction regarding management of the lease site after the current lease's expiration in March 2018, as outlined in the conclusion of this staff report.**

C-3 REVIEW OF RESOLUTIONS TO BE CONSIDERED AT THE ANNUAL LEAGUE OF CALIFORNIA CITIES CONFERENCE; (ADMINISTRATION)

**RECOMMENDATION: Council provide direction to the City's voting delegate and alternate regarding the annual League of California Cities Annual Conference resolution.**

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, September 12, 2017 at 6:00 p.m.** 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 REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.**

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MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING – AUGUST 8, 2017  
VETERANS MEMORIAL HALL  
209 SURF STREET – 4:00 P.M.

AGENDA NO: A-1  
MEETING DATE: August 22, 2017

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Martin Lomeli	Interim City Manager
	Chris Neumeyer	Assistant City Attorney
	Dana Swanson	City Clerk
	Ikani Taumoepeau	Deputy City Manager
	Craig Schmollinger	Finance Director
	Scot Graham	Community Development Director
	Greg Allen	Police Chief
	Steve Knuckles	Fire Chief

ESTABLISH A QUORUM AND CALL TO ORDER

The meeting was called to order at 4:02 p.m. with all members present.

SPECIAL MEETING AGENDA ITEM:

- I. REVIEW OF MARIJUANA COUNCIL SUBCOMMITTEE RECOMMENDATIONS AND CONSIDERATION OF FUTURE MARIJUANA REGULATIONS  
<https://youtu.be/Qrc66EpSdP4?t=44s>

Assistant City Attorney Neumeyer provided the staff report and, along with the Council Subcommittee Members Davis and McPherson, responded to Council inquiries. (The presentation can be found [here](#).)

Mayor Irons opened the public comment period for items on the agenda.

Carole Truesdale, Morro Bay, expressed appreciation for the time and energy spent on this important subject.

Adam Pinterits, resident of Marina, CA, urged the Council to allow testing labs, which require minimal inspections and are critical for quality control. He also encouraged the City to avoid redundancies with State record keeping regulations and suggested the Council consider expanding zoning to allow storefronts in industrial areas.

Megan Souza, Megan's Organic Market, spoke in support of adult use dispensaries and requested future City documents use the terms "cannabis" instead of "marijuana" and "adult use" rather than "recreational."

Eric Powers, Megan's Organic Market, suggested the Council consider 2 to 10 dispensaries to foster better competition and serve the needs of the community. He also encouraged reasonable regulations allowing outdoor cultivation.

Cynthia Gonzalez, Elite Care California, shared the importance of proper testing procedures and processes, and urged the Council to support comprehensive testing to ensure safe use for all patients.

Luis Valencia, A-1 Collective, reaffirmed the importance of testing labs and suggested regulations for indoor cultivation limit light wattage usage.

The public comment period was closed.

Staff responded to questions raised during the public comment period and additional questions from Council. Further discussion on this item was scheduled to occur at the August 8 Regular City Council Meeting.

ADJOURNMENT

The meeting adjourned at 5:30 p.m.

Recorded by:

Dana Swanson  
City Clerk

MINUTES – MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
AUGUST 9, 2017  
CITY HALL CONFERENCE ROOM–9:00 A.M.

AGENDA NO: A-2  
MEETING DATE: August 22, 2017

PRESENT: Jamie Irons Mayor  
Robert Davis Council Member  
John Headding Council Member  
Matt Makowetski Council Member  
Marlys McPherson Council Member

STAFF PRESENT: Martin Lomeli Interim City Manager  
Chris Neumeyer Assistant City Attorney  
Colin Tanner Special Labor Counsel (*via teleconference*)  
Dana Swanson City Clerk  
Eric Endersby Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER – A quorum was established and the meeting was called to order with all members present.

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

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

Bob Crizer, Los Osos, provided historical information about Lease Site 34W and adjacent property, and asked the Council to approve continued use of the parking at 206 Main, as required by the deed restriction and easements.

Jane Heath, speaking on behalf of Bill Martony and Bernadette Pekarek, requested staff prepare an RFP for Lease Site 34W to allow the upland property owner to demonstrate what's possible with the water and upland property merged under single control, and that a firm timeline be established to complete the RFP process before the current lease expires.

Bill Martony, Morro Bay, stated the existing easement is non-binding and reaffirmed his interest in restoring the property to its original state with Lease Site 34W under the control of the upland property owner.

Bernadette Pekarek, Morro Bay, shared her interest in working with the City on a proposal for Lease Site 34W.

Troy Leage, Harbor Hut, explained he chose not to move forward with the approved permit for office improvements but instead wants to focus on the docks and public access.

The public comment period was closed.

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

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

Property: Lease Site 122-123/122W-123W, Harbor Hut, 1205 Embarcadero  
Property Negotiators: THMT, Inc. (Troy Leage)  
Agency Negotiators: Eric Endersby, Harbor Director and Chris Neumeyer, Assistant City Attorney

Under Negotiation: Price and Terms of Payment

**GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:**

Property: Lease Site 90/90W, Otter Rock, 885 Embarcadero

Property Negotiators: Cliff Branch and Paul Parker

Agency Negotiators: Eric Endersby, Harbor Director; Chris Neumeyer, Assistant City Attorney

Negotiation: Price and Terms of Payment

**GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:**

Property: Lease Site 34W, Water Lease Adjacent to 225 Main Street

Property Negotiators: Robert Crizer

Agency Negotiators: Eric Endersby, Harbor Director, Chris Neumeyer, Assistant City Attorney

Negotiation: Price and Terms of Payment

**CS-2 CONFERENCE WITH LABOR NEGOTIATORS**

City Designated Representative: Colin Tanner, Special Labor Counsel

Employee Organizations: Morro Bay Firefighters' Association; Morro Bay Police Officers Association; Service Employee's International Union - SEIU Local 620; and Unrepresented Employees

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

**ADJOURNMENT**

The meeting adjourned at 11:18 a.m.

Recorded by:

Dana Swanson  
City Clerk



AGENDA NO: A-3

MEETING DATE: August 22, 2017

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 14, 2017  
**FROM:** Rob Livick, PE/PLS - Public Works Director  
**SUBJECT:** Adoption of Resolution No. 46-17 approving a Fixing America's Surface Transportation (FAST) Cooperative Agreement

### **RECOMMENDATION:**

Council review and approve Resolution No. 46-17, authorizing a Cooperative Agreement with the San Luis Obispo Council of Governments (SLOCOG), authorizing the Public Works Director/City Engineer to execute said Cooperative Agreement (following approval as to form by the City Attorney, and in substance as attached), and authorizing the Public Works Director/City Engineer to act on behalf of the City in regards to said Cooperative Agreement.

### **ALTERNATIVES**

The City Council may move to decline participation in this agreement but that would prevent reimbursement of prior year funding allocations amounting to \$511,333.

### **FISCAL IMPACT:**

This action provides a positive fiscal impact by recovering \$153,333 in prior year expenditures for the North Main Street Bike, Pedestrian & ADA Facilities; securing additional allocations of \$245,000 in FY13/14 through FY18/19 Urban Area Apportionment, and \$113,000 of FY11/12 through the Regional Surface Transportation Exchange Program.

### **BACKGROUND/DISCUSSION:**

Approval of this FAST-Cooperative Agreement is essential to provide the framework for reimbursement of prior year funding allocations previously approved by the SLOCOG Board.

### **CONCLUSION:**

The City's Adopted FY17/18 Budget includes revenues from these allocations to continue design and environmental work on the SR1/SR41 Interchange Improvements and fund our 2018 Pavement Preservation project. Failure to approve this action would have a severe impact on staff's ability to execute the City's FY 17/18 Capital Improvement Program.

### **ATTACHMENTS:**

1. Resolution No. 46-17
2. Proposed RSTP Exchange / STBGP Cooperation Agreement

Prepared By: RS      Dept Review: RL  
City Manager Review: MRL      City Attorney Review: CN

**RESOLUTION NO. 46-17**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,  
CALIFORNIA APPROVING A COOPERATIVE AGREEMENT BETWEEN  
THE SAN LUIS OBISPO COUNCIL OF GOVERNMENTS AND  
THE CITY OF MORRO BAY  
FOR JOINT PARTICIPATION IN THE REGIONAL SURFACE TRANSPORTATION  
EXCHANGE (RSTP) / SURFACE TRANSPORTATION BLOCK GRANT PROGRAM  
(STBGP) FOR PURPOSES OF RECEIVING FEDERAL FUNDING UNDER THE FIXING  
AMERICA'S SURFACE TRANSPORTATION (FAST) ACT**

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

**WHEREAS**, the San Luis Obispo Council of Governments, a political subdivision of the State of California ("SLOCOG"), and the City of Morro Bay, a municipal corporation ("City"), are authorized to enter into a Cooperative Agreement, pursuant to §1109(a) of the Fixing America's Surface Transportation FAST Act; and

**WHEREAS**, the SLOCOG Board has previously allocated STBGP funding as identified in Table 1 of the Agreement to be used by the City to promote the public health, safety and welfare by improving surface transportation; and

**WHEREAS**, SLOCOG intends to exchange its apportionment of STBGP funds for RSTP Exchange funds for each project, thereby eliminating the requirement for a non-federal match and compliance with the National Environmental Policy Act; and

**WHEREAS**, the County's May 14, 2014 letter states that under HUD regulation, the City must notify the County in writing whether the City elects to participate in the Urban County; and

**WHEREAS**, the City desires to participate jointly with SLOCOG in said cooperative agreement; and

**WHEREAS**, the proposed 2018-2020 cooperative agreement is consistent with the General Plan and with City and County policies encouraging cooperation between agencies on issues of regional significance; and

**WHEREAS**, the proposed cooperative agreement is not a "project" for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, but funded projects will appropriately comply with CEQA; and

**WHEREAS**, Agreement no. MB-TEA21-01, for the cooperative funding of several

City projects, and Amendment #1, approved by City Council Resolution 66-99, thereto remain in full effect; and

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

1. The City Council hereby approves and authorizes the Public Works Director/City Engineer to execute, and participate on behalf of the City in, a cooperative agreement with SLOCOG to enable joint participation in the Program, following approval as to form of the cooperative agreement by the City Attorney.
2. The Public Works Director/City Engineer or designee is hereby authorized to act on behalf of the City in connection with the implementation of the agreement, ongoing operation of the Program, and other activities necessary to carry out the intent of the cooperation agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of August 2017 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN

\_\_\_\_\_  
Jamie L. Irons, Mayor

ATTEST:

\_\_\_\_\_  
Dana Swanson, City Clerk

**RSTP EXCHANGE/STBGP COOPERATIVE AGREEMENT**

THIS AGREEMENT, ENTERED INTO ON THE DATE BELOW STATED is between the San Luis Obispo Council of Governments, referred to herein as "SLOCOG", and the

**CITY OF MORRO BAY**  
a municipal corporation and  
political subdivision of the  
State of California, referred  
to herein as the "CITY".

**RECITALS**

**WHEREAS**, SLOCOG and the CITY are authorized, pursuant to requirements of the Fixing America's Surface Transportation (FAST Act), FAST Act § 1109(a), to enter into a Cooperative Agreement for any transportation purpose within the CITY; and

**WHEREAS**, The FAST Act's Surface Transportation Block Grant Program acknowledging that this program has the most flexible eligibilities among all Federal-aid highway programs and aligning the program's name with how the Federal Highway Administration (FHWA) has historically administered it; and

**WHEREAS**, the SLOCOG Board approved allocation of regional Surface Transportation Block Grant Program (STBGP) funds for the projects identified on the attached Table 1 (summary table and project summary sheets) and STBGP Program continues all prior Surface Transportation Program (STP) eligibilities (see in particular 23 U.S.C. 133(b)(15), as amended), each of the individual projects is herein referred to as "PROJECT"; and

**WHEREAS**, SLOCOG intends to exchange its apportionment of Federal Surface Transportation Block Grant Program (STBGP) funds for Regional Surface Transportation Exchange (RSTP Exchange) funds for the PROJECTS, therefore eliminating the non-federal match and compliance with the National Environmental Policy Act (NEPA); and

**WHEREAS**, all applicable laws, regulations, and policies relating to the use of RSTP Exchange funds for the PROJECTS, shall apply notwithstanding any other provisions of this Agreement; and

**WHEREAS**, all obligations of the CITY under the terms of this Agreement are subject to funding appropriation by the Legislature, and the receipt and allocation of funding by SLOCOG; and

**WHEREAS**, Agreement No. MB-TEA21-01 and Amendment # 1 thereto remain in full effect.

**NOW, THEREFORE**, in consideration of the above noted findings and considerations, the parties agree as follows:

- 1) The CITY agrees to administer each PROJECT and conduct the applicable environmental process required under the California Environmental Quality Act (CEQA) for each PROJECT.
- 2) The CITY agrees to advertise, open and review bids, and to award the contract for each applicable PROJECT (or combination of PROJECTS) as needed, in accordance with State laws.
- 3) The CITY agrees that all phases of each PROJECT will be developed in accordance with policies, procedures, practices, standards, regulations, and laws that apply to the CITY, Caltrans (where appropriate), and SLOCOG General Programming Requirements, the 2016 Annual Exchange Agreement and subsequent STBGP annual exchange agreements between SLOCOG and the State of California (Department of Transportation). If in the judgment of SLOCOG a project may impact a

street, road or highway owned or controlled by a jurisdiction other than CITY (including without limitation the County, another city, or the State of California), SLOCOG may require the CITY to establish a project development team (PDT) composed of representatives of such jurisdictions, as well as SLOCOG.

- 4) The CITY agrees to construct each PROJECT in accordance with the plans and specifications of the CITY (and Caltrans when PROJECT involves state highway facilities), and in accordance with the conditions of funding adopted by SLOCOG.
- 5) The CITY agrees to maintain the facilities constructed, improved, or otherwise modified.
- 6) The CITY agrees to utilize, for each PROJECT, an amount of Regional or Urban RSTP Exchange funds equal to or less than that adopted by SLOCOG, and that SLOCOG's total obligation shall not exceed the amounts shown in **Table 1** unless a greater amount has been authorized in advance in writing by SLOCOG.
- 7) The CITY agrees to account for all costs for the PROJECTS to be paid by SLOCOG pursuant to this Agreement and agrees to perform all the reimbursable work for each project according to the billing period identified in the project summary sheets.
- 8) After the opening of bids on applicable PROJECTS, the CITY shall notify SLOCOG of any cost overruns or underruns to the original cost estimate. The following will be assumed and reflected in SLOCOG's RSTP Exchange accounting spreadsheets:
  - a) If less funding than what was programmed is required for a PROJECT, the cost savings will be made available for reprogramming into another CITY project as approved by SLOCOG.
  - b) If more funding than what was programmed is required for a PROJECT, the CITY will be solely responsible for providing the additional funding, which can be comprised of various non-regional funding sources, including cost savings from other CITY RSTP Exchange projects.
- 9) The CITY may submit an invoice for reimbursement of funds expended for each PROJECT no more than once a month, using the attached Reimbursement Request Form (**Exhibit A**). All Payments will be prorated between CITY and SLOCOG based on the agreed percentages of funding, as adopted by SLOCOG and listed on each project summary sheet. All invoices must contain the following:
  - a. RSTP Exchange PROJECT number and name
  - b. A brief description of work accomplished during the billing period.
  - c. A copy of the consultant's bill to the CITY (if applicable).
  - d. Amount expended by the CITY during the billing period, with evidence of funds expended (e.g. a copy of a CITY check to consultant or accounting documentation, etc.)
  - e. Amount requested for reimbursement for the billing period
- 10) SLOCOG agrees to reimburse the CITY within 30 days of receipt of a completed reimbursement request form (**Exhibit A**) with all applicable attachments and signatures or as funds become available on a "1<sup>st</sup> come, 1<sup>st</sup> served" basis, an amount expended by the CITY during the invoices' billing period less the aforesaid proration. If a PROJECT receives both Regional and Urban Regional Surface Transportation Exchange funding (referred to in Exhibits hereto as "Regional" and "Urban" respectively), reimbursements shall be made on a pro rata basis from each source for SLOCOG's share. SLOCOG's total obligation for each PROJECT cost shall not exceed the amount shown in **Table 1**, unless SLOCOG has in writing authorized a greater amount per adopted SLOCOG policy.
- 11) Within two months of each PROJECT's completion and all work incidental thereto, the CITY must provide SLOCOG certification in the form provided in **Exhibit B** hereto, of completion in accordance with the provisions in this Agreement, and a final invoice containing those items listed above. In the event that final project costs are less than those listed on Table 1, hereto, the funds shall be reallocated in accordance with SLOCOG RSTP Exchange policy.
- 12) If this project has been paid for either entirely, or in part with Regional RSTP Exchange funds, and CITY, or any of its officials, chooses to publicly memorialize participation in said project, then CITY shall also memorialize SLOCOG's financial participation in said project in a manner agreeable to SLOCOG. This paragraph shall apply to, but is not limited to, signage during construction,

representation at dedications and placement of plaques or other objects of memorialization, whether at or near the project site or not.

- 13) The CITY grants to the State of California and/or SLOCOG access to the CITY's books and records for the purpose of verifying that RSTP Exchange funds paid are properly accounted for and the proceeds are expended in accordance with the terms of this Agreement. All documents shall be available for inspection by authorized Caltrans and/or SLOCOG agents at any time during the PROJECT development and for a four-year period from the date of completion, or for one year after the audit is completed or waived by Caltrans and/or SLOCOG, whichever is later.
- 14) Upon completion of all work under this Agreement, ownership and title to all materials will automatically be vested in the CITY and no further agreement will be necessary to transfer ownership to the CITY.
- 15) If existing public and/or private utilities conflict with the PROJECT construction or violate the CITY's encroachment policy (as applicable), the CITY shall make all necessary arrangements with the owners of such utilities for their protection, relocation or removal. The CITY shall review the plans for protection, relocation or removal. If there are costs of such protection, relocation, or removal which the CITY must legally pay, the CITY shall pay the cost of said protection, relocation or removal, plus cost of engineering, overhead and inspection. If any protection, relocation or removal of utilities is required, such work shall be performed in accordance with CITY policies and procedures.
- 16) The CITY shall defend, indemnify and save harmless SLOCOG, its officers and employees from all and any claims, demands, damages, costs, expenses, judgments, attorneys' fees or any liability arising out of this Cooperative Agreement to the performance or attempted performance of the provisions hereof, or any project referred to in the Exhibits hereto. Nothing contained in the foregoing indemnity provision shall be construed to require CITY to indemnify SLOCOG against any responsibility of liability in contravention of Civil Code section 2782.
- 17) If the CITY transfers its risk connected with design or construction of this project to independent contractors, CITY agrees to use its best efforts to obtain the independent contractor's inclusion of SLOCOG as an indemnitee and in any insurance procured by such independent contractor(s) for the project, to name SLOCOG as an additional insured.
- 18) Both the CITY and SLOCOG shall designate a Project Coordinator who shall represent the respective agencies and through whom all communications between the parties to this agreement shall occur.
- 19) Both parties agree that if, in the course of carrying out the PROJECT, there is a disagreement among the Project Coordinators over the direction of the project, the matter will be forwarded through a three step conflict resolution process. First, resolution will be attempted between the CITY Manager and SLOCOG Executive Director. If a dispute continues, a determination shall be made by the SLOCOG Executive Committee, and, if required, final determination by the full SLOCOG Board.
- 20) Nothing in the provisions of this Agreement is intended to create duties, obligations, or rights for third parties not signatories to this Agreement or affect the legal liability of either party of the Agreement by imposing any standard of care with respect to the maintenance of local roads different from the standard of care imposed by law.
- 21) No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties thereto, and no oral understanding or agreement not incorporated herein or in the attached **Table 1** shall be binding on any of the parties thereto.
- 22) This Agreement may be terminated or provisions contained therein may be altered, changed, or amended by mutual consent, in writing, of the parties hereto.
- 23) Prior to award of a contract for any PROJECT, SLOCOG may terminate the applicable PROJECT in the Cooperative Agreement by written notice, provided SLOCOG pays the CITY for all PROJECT-related costs reasonably incurred by the CITY prior to termination. Also, prior to award of a contract for any PROJECT, the CITY may terminate the applicable PROJECT in the Cooperative Agreement by written notice, provided the CITY pays SLOCOG for all costs reasonably incurred by SLOCOG

prior to termination.

**SIGNATURES:**

CITY OF MORRO BAY

SAN LUIS OBISPO  
COUNCIL OF GOVERNMENTS

By: \_\_\_\_\_  
Rob Livick, PE/PLS – Public Works Director

By: \_\_\_\_\_  
Ronald L. De Carli, Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Dana Swanson, City Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

By: \_\_\_\_\_  
Joseph W. Pannone, City Attorney

By: \_\_\_\_\_  
Timothy McNulty, SLOCOG Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**TABLE 1**

**Morro Bay PROJECTS  
for  
Agreement No. MB-FAST-01**

<b>SLOCOG#</b>	<b>Community</b>	<b>Project Name</b>	<b>Funding</b>	<b>Balance</b>
STMB04R, PRMB05, STLMB03U & STLMB04U	City of Morro Bay	North Main St, Bike, Ped and ADA Facilities 7/21/2011	\$153,333	\$153,333 – to be applied to STLMB07 41/1 Interchange Improvements
SMAPMB01U	City of Morro Bay	Urban Area apportionment FY13/14~FY18/19	\$245,000	\$245,000
STLMB07R	City of Morro Bay	41/1 Interchange Improvements	\$113,000	\$113,000
SMAPCG18R	City of Morro Bay	Data collection – Active Transportation Partnership Program	\$5,000	\$5,000
			<b>Total</b>	<b>\$516,333</b>

**EXHIBIT A**  
**San Luis Obispo Council of Governments**  
**Regional Surface Transportation Program Exchange (RSTP Exchange)**

**REIMBURSEMENT REQUEST FORM**

Agency Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Project Number(s): Regional: \_\_\_\_\_ Urban: \_\_\_\_\_

Project Title: \_\_\_\_\_

This Invoice Covers Work Completed from: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Project Budget Information: **(complete box below - refer to cooperative agreement "Table 1" for budget information)**

<b>Total SPENT This invoice</b>	\$ _____ -		When using electronic format: fill in unshaded areas only	
	<b>Regional</b>	<b>Urban</b>	<b>Other Sources Non Regional</b>	<b>TOTAL</b> (must equal 100%)
<b>Reimbursement Rate by Fund Source</b> (must be consistent with Exhibit A Project Sheet)				0%
<b>Pro-rata Reimbursement by Funding Source</b> (Regional/Urban)	\$ _____ -	\$ _____ -	\$ _____ -	\$ _____ -

Please send a check for \$ \_\_\_\_\_  
*Total RSTP Exchange share due this invoice (total of heavier shaded boxes above)*

- Attachments: 1) A brief description of work completed; and  
 2) Consultant invoices  
 3) Proof of payment (e.g. copy of City check to consultant).

Signed: \_\_\_\_\_  
 (Agency Rep.)

Shaded boxes below for SLOCOG Use

Regional Planner Approval	Accounting Initials

**EXHIBIT B  
PROJECT COMPLETION FORM  
for  
RSTP Exchange Projects**

This form notifies SLOCOG of project completion in accordance with the provisions in the Cooperative Agreement noted below. *Our records indicate that the project listed below, funded all or in part with RSTP Exchange funds, has been completed:*

Project Name: \_\_\_\_\_

Project Number(s): \_\_\_\_\_

Cooperative Agreement Date (Recipient Agency): \_\_\_\_\_

Approved RSTP Exchange amount: \_\_\_\_\_

I \_\_\_\_\_ *certify, on behalf of the City/County*  
name of authorized official

of \_\_\_\_\_, *that the project named above was completed*  
name of jurisdiction

on \_\_\_\_\_ *in accordance with the provisions set forth in the cooperative*  
approximate date of completion

agreement dated \_\_\_\_\_ *. It is my understanding that all savings*  
date jurisdiction representative signed

*from a cost underrun will be returned to* \_\_\_\_\_ *for*  
city/county or SLOCOG

*reprogramming in accordance with the cooperative agreement.*

Signed: \_\_\_\_\_  
signature of authorized official

Date: \_\_\_\_\_  
date signed

Return completed and signed Project Completion Forms within 2 months of the completion of each project to:

SLOCOG  
1114 Marsh Street  
San Luis Obispo, CA 93401  
Attn: John DiNunzio



AGENDA NO: A-4

MEETING DATE: August 22, 2017

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 16, 2017  
**FROM:** Eric Endersby, Harbor Director  
**SUBJECT:** Adoption of Resolution No. 47-17 Approving Amendment No. 1 to the New Lease Agreement Between the City of Morro Bay and Boatyard LLC for Lease Site 89/89W, Located at 845 Embarcadero, and Commonly Known as The Boatyard

### RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 47-17, approving Amendment No. 1 to the new Lease Agreement for Lease Site 89/89W, as-proposed.

### ALTERNATIVES

Council may elect not to approve Resolution No. 47-17 for the proposed lease agreement, and direct staff accordingly.

### FISCAL IMPACT

Under this proposal, the Harbor Fund will see an approximate \$39,600 per year decrease in total rent paid on this site for ten years, whereinafter the rent will revert to rent levels as stipulated in the lease. That is in recognition of the Tenant expending at least \$1.4M for site rehabilitation and the parties agreeing to release each other from any and all potential liability that could have likely resulted from the seawall failure and associated legal costs and fees.

### BACKGROUND

In 2015, a large portion of the seawall at this site suffered a major failure, the cause of and legal responsibility for which is of significant dispute. To prevent the wall from completely failing, the Tenant obtained emergency repair permits and Associated Pacific Constructors effected a temporary repair.

After nearly 18 months of discussions with the Tenant, staff negotiated a cooperative and beneficial "package" to deal with the seawall failure and provide a global resolution of all legal claims resultant of that failure and other disputed lease management issues, with the end result being on October 11, 2016 the City Council approved a new Master Lease Agreement (MLA). The Council was kept aware of and provided input for those negotiations during several closed sessions.

Because of several possible remaining financial unknowns with the estimated \$1.4M seawall and revetment repair that could reveal themselves as time and work on the project progressed, the new MLA included a proviso wherein the Tenant could "reopen" negotiations if a \$60,000 estimated project spending cap above \$1.4M was reached. That cap was met in the spring of this year, whereas Tenant and staff have reopened negotiations.

Finally, the Tenant has received Planning Commission approval for the seawall and revetment repair project, which also includes a substantial rehabilitation and rebuild of the slips and docks at the site.

Prepared By: EE

Dept Review: EE

City Manager Review: MRL

City Attorney Review: CFN

## **DISCUSSION**

The proposed Amendment #1 to the new MLA for Lease Site 89/89W to once again settle the dispute over the seawall failure consists of the following significant lease section element highlights:

1. Section 1.02; provided the California Coastal Commission and other necessary governmental permitting bodies permit the seawall/revetment repair and dock project without “material structural change” from what the Planning Commission approved, no further lease considerations or concessions will be made and the Tenant will be obligated to complete the project.
2. Section 2.01; the minimum annual guaranteed starting rent will be \$45,000 per year, with normal five-year reappraisal and annual CPI adjustments.
3. Section 2.07; a semi-annual rent credit of \$19,800 (or \$39,600 per year) will be applied for the first ten years of the MLA term.
4. Section 3.01; clarifications on the allowed uses of the site, with said uses subject to necessary permit or other approvals.
5. Section 13.03 (A); clarification of Tenant’s obligations to complete the revetment/seawall and dock project with regard to performance and timelines.

A copy of Amendment #1 to the new MLA is included with this staff report as Attachment #1. A copy of that MLA is also included as Attachment #4.

## **CONCLUSION**

In addition to the MLA amendment, staff continues to work on several other settlement points Tenant requests be resolved. Those points, however, at this time do not require further Council action, as Council direction has previously been received from closed session discussions and staff is working under that direction to resolve them.

Approval of Amendment #1 to this MLA will reassure a global resolution and settlement of numerous issues and potential litigation resulting from the failure of a significant portion of a seawall and other matters related to the current lease.

As such, staff recommends the City Council approve Resolution No. 47-17, included with this staff report as Attachment #3, so the Tenant will pursue repairing the seawall and completing other improvements as quickly as possible.

## **ATTACHMENTS**

1. Amendment #1 to the new Master Lease Agreement for Lease Site 89/89W
2. Exhibit B to Amendment #1
3. Resolution 47-17
4. Link to Master Lease Agreement for Lease Site 89/89W

**AMENDMENT #1 TO THE LEASE AGREEMENT FOR  
LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO**

This Amendment (“this Amendment #1”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and among the City of Morro Bay, a municipal corporation of the State of California, hereinafter called “City,” and Boatyard, LLC, a California limited liability company, hereinafter called “Tenant.” (Collectively, City and Tenant are sometimes referred to herein as the “Parties”).

**WHEREAS**, this Amendment #1 is to that certain Lease, which was signed on behalf of the Parties and is effective as of October 11, 2016 (the “Master Lease”);

**WHEREAS**, pursuant to the Lease Contingency set forth in Section 1.02 of the Master Lease, Tenant may terminate the Master Lease under certain circumstances;

**WHEREAS**, Tenant believes at least one of the circumstances that would allow it to terminate the Master Lease has occurred, but rather than exercise that right of termination, Tenant has proposed changes to the Master Lease, under which that right to terminate will be modified, and Tenant will proceed with the Rehabilitation Project (as defined in the Master Lease with the new Exhibit B as replaced, below);

**WHEREAS**, Tenant has already received the necessary approvals from City for a Concept Plan and Precise Plan for the Rehabilitation Project;

**WHEREAS**, Tenant has timely filed (as required by the Master Lease) an application with the California Coastal Commission for a revised Coastal Development Permit for the Rehabilitation Project, as approved by the Concept Plan and Precise Plan; and

**WHEREAS**, the Parties desire to amend the Master Lease so the Rehabilitation Project will proceed.

**NOW THEREFORE**, Tenant and City agree, as follows:

1. Unless expressly stated herein, words used in this Amendment #1 shall have the same meaning as stated in the Master Lease, except to the extent the context requires otherwise.
2. The foregoing recitals are incorporated into this Amendment #1 as true and correct.
3. The Parties acknowledge and agree that the Current Lease Agreement and all of the terms and conditions of the Current Lease Agreement are in full force and effect, including but not limited to the tolling period to bring any claim or action until the Commencement Date of the Master Lease.
4. Exhibit B to the Master Agreement is replaced, in its entirety, by the Exhibit B, attached hereto and made a part hereof by this reference. Each reference to Exhibit B in the Master Lease shall be deemed to be a reference to the Exhibit B attached hereto. Furthermore, the parties agree that all references in the Master Lease to the Rehabilitation Project shall be deemed to be a reference to the new Exhibit B attached hereto.

5. Section 1.02 of the Master Lease is hereby amended in its entirety to read as follows:

**Section 1.02 Lease Contingency.**

If all Permits (as defined in Subdivision 13.03 A.) are not obtained without material structural change for the Rehabilitation Project, then TENANT may deliver, within 30 days after that approval is granted, written notice to CITY of termination of this Lease, and neither Party shall have any further obligation to the other Party and this Lease shall be null and void, and the Current Lease Agreement shall continue in full force and effect. The parties agree, prior to the effective date of this Amendment a timely application has been filed with City and with the California Coastal Commission.

6. The first sentence of Section 2.01 of the Master Lease is hereby amended to read:

TENANT agrees to pay to City a minimum guaranteed annual rental for the use and occupancy of the Premises, in an initial amount of \$45,000 per year (the "Minimum Rent"), payable in advance in equal semiannual installments on January 1 and July 1 each year during the term of the lease.

7. The following new Section 2.07 is added to the Master Lease to read as follows:

**Section 2.07 Semi-Annual Credit**

In partial consideration of completion of the Rehabilitation Project and Release, established by Section 7.11 and changes made to Section 1.02 and Subdivision 13.03 (A) by that certain Amendment #1 to this Lease, effective \_\_\_\_\_, 2017, CITY agrees to credit against each semi-annual payment due to CITY pursuant to this Lease \$19,800 for twenty consecutive semi-annual payments due to CITY, commencing with the first semi-annual payment due after the Commencement Date.,

8. Section 3.01 of the Master Lease is hereby amended in its entirety to read as follows:

**Section 3.01 Permitted Uses.**

The Premises shall, during the Term, be used for the purpose of operating and conducting thereon and therein the uses permitted by, and in compliance with, Conditional Use Permit (CUP) 30-99, A00-045 to CUP 30-99, CUP 15-99, CUP 16-01, CUP 28-02, Coastal Development Permits (CDP) CDP 3-99-064 and CDP 3-93-017-A2 (collectively, the "Entitlements") (and any new CUP number(s) if issued), as they may be amended from time to time, and for no other purpose. The Parties agree and acknowledge all the terms and conditions contained in this Lease shall be deemed to be materially consistent with the Conditions of Approval as set forth in the Entitlements. On the Commencement Date, such uses include visitor-serving retail sales, boat excursion ticket sales, passenger for hire operations, boat rental and berthing, boatels in dock slips, public and private restrooms, the existing office space for the business located on Lease Site 90/90W and one live-aboard unit on the Premises; provided, that as to the live-aboard, only to the extent permitted by Morro Bay Municipal Code ("MBMC") section 15.40. Notwithstanding the foregoing, it is acknowledged and agreed by the Parties, (i) TENANT has had under the Current Lease

Agreement one live-aboard permit issued by the CITY and that TENANT's right to a live-aboard permit from the CITY shall be "grandfathered" and continue even in the event the CITY amends the MBMC and (ii), except for (i) above, the Parties acknowledge nothing in this Lease is intended to circumvent or preapprove any use that requires any land use review by and approval from CITY and any other applicable governmental agency for consistency with an existing CUP, any necessary amendment to an existing CUP or issuance of a new CUP. CITY further agrees to process, in good faith, each and every application filed by TENANT that may be needed to amend any land use approval that would otherwise prevent the Premises to be used as described hereinabove,

9. Subdivisions 13.03 (A) of the Master Lease is hereby amended in its entirety to read as follows:

A. Unless TENANT has delivered to CITY notice of termination of this Master Lease pursuant to Section 1.02, within sixty days after TENANT'S receipt of all approvals of the Rehabilitation Project from the California Coastal Commission, as evidenced by a "Notice of Intent Issue a Permit" and a final Coastal Development Permit, TENANT shall file complete applications for all necessary permits, permissions and certifications for the Rehabilitation Project, as then currently approved by CITY and the California Coastal Commission, from all other applicable governmental agencies, including, but not limited to, the Army Corp of Engineers and the Central Coast Regional Water Quality Control Board, where required. Within forty- five days after receipt of all necessary land use approvals from (i) CITY, including any changes to the Concept Plan and Precise Plan that may be required due to any other governmental agencies' approval, and (ii) all the governmental agencies listed above, TENANT shall file with CITY'S Community Development Department all necessary complete construction plans for CITY to issue valid building and other construction related permits for the Rehabilitation Project, as then currently approved by all applicable governmental agencies. All necessary building and other land use permits and approvals from CITY and all other applicable governmental agencies, including, but not limited to, the California Coastal Commission, the Army Corp of Engineers and the Central Coast Regional Water Quality Control Board, are hereinafter referred to collectively as the "Permits." For purposes of this Lease, "complete application" shall mean submission to the applicable governmental agency a satisfactory completed application form for the Rehabilitation Project, as then currently approved by all applicable governmental agencies, as required by that governmental agency, along with the payment of the fees required by that governmental agency.

10. Except as expressly stated herein, all provisions of the Master Lease shall remain in full force and effect.

11. The effective date of this Amendment #1 is the date first written above.

**Signatures on Next Page**

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment #1 as of the date written above.

CITY OF MORRO BAY

BOATYARD, LLC

By: \_\_\_\_\_  
Jamie L. Irons, Mayor

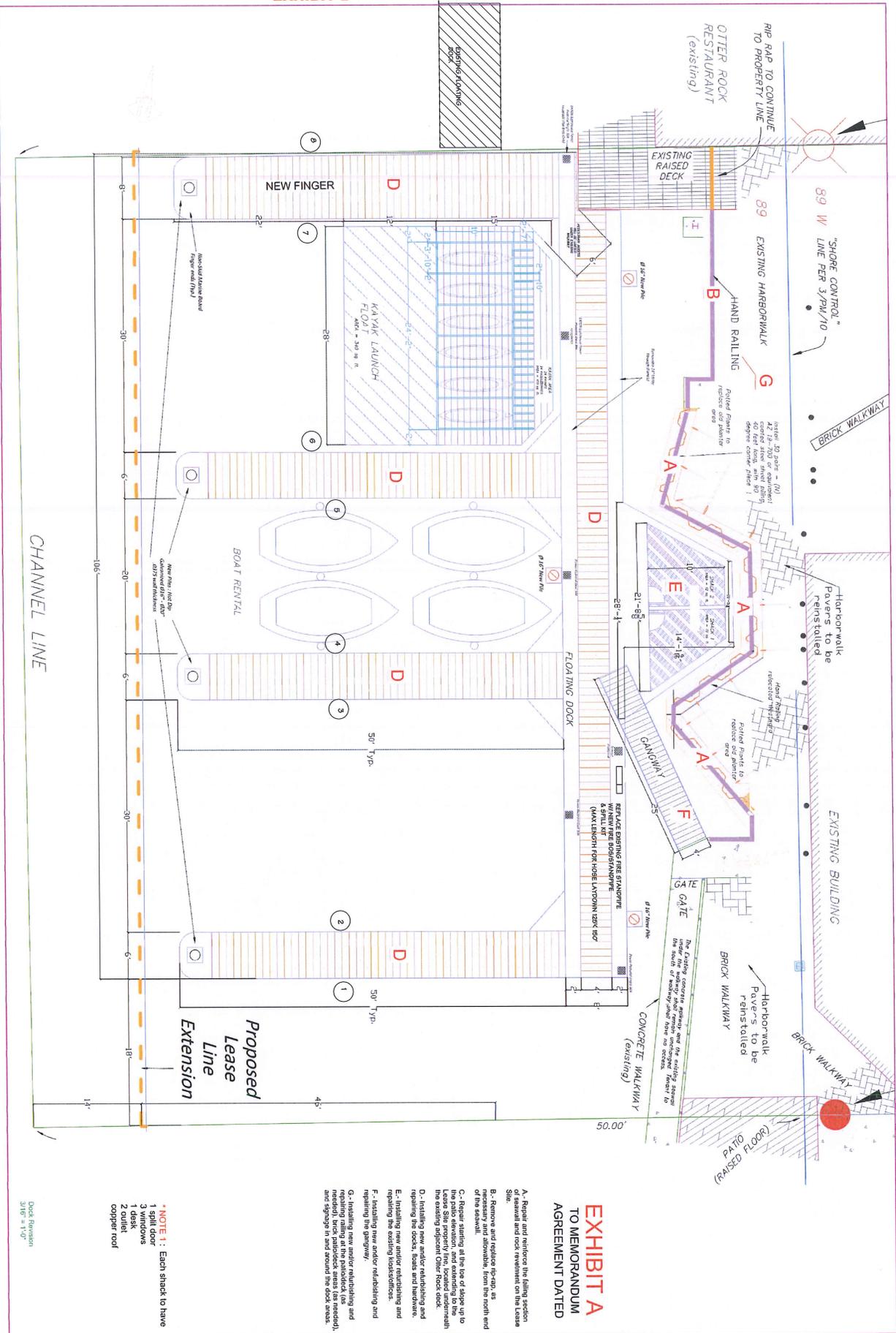
By: \_\_\_\_\_  
Cliff Branch, Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Joseph W. Pannone, City Attorney

ATTEST:

\_\_\_\_\_  
Dana Swanson, City Clerk



**EXHIBIT A**  
TO MEMORANDUM  
AGREEMENT DATED

- A. Repair and restore the filling surface of the dock and rock foundation on the Lease Site.
- B. Remove and replace rip-rap, as necessary and allowable, from the north end of the seawall.
- C. Repair staining at the toe of slope up to the patio elevation, and extending to the seawall, with a color-matched stain on the existing adjacent Otter Rock deck.
- D. Installing new and/or replacing and repairing the docks, fairs and hardware.
- E. Installing new and/or replacing and repairing the gangway.
- F. Installing new and/or replacing and repairing the gantry.
- G. Installing new and/or replacing and repairing railing at the patio deck (as needed), which patio deck stress (as needed), and signage in and around the dock areas.

**\*NOTE 1:** Each stack to have  
3 split door  
1 deck  
2 outlet  
copper roof

Dock Revision  
3/16" = 1'-0"



**Associated Pacific Constructors, Inc.**

THE BOATYARD SEAWALL  
REPAIR & MAINTENANCE  
845 Embarcadero  
Morro Bay, CA 93442

**DOCK REVISION  
EXHIBIT A**

ASSOCIATED PACIFIC  
CONSTRUCTORS  
DATE: 10/20/17  
SCALE: 3/16" = 1'-0"

**Site Plan**

**RESOLUTION NO. 47-17**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
APPROVING AMENDMENT #1 TO THE NEW LEASE AGREEMENT  
FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO**

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

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

**WHEREAS**, Boatyard LLC ("Tenant") has been the lessee of Lease Site 89/89W since 2006 and is a tenant in good standing; and

**WHEREAS**, City and Tenant wish to resolve issues over a failing portion of the seawall on the Lease Site by approving Amendment #1 of the new Lease Agreement for Lease Site 89/89W, approved by the City Council on October 11, 2016; and

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

1. The attached Amendment #1 to the Lease Agreement for Lease Site 89/89W is hereby approved.
2. The Mayor is hereby authorized to execute said Amendment #1.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22<sup>nd</sup> day of August, 2017 on the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Jamie L. Irons, Mayor

ATTEST:

\_\_\_\_\_  
Dana Swanson, City Clerk



AGENDA NO: C-1

MEETING DATE: August 22, 2017

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** July 21, 2017

**FROM:** Jamie L. Irons, Mayor  
Dana Swanson, City Clerk

**SUBJECT:** Adoption of Resolution No. 45-17 Amending the Council Policies & Procedures to eliminate the 7:00 p.m. start time for Public Hearings, and consideration of a Council subcommittee to review the Council Policies & Procedures and Advisory Board By-Laws

## **RECOMMENDATION**

Staff recommends the City Council adopt Resolution No. 45-17 amending Section 1.2.7 of the Council Policies & Procedures to eliminate the 7:00 p.m. start time requirement for public hearings. Staff also recommends the Council consider establishing a subcommittee to work with staff to review the Council Policies & Procedures and Advisory Board Bylaws in their entirety, consider the possible revisions discussed below and any others deemed necessary, then return to Council with proposed revisions for consideration and adoption.

## **ALTERNATIVES**

The Council may choose not to establish a subcommittee and direct staff to review and bring back proposed revisions to these policies.

## **FISCAL IMPACT**

There is no fiscal impact associated with this action.

## **BACKGROUND**

At the February 14, 2017, City Council Meeting, Mayor Irons requested a future agenda item to discuss the Council Policies & Procedures, particularly related to advisory boards. Council Member McPherson asked the item include discussion of advisory board training. On May 9, 2017, Mayor Irons requested discussion of meeting structure regarding the 7:00 p.m. start time for public hearings. There was full Council support for these agenda items.

Mayor Irons and Clerk Swanson met and reviewed both documents and identified some areas and issues for Council review and discussion.

## **DISCUSSION**

The Council Policies & Procedures and Advisory Board Bylaws were adopted in 2001 and 2002, respectively. While there have been several updates to both documents, a cover to cover review has not been conducted. Based on a brief review by the Mayor and City Clerk, the following areas have been identified as potential areas needing attention. Of those, the City's policy requiring public hearings to begin no earlier than 7:00 p.m. has caused considerable shuffling of agenda items at recent meetings, which can be confusing to the public. Resolution No. 45-17 would strike that language and allow the Council to move through the agenda with less interruption. The remaining

<b>Prepared By:</b> DS	<b>Dept Review:</b>
<b>City Manager Review:</b> MRL	<b>City Attorney Review:</b> JWP

items that have been identified require more review than can effectively be accomplished in a Council meeting. If the Council wishes to establish a subcommittee, then staff would work with the subcommittee to review and craft policy revisions to be brought back for consideration at a future meeting.

### **Council Policies & Procedures**

1. Resolution 70-15. On November 10, 2015, the Council adopted a resolution pledging to follow best practices of civility and civil discourse in all of its meetings. It is suggested this standalone policy be incorporated into the Council Policies & Procedures.
2. Section 1.2.7 – Order of Business
  - a. Staff recommends striking the language that requires public hearings begin no earlier than 7:00 p.m.
  - b. The Council may also consider other changes to the Order of Business.
3. Section 1.3.7 – Public Comment

The current policy encourages citizens to present written comments at least one day prior to the meeting. It is suggested the Council review this section and consider any desired revisions.
4. Section 3.3 – Filling Council Vacancies

This section reflects language adopted by Measure “R” in 2006 and codified by Ordinance 527 as Morro Bay Municipal Code (MBMC) Section 2.06.030. Staff recommends this section be simplified to simply refer to MBMC Section 2.06.030, rather than re-state the language.
5. Section 4.2.7 – Correspondence

Staff recommends the Council consider possible revisions to this section to reflect current business practices.
6. Section 4.5 – Email

Staff recommends this section be reviewed by the City Attorney and City Clerk and updated, as necessary, to ensure consistency with current business practices, the City’s Record Retention Schedule, and State law.
7. Section 6.2.1 – Council Liaison Assignments

Staff recommends the Council review and discuss this section.
8. Section 6.2.2 – Other Council Subcommittees

Review and consider whether advisory board subcommittees should be formed by the Council, or by the Advisory Board.
9. Section 6.3.3.3 – Council Meetings (Advisory Board Reports)

Review and discuss process for advisory board reports to Council.
10. Section 6.6.2.4 – Terms (Advisory Board Terms)

Review and consider clarifications regarding serving on multiple advisory boards.
11. Section 6.6.3 – Process (Advisory Board Application Process)

Review and consider adding a section defining the process for accepting resignations.
12. Advisory Board Training – The Council may choose to direct staff to add a new section regarding training requirements.

### **Advisory Board Bylaws**

1. Introduction (page 2)
  - a. Update with the City Mission Statement approved by Council in February 2017.
2. General Information (pages 4-7)
  - a. Review and consider language defining the role and responsibility of the advisory bodies.
  - b. Correction needed on the bottom of page 4—there are currently **six** standing advisory boards.
  - c. Qualifications for Service - Consider adding language regarding training requirements.

3. Background Information on City Government (page 8)  
Consider adding a section defining the role of Advisory Boards.
4. Recreation & Parks Commission Meeting Schedule  
The Recreation & Parks Commission has requested language regarding meeting frequency be revised as follows, "Regular meetings shall be held in odd numbered months on a regular schedule."
5. Mission Statements  
All advisory boards include the City Mission Statement on their agendas. The Tourism Business Improvement District (TBID) Advisory Board also lists its mission statement, which is shown below. It is recommended the Council review, comment and/or revise, then formally approve the TBID Mission Statement as part of the Advisory Board Bylaws update.

***Tourism Business Improvement District Purpose and Authority***

*The Morro Bay Tourism Business Improvement District (MTBID) Advisory Board ("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 (BID) along with transient occupancy tax (TOT) within the City while placing particular emphasis on marketing that positively impacts the lodging.*

The Citizens Finance Advisory Committee has a mission statement that has been adopted by the Council and is currently incorporated into its Bylaws, but not currently listed on its meeting agendas:

***Citizens Finance Advisory Committee 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.*

6. Number of Members on each Advisory Board  
It is requested the Council discuss the number of members on each of the advisory boards and either affirm or amend the board makeup. The number of members on each board is as follows: Planning Commission (5), Harbor Advisory Board (7 plus two alternates for the commercial fishermen position), Public Works Advisory Board (PWAB) (7), Recreation & Parks Commission (7), Citizens Finance Advisory Committee (7), TBID Advisory Board (7), WRFCAC (7 appointees plus one Planning Commission representative and one PWAB representative), and GPAC (9).
7. Registered voter  
The Council may wish to discuss a requirement that all advisory board members be registered voters in the City of Morro Bay. Note: This is not recommended for the TBID or Harbor Advisory Boards or desired youth members.
8. GPAC & WRFCAC  
Special purpose, limited term advisory boards, such as the GPAC and WRFCAC, are not covered in the Advisory Board Bylaws. Those committees were formed by Resolution (Attachments 3 & 4) and the Council may wish to establish "purpose" statements for those committees.

## **CONCLUSION**

Staff recommends the Council adopt Resolution No. 45-17 amending the Council Policies & Procedures to eliminate the 7:00 p.m. start time for public hearings and establish a subcommittee to review that document as well as the Advisory Board Bylaws.

## **ATTACHMENTS**

1. Resolution No. 45-17
2. Council Policies & Procedures
3. Advisory Board Bylaws
4. Resolution No. 53-14 modifying makeup of the Water Reclamation Facility Citizens Advisory Committee (WRFCAC)
5. Resolution No. 34-14 forming the Water Reclamation Facility Citizens Advisory Committee (WRFCAC)
6. Resolution No. 39-15 forming the General Plan Advisory Committee (GPAC)
7. Resolution No. 18-15 regarding update of General Plan

**RESOLUTION NO. 45-17**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING THE COUNCIL POLICIES AND PROCEDURES  
SECTION 1.2.7 REGARDING ORDER OF BUSINESS**

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

**WHEREAS**, the Council Policies and Procedures Manual for the City of Morro Bay is a combination of City Council actions, policies, references, and information regarding the City Council; and

**WHEREAS**, to ensure all Councilmembers are familiar with and understand the City of Morro Bay's philosophies and policies regarding serving on the City Council, the City Council adopted its Council Policies and Procedures Manual, which have been amended on various occasions; and

**WHEREAS**, the City again desires to amend certain the Council Policies and Procedures Manual related to the Order of Business to eliminate the requirement that Public Hearings begin no earlier than 7:00 p.m.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Morro Bay does hereby amend Section 1.2.7 of the Council Policies and Procedures Manual to read, as follows:

**1.2.7 ORDER OF BUSINESS** shall be as follows:

- 1.2.7.1 Establish Quorum and Call to Order
- 1.2.7.2 Moment of Silence
- 1.2.7.3 Pledge of Allegiance
- 1.2.7.4 Recognition (Certificates of Appreciation or other forms of recognition for residents and staff)
- 1.2.7.5 Closed Session Report
- 1.2.7.6 Mayor and Council Members Reports, Announcements and Presentations
- 1.2.7.7 City Manager Reports, Announcements and Presentations (City Manager, Director and Advisory Board Reports)
- 1.2.7.8 Presentations (Proclamations and Public Presentations)
- 1.2.7.9 Public Comment
- 1.2.7.10 Consent Agenda
- 1.2.7.11 Public Hearings (~~shall start no sooner than 7:00 p.m.~~)
- 1.2.7.12 Business Items
- 1.2.7.13 Council Declaration of Future Agenda Items
- 1.2.7.14 Adjournment

**PASSED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 22nd day of August 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

JAMIE L. IRONS, Mayor

ATTEST:

---

DANA SWANSON, City Clerk

# **City of Morro Bay**

## **Council Policies and Procedures**

### **SCOPE**

**This resolution shall establish the procedures for the conduct of all meetings of the City Council of the City of Morro Bay. The purpose of this resolution is to provide that the City Council's meeting procedures will be consistent with the Brown Act (Government Code Sections 54950 et seq.) establish procedures which will be convenient for the public and contribute to the orderly conduct of the City's business. The procedures herein are in addition to, and not in place of, Morro Bay Municipal Code (MBMC) 2.08 and any other applicable ordinances and statutes, and in the event of conflict between this resolution and applicable ordinances or statutes, the latter shall govern.**

**RESOLUTION NO: 46-02  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
AUGUST 12, 2002 APPROVING AND ADOPTING  
THE COUNCIL POLICIES AND PROCEDURES MANUAL  
AND RESCINDING RESOLUTION NO. 47-01**

**RESOLUTION NO: 54-03  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
NOVEMBER 13, 2003 AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
SECTIONS 1.2.2 AND 1.3.7.1.1**

**RESOLUTION NO: 37-04  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
JUNE 24, 2004 AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
SECTION 1.3.9.3.5**

**RESOLUTION NO: 42-05  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
NOVEMBER 14, 2005 AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
SECTION 4.5**

**RESOLUTION NO: 23-06  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
MAY 22, 2006 AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
REGARDING CANCELLATION OF MEETINGS**

**RESOLUTION NO. 24-07  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
MAY 14, 2007 AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
REGARDING EX PARTE COMMUNICATIONS**

**RESOLUTION NO. 50-07  
ADOPTED BY THE CITY COUNCIL OF**

**THE CITY OF MORRO BAY ON  
OCTOBER 8, 2007 ADDING TO AND AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
REGARDING USE OF CITY LETTERHEAD AND  
USE OF SPEAKER SLIPS AT CITY COUNCIL MEETINGS**

**RESOLUTION NO. 76-08  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
NOVEMBER 10, 2008 AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
REGARDING THE ORDER OF BUSINESS ON THE  
CITY COUNCIL AGENDA, APPOINTMENT OF VICE MAYOR  
AND FILLING COUNCIL VACANCIES**

**RESOLUTION NO. 11-10  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
FEBRUARY 22, 2010 ADDING TO AND AMENDING COUNCIL  
POLICIES AND PROCEDURES MANUAL  
REGARDING EXPENSE REIMBURSEMENT POLICY FOR  
ELECTED AND APPOINTED OFFICIALS, CITY LETTERHEAD  
AND THE COUNCIL COMPENSATION COMMITTEE**

**RESOLUTION NO. 28-10  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON  
JUNE 14, 2010 AMENDING COUNCIL POLICIES AND PROCEDURES  
MANUAL REGARDING SECTION 2.2, RETIREMENT,  
MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**

**RESOLUTION NO. 46-10  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON SEPTEMBER 27, 2010  
AMENDING THE COUNCIL POLICIES AND PROCEDURES  
MANUAL IN REGARD TO CALLING CLOSED SESSION MEETINGS;  
IN REGARD TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED  
SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS  
TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON  
HIRING AND EVALUATION OF DEPARTMENT HEADS**

**RESOLUTION NO. 11-11  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON JANUARY 25, 2011  
ADDING TO AND AMENDING THE COUNCIL POLICIES  
AND PROCEDURES MANUAL REGARDING  
REGULAR MEETING TIMES AND PLACING ITEMS ON THE AGENDA**

**RESOLUTION 64-12  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON DECEMBER 11, 2012  
AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL  
REGARDING ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT  
AND THE BROWN ACT**

**RESOLUTION 19-13  
ADOPTED BY THE CITY COUNCIL OF  
THE CITY OF MORRO BAY ON MARCH 12, 2013  
AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL  
REGARDING STUDY SESSIONS, PLACING AN ITEM ON THE AGENDA,  
RECONSIDERATION, ORDER OF BUSINESS AND PUBLIC COMMENT**

**RESOLUTION NO. 53-13  
A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING SECTION 2.2 OF THE CITY COUNCIL POLICIES AND  
PROCEDURES MANUAL REGARDING RETIREMENT, MEDICAL, DENTAL,  
VISION, AND LIFE INSURANCE UNSPENT DOLLARS**

**RESOLUTION NO. 36-14**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING VARIOUS SECTIONS OF THE CITY COUNCIL POLICIES AND  
PROCEDURES MANUAL REGARDING MAYOR PRO TEM**

**RESOLUTION NO. 58-15**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING VARIOUS SECTIONS OF THE CITY COUNCIL POLICIES AND  
PROCEDURES MANUAL**

**RESOLUTION NO. 74-15**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL  
REGARDING MEETING GUIDELINES & PROCEDURES**

**RESOLUTION NO. 30-16**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL  
REGARDING MEETING GUIDELINES & PROCEDURES**

**RESOLUTION NO. 01-17**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL  
REGARDING ADVISORY BOARD MEMBER QUALIFICATIONS**

**RESOLUTION NO. 70-15**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE  
IN ALL OF ITS MEETINGS**

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

**WHEREAS**, we, the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay, in order to ensure **civility and civil discourse** in all of our meetings, pledge our commitment to the following **best practices of civility and civil discourse**; and,

**WHEREAS**, we pledge our commitment to **respect** the right of all people to hold different opinions in all our meetings; and

**WHEREAS**, we pledge our commitment to **avoid rhetoric intended to humiliate, malign, or question the motivation** of those whose opinions are different from ours in all our meetings; and

**WHEREAS**, we pledge our commitment to **strive to understand** differing perspectives in all our meetings; and,

**WHEREAS**, we pledge our commitment to **choose words carefully** in all our meetings; and

**WHEREAS**, we pledge our commitment to **speak truthfully** without accusation, and avoid distortion in all our meetings; and

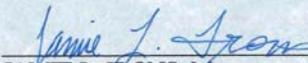
**WHEREAS**, we pledge our commitment **against violence and incivility** in all their forms whenever and wherever they occur in all our meetings; and

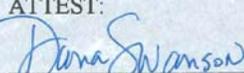
**WHEREAS**, we commit ourselves to build a civil political community in which each person is respected and spirited public and political debate is aimed at the betterment of the City of Morro Bay and its people and not the disparagement of those with whom we disagree.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council, City of Morro Bay, California, that the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay shall promote the use of and adherence to the principles of **civility and civil discourse** in conducting business with appointed and elected officials, staff, and citizens.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 10th day of November, 2015 on the following vote:

AYES: Irons, Johnson, Smukler  
NOES: None  
ABSENT: Headding, Makowetski

  
\_\_\_\_\_  
JAMIE L. IRONS, Mayor

ATTEST:  
  
\_\_\_\_\_  
DANA SWANSON, City Clerk

**CHAPTER ONE**  
**MEETING GUIDELINES & PROCEDURES**

**1.1 MEETING SCHEDULE**

**1.1.1 MEETINGS OF COUNCIL**

The Council shall provide by ordinance the time and place of holding meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary considerations when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

**1.1.2 REGULAR MEETINGS**

- 1.1.2.1 Regular meetings shall be held the second and fourth Tuesday of each month beginning at 6:00 p.m. In the event that a regular meeting of the Council shall fall on a legal holiday, that regular meeting shall be held at the same place and time on the next succeeding working day. A regular meeting can only be cancelled after polling the majority of the Council in favor of the cancellation.
- 1.1.2.2 Regular meetings shall be held in the Veterans Memorial Building, 209 Surf Street, in the City of Morro Bay.
- 1.1.2.3 Regular meetings shall be between the hours of 6:00 p.m. - 11:00 p.m. It shall be the policy of the City Council to complete meetings by 11:00 p.m., unless a majority of the Council elects to continue past the adjournment hour. If at the hour of 11:00 p.m. the City Council has not extended the time to adjourn the meeting or concluded its business, then the Council will review the balance of the agenda and determine whether to extend the meeting beyond the hour of 11:00 p.m., continue any remaining items, or adjourn the meeting to another date and time.

### **1.1.3 STUDY SESSIONS (Open to the public)**

- 1.1.3.1 The purpose of these meetings shall be for informal discussions between staff, advisory bodies or consultants, the public, and the City Council regarding specific programs, projects or policies. Council may provide direction, but no formal action will be taken during a Study Session. Study Sessions may be conducted in a variety of formats, including Public Workshops.
- 1.1.3.2 Study Sessions will be held at a time and place within the City limits and convenient to Council and advantageous for public participation.

### **1.1.4 SPECIAL MEETINGS**

- 1.1.4.1 Special meetings may be called by the Mayor or three City Council Members. Written notice of each special meeting must be given not less than twenty-four (24) hours before such meeting to each Member of the City Council not joining the call. Special meetings may be cancelled only by consent of a majority of the members of the Council not less than 24 hours before the date of the special meeting. Notice of such cancellation shall be given to all Council Members and written notice shall be posted for the public not less than 24 hours before the meeting.
- 1.1.4.2 Written notice must be given to the City Council and to the media twenty-four hours prior to each meeting, when requested.
- 1.1.4.3 A supplemental telephone call shall be made if necessary to notify each Council Member.
- 1.1.4.4 No business other than that announced shall be discussed.
- 1.1.4.5 Any special meeting held at a place other than the Veterans Memorial Building shall be open to the public. Such meetings shall be held within the City limits. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection.

## **1.1.5 DESIGNATION AND USE OF COUNCIL CHAMBERS**

1.1.5.1 The Veterans Memorial Building shall be designated as the City's Council Chambers.

1.1.5.2 When a question arises regarding permission for any group to use the Council Chambers, the City Manager shall have authority to make the final decision. The following rules are established as a guide:

- a. Use of the Council Chamber for regular meetings by City commissions, committees, and other advisory bodies shall take precedence over any other group or agency. To the extent possible, special meetings will be scheduled around other regularly scheduled non-City uses. In the event of a conflict, the City will give priority to rescheduling or relocating any use displaced by a City-related use.
- b. Council chambers is available for other use on a first-come-first-serve basis, after City, City-affiliated and other regular uses are scheduled.
- c. With the approval of the City Manager, and within the provisions of existing video production agreements, other local governmental agencies may use the Council Chamber for the purpose of live or video cablecasting public hearings and/or public meetings during regular or non-business hours.

## **1.2 AGENDA**

### **1.2.1 ESTABLISHING THE COUNCIL AGENDA**

The purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council Goals, Financial Plan and Budget, and also work programs, objectives, and business of the City as established by the present or earlier City Councils. Agenda items also include recommendations to the City Council from advisory bodies, land use and zoning actions or appeals, bid and purchasing procedures, and mandates from other levels of government. Staff shall work within the policy context established by the Council and will not arbitrarily place matters on the agenda that are outside the scope of existing work programs of the City, except as approved by the Mayor or a majority of the Council, and to inform and advise the Council of matters necessary to the proper operation and well-being of the City.

- a. Tentative Council Meeting Agenda - Every effort will be made to provide it to the City Council and staff before the close of business on the second Friday prior to the Council meeting.
- b. The full agenda packet for regular meetings of the City Council and all City Advisory Boards will be published a minimum of 120 hours (or five calendar days) prior to the meeting. Agenda packets for special meetings will be published a minimum of 48 hours (or two calendar days) prior to the meeting.

The process for determining the format and order of the agenda is based primarily on the order of business adopted by the City Council (see Section 1.2.7). The process for establishing the order of specific business and public hearing items is a collaborative one determined largely by anticipated public attendance (those matters involving greater audience attendance are usually scheduled ahead of other items). The City Manager shall meet with department heads on a regular basis, individually and as a group to discuss issues and to review upcoming agenda items.

In addition, the City Manager shall review the agenda materials with the Mayor, or in the Mayor's absence, the Mayor Pro Tempore. The final agenda is set subject to the approval of the Mayor (or Mayor Pro Tempore), after consultation with the City Manager.

### **1.2.2 PLACING AN ITEM ON THE AGENDA (COUNCIL MEMBER)**

Any Council Member may request an item be placed on a future agenda by submitting a request, orally or in writing, to consider the matter and by discussing the request during the "Declaration of Future Agenda Items" section of the regular agenda. If a majority of the Council approves including that matter on an upcoming agenda, then staff will prepare a staff report for the next available agenda, as determined by the City Manager, unless otherwise directed by the Council.

If only one other Council Member supports hearing the item, then an item will be listed on the next available agenda, as determined by the City Manager, unless otherwise directed by the Council. The Council Member who made the request for the agenda item shall be responsible for providing the Council report and the Council will take no action on the substance of the matter at that review, unless there is adequate public notice and information is provided for the Council to make an informed decision. If no other Council Member supports hearing the item, then the item will not be placed on the agenda.

Pursuant to Section 1.2, the Mayor is responsible for establishing the Agenda and may place an item on the agenda without Council support. In such a situation, the Mayor, or Council Member who the Mayor is accommodating, shall be responsible for providing a Mayor or Council Report.

Additionally, the Council may add an item to a posted agenda in accordance with the Brown Act.

### **1.2.3 PLACING AN ITEM ON THE AGENDA (ADVISORY BODIES)**

Recommendations made by advisory bodies, as part of their normal scope of duties and responsibilities, shall be timely placed on the City Council agenda by staff, who shall comply with the City's approved Council Agenda Preparation Policy. In the event an advisory body desires to bring a matter of special consideration to the City Council (new ideas or concerns, for example), it may request an item be placed on a future agenda by submitting a written request to the Council approved by a majority of the advisory body members and signed by the Chair. During Declaration of Future Agenda Items, any member of the Council may ask for consideration of the request and upon a majority of Council, a staff report will be prepared and approved by the City Manager or his/her designee.

### **1.2.4 PLACING AN ITEM ON THE AGENDA (THE PUBLIC)**

A member of the public may request an item be placed on a future agenda during the Public Comment period at the beginning of every Council meeting, or via other communication with Council Members. Any Member of the Council may ask for consideration of that request pursuant to those procedures set out in 1.2.2.

### **1.2.5 EMERGENCY ITEMS**

Emergency items may be placed on the agenda only in accordance with the Brown Act. Generally, only those matters affecting public health or safety may be considered emergency in nature. A four-fifth's vote of Council is necessary to add an emergency item.

### **1.2.6 RECONSIDERATION**

Reconsideration of issues previously acted upon is discouraged. However, in extraordinary situations, a request to reconsider an action taken by the City Council may be considered. The request must be presented by a Council Member who voted with the majority at the Council meeting at which the original vote was taken. The vote may be reconsidered during that meeting, but no later than the next Council meeting. Debate is limited to the question of whether there is a majority of the Council interested in reconsidering the matter. If a majority of the Council votes to reconsider an action, then the matter can be heard at that same meeting or placed on the next or future agenda, as directed by the Council. Notwithstanding the foregoing, as a governmental legislative body, the Council reserves the right to consider or reconsider any matter within its jurisdiction that a majority of the Council deems appropriate.

**1.2.7 ORDER OF BUSINESS shall be as follows:**

- 1.2.7.1 Establish Quorum and Call to Order
- 1.2.7.2 Moment of Silence
- 1.2.7.3 Pledge of Allegiance
- 1.2.7.4 Recognition (Certificates of Appreciation or other forms of recognition for residents and staff)
- 1.2.7.5 Closed Session Report
- 1.2.7.6 Mayor and Council Members Reports, Announcements and Presentations
- 1.2.7.7 City Manager Reports, Announcements and Presentations (City Manager, Director and Advisory Board Reports)
- 1.2.7.8 Presentations (Proclamations and Public Presentations)
- 1.2.7.9 Public Comment
- 1.2.7.10 Consent Agenda
- 1.2.7.11 Public Hearings (shall start no sooner than 7:00 p.m.)
- 1.2.7.12 Business Items
- 1.2.7.13 Council Declaration of Future Agenda Items
- 1.2.7.14 Adjournment

**1.2.8 NOTIFICATION AND ADVERTISING**

The City will advertise all matters of significant neighborhood or community public interest that appear on a City Council or Planning Commission agenda where advertising is required by law. Said advertisements shall include location maps, project descriptions and posting of property, if required, written in plain English in order to fully inform all interested individuals.

All advertising shall be accomplished in an economical manner. All affidavits of publication will be available to interested members of the public.

**1.3 MEETING PROCEDURES**

**1.3.1 PRESIDING OFFICER**

- 1.3.1.1 The Mayor is the Presiding Officer and acts as Chair at Council meetings.
- 1.3.1.2 In the absence or incapacity of the Mayor, the Mayor Pro Tempore will serve as Presiding Officer.
- 1.3.1.3 In the absence of both the Mayor and Mayor Pro Tempore, a majority of the quorum shall select one of the Council Members present to act as Chair for the meeting.
- 1.3.1.4 Seating arrangement of the Council:

The Mayor, with the approval of individual Council Members, shall establish seating arrangements for regular Council meetings.

1.3.1.5 Signing of City Documents:

The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature, except where the City Manager, or other designee, has been authorized by Council to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature may be used.

**1.3.2 QUORUM**

A majority of the Council Members shall constitute a quorum for the transaction of business.

**1.3.3 DISCUSSION RULES**

1.3.3.1 Obtaining the floor:

1.3.3.1.1 A City Council Member or staff shall first address the Presiding Officer and gain recognition.

1.3.3.1.2 Comments and questions should be limited to the issue before Council.

1.3.3.1.3 Cross-exchange between Council Members and public should be avoided.

1.3.3.2 Questions to Staff:

A Council Member shall, after recognition by the Presiding Officer, address questions to the designated staff member. Council Members are encouraged to provide questions to staff prior to meetings.

1.3.3.3 Interruptions:

1.3.3.3.1 Once recognized, a Council Member shall not be interrupted while speaking except to make a point of order or personal privilege.

1.3.3.3.2 If a Council Member is called to order while speaking, then the individual shall cease speaking until the question of order is determined.

1.3.3.3.3 Upon being recognized by the Mayor, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

1.3.3.4 Limitation on Discussion:

No Council Member shall speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision-making process.

1.3.3.5 Tabling Procedure:

The purpose of the Motion to Lay on the Table also known as a Motion to Table is to enable the City Council, by majority vote and without debate, to lay a pending question aside temporarily when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed. The Motion shall not be used to cut off debate and shall only be used when it is necessary to suspend consideration of a main motion in order to deal with another matter that has come up unexpectedly and which must be dealt with before the pending motion can be properly addressed.

1.3.3.6 Right of Protest:

A Council Member is never required to state reasons for dissent.

1.3.3.7 Rules of Procedure:

The Council shall determine its own rules of procedure.

1.3.3.8 Council Minutes:

If a Council Member wishes a stated opinion to be entered in the minutes, then he/she should precede the statement with "for the record," or request the City Clerk to enter it into the record following the statement.

### **1.3.4 PARLIAMENTARY PROCEDURE**

Those rules in effect according to the City Council policy (State law and Robert's Rules, to the extent applicable to a public legislative body). The following summarizes the most frequently used actions.

### **1.3.5 PROTOCOL**

- 1.3.5.1 Council Members and staff shall:
  - 1.3.5.1.1 Work earnestly to preserve appropriate order and decorum during all meetings.
  - 1.3.5.1.2 Side conversations, disruptions, interruptions or delaying efforts are discouraged.
- 1.3.5.2 Persons demonstrating rude, boisterous, or profane behavior will be called to order by the Presiding Officer. If such conduct continues, then the Presiding Officer may call a recess, request the removal of such person(s) from the Council Chamber, adjourn the meeting, or take such other appropriate action as permitted by the Brown Act.
- 1.3.5.3 Only the City Council, staff, Designated Representatives, and those authorized by the Presiding Officer shall be permitted to sit at the Council or staff tables.
- 1.3.5.4 Enforcement of order:
  - 1.3.5.4.1 The Police Chief or his/her designee shall act as the Sergeant-at-Arms.
  - 1.3.5.4.2 Any Council Member may request the Presiding Officer to enforce the rules of protocol. Upon motion and majority vote, the Presiding Officer shall be required to do so.

### **1.3.6 VOTING PROCEDURES**

- 1.3.6.1 When present, all Council Members shall vote. Failure of a seated Council Member to vote will be construed as an affirmative vote.
- 1.3.6.2 No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three Council Members.

- 1.3.6.3 A conflict of interest shall be declared whenever appropriate and in compliance with State law and the Council Member will disclose the nature of the conflict of interest, step down and shall not make, participate in making, or influence the decision.
- 1.3.6.4 A vote may not be changed by a Council Member after the vote announcement by the Presiding Officer or City Clerk; provided, that with the consent of the City Council a correction of the vote may be made.
- 1.3.6.5 The City Clerk shall restate the motion prior to the vote or request the Presiding Officer to restate the motion, if required for Council or public clarification.
- 1.3.6.6 Voice voting is the preferred method for recording Council votes.
- 1.3.6.7 A roll call vote may be taken at the discretion of the Presiding Officer. The City Clerk will call the roll for the roll call vote in the following manner: 1) Maker of the motion; 2) Member who has seconded the motion; 3) Additional Council Members in alphabetical order by last name; and, 4) Mayor last. The City Clerk shall state for the record the name of any Council Member who is recused or has abstained.
- 1.3.6.8 General consent vote may be taken at the discretion of the Presiding Officer, if there are no negative votes or objections by Council Members.
- 1.3.6.9 Upon the request of any Council Member, the ayes and noes shall be taken and recorded on any vote.
- 1.3.6.10 The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council.
- 1.3.6.11 Following the vote, the Presiding Officer shall announce whether the questions have been carried or defeated.
- 1.3.6.12 Tie votes: If a tie vote occurs, then the Council is required to continue the item by majority vote or make motions until an action receives three affirmative votes.
- 1.3.6.13 The Presiding Officer may publicly explain the effect of the vote for the audience or may direct a member of the staff to do so.

### **1.3.7 PUBLIC COMMENT**

Members of the public may address the City Council in a variety of ways. Written comments on agenda items are encouraged. As a courtesy to the Council, citizens are encouraged to present written comments at least one day prior to the meeting. This provides the Council with a greater opportunity to review and consider issues and/or concerns expressed in written communications prior to a meeting. Written material distributed at the meeting will be made a part of the public record. If the material is too voluminous for Council to review during the meeting or is new material not previously considered, then Council may at its discretion continue the item to a future meeting. The following are guidelines for providing public comments:

- 1.3.7.1 During Public Comment period, at the beginning of every meeting, members of the public may address the City Council on items that are not on the printed agenda. For Consent Items, Public Hearing Items, and Business Items, the Presiding Officer will invite comments from the public in support of, or in opposition to each specific Agenda Item following the staff report and any questions from Council to Staff.
- 1.3.7.2 Individuals desiring to speak shall:
  - 1.3.7.2.1 Address the Council from the podium after giving name and City of residence. Speakers shall direct their comments to the Council, not the audience.
  - 1.3.7.2.2 Limit comments to three minutes or to the interval specified by the Presiding Officer. The Presiding Officer, with the majority of Council Members, may reopen the public comment period to hear additional public comment. Council Members may ask questions of anyone present without reopening the public comment period. A speaker may not yield their time to another speaker.
  - 1.3.7.2.3 Each person addressing the City Council shall do so in an orderly manner and the Council respectfully requests that speakers refrain from making repetitious, slanderous or irrelevant remarks, or engaging in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the Council meeting. Any person who so disrupts the meeting may, at the discretion of the Presiding Officer or a majority of the City Council present, be subject to ejection from that meeting.

- 1.3.7.2.4 Persons addressing the Council shall address the Council as a whole and shall not engage in a dialogue with individual Council Members, City staff or members of the audience. No questions shall be asked of a Council Member or a member of City staff without first obtaining permission of the Presiding Officer. The Presiding Officer shall determine whether, or in what manner, an answer will be provided. Any person violating this rule while addressing the Council shall be called to order by the Presiding Officer.
- 1.3.7.3 Except as otherwise permitted by the Brown Act, action may not be taken on issues not listed on the agenda. Staff may be asked to follow-up on such items.
- 1.3.7.4 Applicants or Applicant Representatives or Appellants desiring to speak shall:
  - 1.3.7.4.1 Be permitted to speak first during the public comment portion of the applicable matter for not more than 10 minutes or the time allowed by the Presiding Officer.
  - 1.3.7.4.2 Address the Council from the podium after giving their name and/or the name of the applicant/appellant they are representing.
- 1.3.7.5 Council Members actions
  - 1.3.7.5.1 Council Members may question the person addressing the Council at the conclusion of the person's comments or upon expiration of the person's time to speak.
  - 1.3.7.5.2 Council Members shall not engage the person addressing the Council in a dialogue with the City Council or City staff, but shall confine communication to a question and answer format conducted through the Presiding Officer.
  - 1.3.7.5.3 If a member of the audience has addressed the Council on matters which are not on the agenda, then Council Members shall refrain from extended discussion of the matter. If a Council Member so wishes, then the Council Member may seek to have the City Manager place the matter on the next agenda in accordance with this policy.

- 1.3.7.6 After the public hearing is closed, no member of the public shall be permitted to address the Council or the staff from the audience, except at the discretion of the Presiding Officer or the majority of the Council.
- 1.3.7.7 Upon violation of the rules of order and decorum established in Section 1.3.2 – 1.3.7 of this manual, the procedure to enforce the rule shall be as follows:
- 1.3.7.7.1 Warning. The Presiding Officer shall request a person who is violating the rules of decorum cease such conduct. If, after receiving a warning from the Presiding Officer, the person persists in disturbing the meeting, the Mayor shall order the person to leave the City Council meeting. If the person does not leave the meeting, then the Presiding Officer may order any law enforcement officer who is on duty at the City Council meeting as sergeant-at-arms to remove the person from the City Council chambers.
- 1.3.7.7.2 Removal. Any law enforcement officer who is serving as sergeant-at-arms at the City Council meeting shall carry out the orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum. Upon instruction of the Presiding Officer, it shall be the duty of the sergeant-at-arms to remove from the City Council meeting any person who is disturbing the proceedings of the City Council.
- 1.3.7.7.3 Resisting Removal. Any person who resists removal by the sergeant-at-arms may be charged with a violation of the rules of order and decorum, as well as any other applicable ordinance or law.
- 1.3.7.7.4 Motion to Enforce. If the Presiding Officer fails to enforce the rules of order and decorum set forth in Section 1.3.2 – 1.3.7, then any Member of the City Council may move to require the Presiding Officer to do so, and an affirmative vote of a majority of the City Council shall require the Presiding Officer to do so. An affirmative vote of a majority of the Council may appeal to the entire Council the ruling of the Presiding Officer that a person be removed from the meeting, in which event the decision of the

Council majority shall govern and conclusively determine such question. If the Presiding Officer fails to carry out the will of the majority of the City Council, then the majority may designate another Member of the City Council to act as the Presiding Officer for the limited purpose of enforcing the rules of order and decorum established in Section 1.3.2 - 1.3.7.

- 1.3.7.7.5 Clearing the Room. If a meeting of the City Council is disturbed or disrupted in such a manner as to make infeasible or improbable the restoration of order, then the Presiding Officer or a majority of the City Council may exercise the authority granted in the California Government Code section 54957.9 by ordering the meeting room cleared and continuing in session in the manner authorized by Section 54957.9 of the Government Code.

### **1.3.8 CONSENT ITEMS**

Consent items are the first items on the agenda. Only items that are routine, relate to implementation of approved budget items or to City operations, or are items to be later set for public hearing are to be placed on the Consent Agenda. Items of significant neighborhood or community public interest should be heard as a Public Hearing or Business item, and not placed on the Consent Agenda.

- 1.3.8.1 Minor Questions. A Council Member may ask questions on any item without it being pulled from the Consent Agenda. When a Council Member has a minor question for clarification concerning a consent item that will not involve extended discussion, the item may be pulled for clarification at the beginning of the meeting and the questions will be addressed along with the rest of the Consent Agenda. There should be no objections at this time. Council Members are encouraged to seek clarifications prior to the meeting (whenever possible).
- 1.3.8.2 No Vote. When a Council Member wishes to pull an item simply to register a dissenting vote, a request should be made the item be pulled for separate vote without discussion. Such items will also be handled at the beginning of the meeting along with the rest of the Consent Agenda.
- 1.3.8.3 Any item may be pulled by a Council Member for discussion. A member of the public may request the Council to pull an item for discussion, but the discretion to pull that item will remain with the Council.

- 1.3.8.4 Pulled items shall be heard at the close of the Consent Agenda, unless a majority of the Council chooses another time.

### **1.3.9 NOTICED PUBLIC HEARINGS**

During the pendency of any Public Hearing that is a quasi-judicial proceeding, no Council Member or Planning Commissioner shall engage in an *ex parte* communication with any "Interested Party" who intends to influence the decision of the Council or Commission in a proceeding, unless the Council Member or Commissioner discloses the *ex parte* communication in the Council or Commission's record. "Interested Party" means any individual with an interest in the quasi-judicial proceeding that is greater than the general interest of the public as a whole. The term includes, but is not limited to, parties involved in the proceeding, parties that may be significantly affected by the decision, and nonprofit or public interest organizations and associations with a special interest in the matter regulated. A member of the public at large who expresses a casual or general opinion about a pending proceeding would not necessarily be an "Interested Party."

Matters which are required to be heard in a noticed Public Hearing shall be conducted in the following manner:

- 1.3.9.1 Time for Consideration. Matters noticed to be heard by the City Council shall commence no earlier than the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.
- 1.3.9.2 Continuance of Hearing. Any hearing being held or noticed or ordered to be held by the City Council may, by order or notice of continuance, be continued or re-continued to any subsequent meeting.
- 1.3.9.3 Conduct of Hearings. When a matter for Public Hearing comes before the City Council, the Presiding Officer may:
  - 1.3.9.3.1 Call for a report on noticing from the City Clerk.
  - 1.3.9.3.2 Call for a report on written communications received by the City pertaining to the item being heard.
  - 1.3.9.3.3 Request that staff present the staff report and any other relevant evidence. Presentation of the staff report prior to the formal opening of the Public Hearing shall not prevent its consideration as

evidence. Any such evidence shall be made a part of the record of the Public Hearing.

The Presiding Officer shall then recognize the proponents or appellants in the cause, who shall be permitted 10 minutes to present evidence related to the matter under consideration.

The Presiding Officer shall then recognize members of the public. No person may speak without first being recognized by the Presiding Officer. City Council Members who wish to ask questions of the speakers or each other during the Public Hearing may do so. Council Members should be mindful the purpose of the Public Hearing is to obtain testimony, and not to debate the merits of the item under consideration. Council Members should avoid debate and expressions of personal opinion until after the close of the public testimony portion of the Public Hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons. For Public Hearings, when 10 or more members of the public desire to speak, the Presiding Officer may request speaker slips to be completed and delivered to the Clerk before the item is considered. Comments shall then be allowed first by those submitting a slip and in the order received by the Presiding Officer. Comments from the public shall be limited to three minutes per speaker for Public Hearings, unless the City Council affirmatively decides otherwise. For Public Hearings that have the potential to be appealed to the California Coastal Commission, members of the public who desire to receive notice of any further proceedings shall write their name and address on the interested parties list at the back of the room.

The Presiding Officer shall then close the public testimony portion of the Public Hearing. Council Members may still, however, ask questions of staff or members of the public. Upon conclusion of Council deliberations and immediately prior to a motion, the Presiding Officer shall formally close the public hearing, which can be accomplished by the Presiding Officer declaring the matter is being brought back to the Council for discussion or other manner to clearly indicate the hearing portion of the matter has concluded. Upon formal closing of the public hearing, no additional public testimony shall be solicited or received without reopening the hearing.

- 1.3.9.4 Evidence. All persons interested in the matter being heard by the City Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence

presented shall be retained by the City Clerk or appropriate City department, as part of the official record of the proceeding. Prior to declaring the public hearing open, the Presiding Officer may establish a time limit for the entire public hearing, and establish time limits for the presentation of each individual speaker.

**1.3.10 CLOSED SESSION MEETINGS** (closed to the public)

1.3.10.1 Closed Session Meetings may be called by the majority of the Council and are regulated pursuant to the Brown Act. The most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the City or compromise the privacy interests of employees. Closed sessions should be conducted keeping those narrow purposes in mind.

1.3.10.2 No Council Member, employee of the City, or anyone else present shall disclose to any person the content or substance of any discussion which takes place in a closed session, unless authorized by a four-fifths vote of the Council.

**1.4 MEETING COVERAGE**

The purpose of cablecasting meetings of the Morro Bay City Council is to enhance the awareness and education of the general public regarding the actions and deliberations of the City Council.

1.4.1 Coverage of City Council meetings shall be gavel-to-gavel; whether presented to the public live or taped, Council coverage is not to be edited or subjected to editorial comment.

1.4.2 All City Council meetings shall be cablecast or taped for broadcast, except for meetings or portions of meetings which are closed to the public, or when the majority of the Council directs otherwise.

1.4.3 Cameras used for the gavel-to-gavel coverage shall be operated only by City employees, firms, or persons authorized by the City.

1.4.4 Cameras shall be operated so that they are primarily focused on the officially recognized speaker, and on any visually displayed information they may be showing.

1.4.5 “Reaction” shots will not be permitted.

1.4.6 The City Clerk's minutes shall remain the official record of Council proceedings.

**CHAPTER TWO**  
**COUNCIL SALARY, BENEFITS AND REIMBURSEMENTS**

Council salary, financial benefits and reimbursements are established by Council action and in conformance with State law. The MBMC and duly adopted and effective resolutions. Below is a description of the same, but may not include all that are applicable.

**2.1 SALARIES FOR MAYOR AND COUNCIL MEMBERS**

Compensation for services rendered by the Mayor and Council Member, in an official capacity, shall be provided in accordance with State law and the MBMC.

**2.2 RETIREMENT, MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**

The Mayor and Council Members are required to participate in P.A.R.S. retirement. The City shall pay a contribution to P.A.R.S. equal to 1% of salary. The City shall pay, in full, the cost of the Mayor's and Council Members' participation in lowest cost medical plan (self-only), dental, vision, and life insurance.

**2.3 PROFESSIONAL DEVELOPMENT**

The Mayor and each Council Member shall be reimbursed for normal and customary business expenses as follows:

**2.3.1 BUSINESS TRAVEL EXPENSE AND CONFERENCE REGISTRATION**

The Mayor and each Council Member shall be reimbursed for normal and incidental expenses and for costs of professional development and educational conferences designed to improve understanding of and proficiency in municipal affairs. Such reimbursement shall be for out-of-county expenses only and shall be reimbursed in accordance with accepted City Travel Guidelines.

2.3.1.1 Authorized Expenses. City funds, equipment, supplies (including letter head), titles, and staff time must only be used for authorized City-business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this section are met:

- Communicating with representatives of regional, state and national government on City-adopted positions.
- Attending educational seminars designed to improve official's skill and information levels.

- Participating in regional, state and national organizations whose activities affect the City's interests.
- Recognizing service to the City (i.e. thanking a longtime employee with a retirement gift or celebration of nominal value and cost).
- Meetings such as those listed above for which a meeting stipend is expressly authorized under this section.

All other expenditures require prior approval by the City Council, including international and out-of-state travel.

2.3.1.2 Expenses Not Eligible for Reimbursement.

- The personal portion of any trip.
- Political or charitable contributions or events.
- Family expenses, including partner's expenses, when accompanying official on City-related business.
- Entertainment expenses, including theater, movies, sporting events (including gym, massage and/or golf related expenses) or other cultural events.
- Alcohol/personal bar expenses.
- Except as provided in 2.4.2 and .3, personal automobile expenses.
- Personal losses incurred while on City business

**2.4 CITY BUSINESS AND MILEAGE REIMBURSEMENT**

The Mayor and each Council Member shall be reimbursed as follows:

**2.4.1 CITY BUSINESS**

For costs incurred in connection with official City business, the Mayor and Council Members shall be reimbursed for in-county expenses, including meals, tickets, periodicals, dues, subscriptions, and similar miscellaneous expenses, if receipts for those expenses are provided.

**2.4.2 MILEAGE**

For official travel within the County of San Luis Obispo, reimbursement shall be made upon submittal of an official mileage expense form.

**2.4.3 TRANSPORTATION**

When attending conferences or meetings that are of such distances it is more economical to take commercial air fare, if an official drives his/her car to such meetings, then commercial air fare will be paid and not automobile mileage. Government and group rates must be used when available.

- 2.4.3.1 Airfares that are reasonable and economical shall be eligible for purposes of reimbursement.
- 2.4.3.2 Automobile mileage is reimbursed at IRS rates in effect at the time of travel. Those rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls which are also reimbursable.
- 2.4.3.3 Car Rental rates that are reasonable and economical shall be eligible for purposes of reimbursement.
- 2.4.3.4 Taxi and shuttle fares may be reimbursed, including a 15% gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

#### **2.4.4 LODGING**

Lodging expenses will be reimbursed or paid for when travel on official City-business reasonably requires an overnight stay. If such lodging is in connection with a conference, then lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, then reimbursement at the IRS rate in effect at the time of travel shall apply.

#### **2.4.5 MEALS**

Actual expenses shall be reimbursed subject to the maximum per diem for the mean as set by the IRS rate in effect at the time of travel. (Cal. Gov't. Code 53232.2) and Publication 1542 at [www.irs.gov](http://www.irs.gov) or [www.policyworks.gov/per diem](http://www.policyworks.gov/perdiem).) The City will not pay for alcohol/personal bar expenses.

#### **2.4.6 MISCELLANEOUS EXPENSES**

Officials will be reimbursed for actual telephone, fax, and parking expenses incurred for City-business. Telephone bills should identify which calls were made for City-business.

#### **2.4.7 CASH ADVANCE POLICY**

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten working days prior to the need for the advance with the following information:

1. The purpose of the expenditures.
2. The benefits of such expenditures to the residents of the City.
3. The anticipated amount of the expenditures(s) (for example, hotel rates, meal costs, and transportation expenses).
4. The dates of the expenditure.

Any unused advance must be returned to the City within five working days after the official's return, along with an expense report and receipts documenting how the advance was used. In the event the City Manager is uncertain as to whether a request complies with this policy, the official must seek resolution from the City Council.

#### **2.4.8 CREDIT CARD USE POLICY**

The City issues credit cards to individual office holders for selected City expenses. City office holders may use the City's credit card for City-business-related purposes such as airline tickets, hotel reservations and meals by following the procedures for cash advances. Receipts documenting expenses incurred on the City credit card and compliance with this section must be submitted within ten working days after use. Credit cards may not be used for personal expenses, even if the official subsequently reimburses the City. The City encourages use of the City credit card for allowable expenses rather than seeking reimbursement for payments made for those expenses.

#### **2.4.9 EXPENSE REPORT CONTENT AND SUBMISSION DEADLINES**

All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the City. That form shall include the following advisory:

“All expenses reported on this form must comply with the City's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability. “

Expense reports must document that the expense in question met the requirements of this Policy. Officials must submit their expense reports within 10 working days after an expense has been incurred, accompanied by receipts documenting

each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation within 10 calendar days after travel may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging or travel, the non-attending official shall submit a written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision of the City Manager may be appealed to the City Council.

#### **2.4.10 REPORTS TO CITY COUNCIL**

At the next regular City Council meeting, the Mayor and City Council shall briefly report on the meetings attended by that person at City-expense. If multiple officials attended, then a joint report may be made.

#### **2.4.11 COMPLIANCE WITH LAWS; VIOLATION**

City officials should keep in mind some expenditures may be subject to reporting under the Political Reform Act and other laws. All City expenditures are public records subject to disclosure under the Public Reports Act and other applicable laws. Use of public resources or falsifying expense reports is a violation of this Policy and may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the City's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

### **2.5 GENERAL PROCEDURES AND LIMITATIONS**

Appropriate budgetary practices and accounting controls shall be established to ensure expenditures and reimbursements are in compliance with approved budget allocations. The Mayor and each Council Member is expected to plan business activities so as to stay within budget. When exceptional circumstances require additional amounts be allocated to accounts, formal Council action shall be required.

#### **2.5.1 ACCOUNTING**

An account shall be established in the name of the Mayor and each Council Member with all expenditures charged to the individuals. Receipts shall be submitted within the fiscal year.

#### **2.5.2 REIMBURSEMENT LIMITATION**

The City's adopted Travel Guidelines shall govern all expenditures for non-local professional development and conferences. Those guidelines include all non-local official meals, tuition or fees, transportation to meeting sites, materials and telephone usage.

### **2.5.3 SPECIAL EXPENSES**

For occasions when the Mayor or a Council Member is designated by the City Council to represent the City at special meetings, reimbursement shall be made from the appropriate Travel Expense Account.

### **2.5.4 HONORARIUM**

If the Mayor or a Council Member receives an honorarium as a result of his/her participation in a meeting or conference, then the amount of the honorarium shall be deducted from the amount normally provided by the City for that meeting or conference if the City paid for the Mayor or Council Member's attendance at such meeting or conference.

### **2.5.5 OTHER GUIDELINES**

Any other travel-related issue not specifically governed in this resolution shall be adjudicated in accordance with the City of Morro Bay Travel Expense Reimbursement Policy.

**CHAPTER THREE  
COUNCIL POWERS & APPOINTMENTS**

**3.1 MAYOR - POWER AND DUTIES**

- 3.1.1 The Mayor shall preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor shall be entitled to, and must vote when present, but shall possess no veto power.
- 3.1.2 The Mayor shall be recognized as the official head of the City for all ceremonial purposes.
- 3.1.3 The Mayor may order flags flown on City property to be lowered to half-staff in mourning for any member of the community designated to have made significant contributions to the City of Morro Bay, in accordance with recognized customs or practices not inconsistent with State and Federal law.
- 3.1.4 The Mayor is authorized to sign letters of appreciation to persons and organizations. Copies of those signed letters shall be provided to the Council Members, as soon as feasible.
- 3.1.5 The Mayor will, at times, receive written communications from recognized organizations or entities whose fundamental purpose is to support cities, such as the League of California Cities. Those communications may be seeking City support for a position the League is taking. Because of the often short time limits for submitting responses to those communications, the Mayor is authorized, at no cost to the City to submit the requested communication consistent with the subject entity's recommendation. A copy of that letter will be provided to the Council. Any Member of the Council can request an agenda item be placed on an upcoming agenda to discuss that communication. The Council can also determine whether to admonish the Mayor for not carrying out the intent of this provision.
- 3.1.6 When the Mayor is a member of another legislative body, he/she may take actions on matters before that other body as she/he determines appropriate, as long as she/he makes it clear his/her position is that of the Mayor and not the entire City or Council, unless, at a duly agendized public meeting, a majority of the Council has provided direction on the position the Mayor is to take on a matter
- 3.1.7 The Mayor shall exercise such other powers and perform such other duties as may be prescribed by law or ordinance or by resolution of the Council, except as limited by law.

### **3.2 APPOINTMENT OF MAYOR PRO TEMPORE**

The appointment of the Mayor Pro Tempore shall be for a one-year term and shall be made at the first meeting in January. For appointment as Mayor Pro Tempore, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Mayor Pro Tempore. If there are two Council Members who have not yet held the position, then the Council Member receiving the highest number of votes in the most recent election shall be appointed Mayor Pro Tempore. If all have held the position, then the Council Member who has held it the least number of times shall be appointed Mayor Pro Tempore. If all Council Members have held it for the same number of years, then the Council Member for whom it has been the longest period of time since holding the position shall be appointed Mayor Pro Tempore.

### **3.3 FILLING COUNCIL VACANCIES**

#### **3.3.1 SPECIAL ELECTION**

Measure “R” codified as Ordinance 527 requires the City Council to immediately call a special election to fill any vacant seat on the Council, including the Mayor’s seat. The special election shall be held on the next established election date, as specified in California Elections Code, which is not less than 114 days from the call of the special election. The City Council may appoint an elector who is a registered voter in the City of Morro Bay to fill such vacancy prior to the special election. The appointee shall hold office only until the date of said special election. (Reso. 76-08)

#### **3.3.2 LIMITATION OF COUNCILMEMBER WHO RUNS FOR MAYOR BEFORE COMPLETING REGULAR TERM**

A sitting Council Member is disqualified from nomination for election to the office of Mayor in the next election if the remainder of their Council term after the next election cannot be filled by a vote of the electors on or prior to that election date.

### **3.4 GENERAL POWERS OF THE COUNCIL**

Subject to the provisions of law and the delegation of power to any person, officer, Board, or Commission, the Council shall have the power in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and that are not specifically forbidden by the Constitution and laws of the State of California.

### **3.5 ADMINISTERING OATHS: SUBPOENAS**

Each Member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State.

### **3.6 LIMITATIONS**

No Member of the Council shall be appointed to or serve as a voting Member of any City Board, Committee, or Authority, whether composed of citizen volunteers, City employees, or a combination of both. This is not to be construed as prohibiting Members of the Council from serving on Committees or Subcommittees of the Council itself, or of agencies representing other local, state or federal government.

### **3.7 METHOD OF ACTION BY COUNCIL**

All action by the Council shall be taken only by means of ordinance, resolution, or oral motion duly made and passed.

Ordinances shall become a part of the MBMC and so remain until amended or voided. All municipal laws relating to taxation or to possible criminal action against an offender shall be in the form of ordinances.

Resolutions shall be serially numbered and filed sequentially in the office of the City Clerk.

Oral motions shall be recorded only in the minutes of any regular or special meeting of the Council.

### **3.8 ORDINANCES**

The consideration and adoption of ordinances shall be in accordance with relevant state law. Ordinances not legally required to have a public hearing shall be set for a public hearing if the subject matter is controversial or of a special nature. In addition, a majority of the City Council may direct the consideration of an ordinance will be set for public hearing.

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three Members of the Council.

### **3.9 ACCEPTANCE OF GRANTS OR DEEDS**

The Mayor and Mayor Pro Tempore of the City of Morro Bay are hereby authorized to accept and consent to the recording of any deed or grant conveying any interest in or easement upon real property to the City of Morro Bay.

### **3.10 LEGISLATIVE ACTION PROGRAM**

The City has a legislative program to strengthen local government, promote City goals, and defend the City against legislative actions by state and federal governments that would weaken local government or take away traditional revenue sources. In order to respond promptly and proactively to fast-paced legislative changes, City staff is authorized to take positions on legislation provided the positions are consistent with the Legislative Actions of the City Council, or resolutions or recommendations of the League of California Cities.

### **3.11 AMICUS CURIAE PARTICIPATION**

The City is frequently requested to join as *amicus curiae* (friend of court) in cases of statewide significance to cities. Because of the often short time limits for filing *amicus curiae* briefs, the City Attorney may authorize the City's name being added to such briefs, at no cost to the City, if the Legal Advisory Committee of the League of California Cities has urged participation.

### **3.12 ACTIONS AS A MEMBER OF ANOTHER LEGISLATIVE BODY**

When a Council Member is a member of another legislative body, he/she may take actions on matters before that other body as she/he determines appropriate, as long as she/he makes it clear his/her position is that of the individual Council Member and not the entire City or Council, unless, at a duly agendized public meeting, a majority of the Council has provided direction on the position that Member is to take on a matter.

## **CHAPTER FOUR THE BROWN ACT AND EMAIL**

### **4.1 APPLICABILITY AND PENALTIES**

The entire City organization conducts its business in compliance with the Ralph M. Brown Act, California Government Code sections 54950 *et seq.* The intent of the Act is to ensure deliberations and actions of local public agencies are conducted in open and public meetings. The law provides for misdemeanor penalties for any members of a legislative body who violates the Act. In addition, violations are subject to civil action. A current copy of the Act will be provided to all Council Members assuming office, but the provisions that most directly affect the Council are summarized in this Chapter.

### **4.2 MAJOR PROVISIONS**

#### **4.2.1 APPLICABILITY**

The Act applies to Council, City staff and all bodies that advise Council.

#### **4.2.2 MEETINGS**

All meetings shall be open and public.

4.2.2.1 A meeting takes place whenever a quorum (three or more) Members are present and information about the business of the board is received; discussions qualify as a meeting.

4.2.2.2 Serial meetings take place when any Member of Council contacts more than one other Council Member for the purpose of deliberating or acting upon an item pending before the City Council (does not apply to the public or media).

4.2.2.3 Correspondence that merely takes a position on an issue is acceptable.

#### **4.2.3 AGENDAS**

Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements.

#### **4.2.4 ACTIONS**

No action shall be taken on any item not appearing on the posted agenda.

Exceptions:

- 4.2.4.1 An emergency situation exists, (determined by a majority of the Council).
- 4.2.4.2 The need to take action arose subsequent to the agenda being posted (determined by 4/5 of the Council or if less than 4/5 are present, then by unanimous vote) and that action must be taken before the next regular Council meeting or special meeting can be scheduled and properly noticed.
- 4.2.4.3 The item was continued to another meeting that was scheduled and posted within five days after the original agenda.

#### **4.2.5 PUBLIC INPUT**

The public has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council. The City has the right to establish time limits on speakers and the total time allocated for a particular issue.

#### **4.2.6 PUBLIC DISRUPTIONS**

A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible;" the press may remain unless they participate in the disruption.

#### **4.2.7 CORRESPONDENCE**

All writings distributed for discussion or consideration at a public meeting are public records. If a member of the public desires written materials to be fully considered by the Mayor and City Council, then that member is encouraged to submit that written material regarding agenda items to the City Clerk a week prior to the Council meeting so that it may be included in the public packet. Written material distributed at the meeting will be made a part of the public record. If the material is too voluminous for the Mayor and Council to review during the meeting or is new material not previously considered, the Council may, at its discretion, continue the item to a future meeting.

#### **4.2.8 CLOSED SESSIONS MAY BE HELD TO DISCUSS:**

- 4.2.8.1 Real Property. The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session. All Real

Property transactions shall be held in closed session prior to final decision in open session and Council shall be provided with a copy of the draft real property agreement.

- 4.2.8.2 Litigation pending or a significant exposure to litigation, or the decision to initiate litigation; the litigation or title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiation or effectuate service of process.
- 4.2.8.3 Compensation (salaries and benefits) of employees; to review its position and instruct designated representatives.
- 4.2.8.4 Personnel. The appointment, employment, evaluation of performance, or dismissal, of a public employee, or to hear complaint against the employee, unless the employee requests a public hearing.

#### **4.3 SPECIAL MEETINGS**

Special Meetings may be called by the Mayor or a majority of the Council, with strict notification requirements delivered to the media and Council 24 hours before the time of the meeting.

#### **4.4 EMERGENCY MEETINGS**

Emergency meetings may be called without the normal 24-hour notice and posting requirements if prompt action is required due to the disruption or threatened disruption of public facilities. Only work stoppages, crippling disasters or other activities that severely impair the public health and/or safety qualify for emergency meetings.

#### **4.5 ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT AND THE BROWN ACT**

City email is no less a part of “official city business” than any other written correspondence, and there is no expectation of privacy for City email messages. Good judgment and common sense should therefore prevail at all times regarding its appropriate use.

City email is subject to disclosure under the Public Records Act and is subject to the requirements of the Brown Act. While the Brown Act does not prohibit the use of email to make individual contacts between Members of the Council, or the public or staff, great care should be taken to avoid the use of email to contact a majority of the Council, either individually or serially, “in a connected plan to engage in collective deliberation on public business.”

City email should not be used in any case where a record of any event, occurrence or statement is required or intended to be retained by the City in the ordinary course of business. City emails are intended to fulfill the same general function as ordinary daily verbal communications among City Council and City staff and are considered “transitory” documents (work-in-progress), and therefore are not subject to records retention requirements. For file management and storage purposes, City email messages should only be retained for as long as needed. In most instances this means deleting messages as you have read them, and shortly after you have sent them.

If an email message, including any attachments thereto, is considered an official city record, then such emails should be printed as a hard copy and filed in accordance with the City’s records retention policy. Generally, the sender of the email should be the person responsible for printing and filing it accordingly, but persons responsible for a particular program or project file shall be responsible for retaining all e-mail they send or receive related to that program or project.

It is the responsibility of individual City Council Members, employees and their department heads to determine if email is an official City-record that must be retained in accordance with the City’s record retention policy. The City Attorney will assist in making such a determination. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of business are generally not considered to be official City records subject to disclosure. City Council Members and employees are encouraged to delete documents that are not otherwise required to be kept by law or whose preservation is not necessary or convenient to the discharge of your duties or the conduct of the city’s business.

Periodically, the City receives requests for inspection or production of documents pursuant to the Public Records Act, as well as demands by subpoena or court order for such documents. In the event such a request or demand is made for e-mail, the City Council Members or employees having control over such e-mail, once they become aware of the request or demand, shall use their best efforts, by any reasonable means available, to temporarily preserve any e-mail that is in existence until it is determined whether such e-mail is subject to preservation, public inspection or disclosure. The City Clerk shall be contacted regarding any such emails within the City Council Member or employee’s control.

#### **4.6 OTHER PROVISIONS**

The Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Since State law constantly changes, it is important to ensure you have the latest information. Please check with the City Attorney and/or the City Clerk for more information.

**CHAPTER FIVE  
COUNCIL/STAFF RELATIONSHIPS AND CONDUCT**

**5.1 INTENT**

The City Council as a whole retains full power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, workloads and schedules, departmental priorities, and the conduct of City business.

This chapter addresses the relationship and conduct between the Mayor and Council Members and staff with the intent of the Mayor and Council to: 1) affirm governing shall be by will of the collective Council, and 2) establish guidelines for Mayor, Council and staff to ensure orderly, consistent and open City government.

**5.2 GUIDELINES FOR COUNCIL MEMBERS**

The Mayor and Council shall recognize the primary functions of staff are to execute Council policy and actions taken by the Council, and to keep the Mayor and Council informed.

**5.2.1 REQUESTS FOR INFORMATION**

The Mayor, individual Council Members, as well as the Council as a whole, shall be permitted complete freedom of access to any information requested of staff, and shall receive the full cooperation and candor of staff in being provided with any requested information, when the law allows that access.

The Mayor and Council Members shall make routine requests for information through the appropriate department head, who shall then advise the City Manager of such requests. Complex or comprehensive requests for information shall be made through the City Manager.

**5.2.2 DIRECTION TO STAFF**

The Mayor and Council Members shall make requests for work to be done by City staff through the City Manager. The Mayor and individual Council Members shall make no attempt to pressure or influence staff decisions, recommendations, workloads, schedules and departmental priorities, except as part of budgetary and goal setting priority sessions and with approval of the Council as a whole.

### **5.3 GUIDELINES FOR STAFF**

Staff shall recognize its primary function is to execute Council policy and to keep the Mayor and Council informed. Staff shall present the Mayor and Council with all relevant information, as well as alternatives, in an objective, succinct manner. The City Manager and staff are committed to treating the Mayor and each Council Member equally.

#### **5.3.1 TIMELY RESPONSE**

City staff will make every effort to respond in a timely and professional manner to all requests made by the Mayor and individual Council Members for information or assistance; provided, that in the judgment of the City Manager the request is legally permitted (after consultation with the City Attorney) and not of a magnitude, either in terms of workload or policy, which would require that it more appropriately be assigned to staff through the collective direction of the City Council. In terms of making that judgment, the following guidelines should be considered: The request should be specific and limited in scope so staff can respond without altering other priorities and with only minimal delay to other assignments; the request should only impose a "one-time" work requirement, as opposed to an on-going work requirement; and the response to the request should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person, or a single staff person working on the issue in excess of 1-2 hours).

#### **5.3.2 DIRECTION FROM COUNCIL**

Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management superiors as may be the case. Staff is directed to reject any attempts by the Mayor or individual Council Members to unduly influence or otherwise pressure them into making, changing or otherwise suppressing staff decisions or recommendations, or changing departmental work schedules and priorities. Staff shall report such attempts to influence them in confidence to the City Manager, who may inform the Council as a whole of such attempts.

#### **5.3.3 STAFF SUPPORT TO INDIVIDUAL COUNCIL MEMBERS**

An exception to the above guidelines may be staff work required in support of a Council Member designated by the City Council to represent the City in an intergovernmental role (e.g., Membership on Joint Powers Authority), or relative to a special assignment (e.g., a special task force).

### **5.3.4 INFORMATION DISTRIBUTION**

In cases where a staff response to the Mayor or an individual Council Member request involves written material, the City Manager will provide copies of the material to all other Council Members.

### **5.3.5 SIGNIFICANT INFORMATION**

Any information, service-related needs, or policy positions perceived as necessary by the Mayor or individual Council Members, which cannot be fulfilled per the above guidelines, should be raised by the Mayor or individual Council Member under the "Declaration of Future Agenda Items" category of a regularly scheduled City Council meeting. If so directed by the collective action of the Council, then staff will proceed to complete the work within Council established deadlines.

## **5.4 USE OF CITY LETTERHEAD**

Staff will not prepare correspondence representing the Mayor or a Councilmember's personal point of view or a dissenting point of view from an official City policy or Council position. If a Councilmember uses her/his title, position, or City letterhead to express a personal opinion, then the letter shall state "I am writing this letter on behalf of myself" and, the official City position must also be stated clearly so the audience understands the difference/relationship between the official City position and the viewpoint of the Mayor or that Councilmember. If a letter is written on behalf of the majority of the City Council, then the letter shall state "I am writing this letter on behalf of the City Council." A copy of any and all correspondence developed by or for the Mayor or a Councilmember on City letterhead shall be provided to the City Manager and the entire City Council.

**CHAPTER SIX  
ADVISORY BOARD PROCEDURES**

**6.1 COUNTY OR REGIONAL REPRESENTATION**

Annually, the Mayor shall make appointments to a variety of County and/or regional committees and boards. One Member of the Council shall serve as a voting representative and one Member shall serve as alternate. (See 6.5 for appointment procedures). To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.

**6.2 OTHER COUNCIL REPRESENTATION, SUBCOMMITTEES**

**6.2.1 COUNCIL LIAISON ASSIGNMENTS**

The City Council shall assign a Council liaison to each of the following advisory boards: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, and Tourism Business Improvement District Advisory Board.

The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members should either attend advisory body meetings or watch the meeting broadcasts and maintain communication with the advisory body on a regular basis.

Council Members should be sensitive to the fact they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and the advisory body. In interacting with advisory bodies, Council Members are to reflect the views of the Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.

**6.2.2 OTHER COUNCIL SUBCOMMITTEES**

Council may establish subcommittees of no more than two members to address areas of concern and study.

## **6.3 ROLE OF ADVISORY BOARD MEMBERS AT COUNCIL MEETINGS**

### **6.3.1 INTENT**

To honor advisory board deliberations, views and positions on issues before Council; enhance communications between Council and their advisory bodies; and allow participation and input by advisory board members.

### **6.3.2 COUNCIL AGENDA REPORTS**

6.3.2.1 Recommendation Differences. For those rare occasions when the City Manager recommendation differs from an advisory board recommendation, the difference should be clearly noted.

### **6.3.3 COUNCIL MEETINGS**

6.3.3.1 Members of an advisory board are free to appear and give testimony before Council using the public microphone, after identifying whether they are speaking as a representative of the advisory board or as a private citizen and if as a representative of the board, then whether that appearance had been requested by the board.

6.3.3.2 Reports to Council must be in written form.

6.3.3.3 Advisory boards will provide quarterly written or oral reports to the City Council on a rotating member basis.

## **6.4 ROLE OF CITY STAFF PERSONS**

Staff support and assistance may be provided or made available, but advisory bodies do not have supervisory authority over City employees. While they may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately to the City Manager, who is responsible to the Council. The members are responsible for the constructive participation with the advisory board and the chairperson is responsible for committee compliance with applicable policies and procedures.

Staff support includes preparation of a summary agenda in conjunction with the Chairperson, and preparation of agenda reports providing a brief background of the issue, a list of alternatives, recommendations, and appropriate backup material, if necessary. Members of advisory bodies are volunteers and should be treated with respect and courtesy. Advisory board members should have sufficient information to reach decisions based upon a clear explanation of the issues within their charge. Sometimes members of advisory bodies may request

information not related to their area of service. Staff members should, in that case, provide the same level of information and assistance as would be accorded any citizen. If in the judgment of staff the request goes beyond that standard, then the matter will be turned over to the City Manager. A staff person will be assigned to serve as Secretary, taking minutes as needed.

It is important advisory bodies wishing to communicate with the City Council do so through adopted or approved Council agenda procedures. Staff members shall assist the advising board to insure appropriate review and that City and State legislation is complied with.

## **6.5 APPOINTMENT PROCEDURES**

The following procedures shall be the policy of the City Council in regard to appointment of volunteer citizens to the various advisory bodies of the City.

### **6.5.1 PURPOSE**

The purpose of establishing these procedures shall be to insure well-qualified, responsible and willing citizens are given the opportunity to serve the City and participate in the governing of their community. These procedures will apply to all appointments and reappointments to standing advisory bodies.

## **6.6 PROCESS**

### **6.6.1 QUALIFICATIONS**

6.6.1.1 The applicant must be a resident and registered voter of the City at the time and during the entire term of appointment, unless excepted by State law or Council approved special requirements in advisory committee by-laws.

6.6.1.2.1 The applicant must be at least 18 years of age at the time of appointment; provided, that the Council may appoint one area high school student to an advisory board, if allowed by the Advisory Board By-Laws and they meet the other qualification requirements.

6.6.1.2.2 Elected Officials, Officers and Employees of the City of Morro Bay shall not be considered for appointment, unless otherwise approved unanimously by the City Council.

## **6.6.2 TERMS**

- 6.6.2.1 The term of office for each appointee to an advisory board shall be a maximum of four years unless excepted by State law or Council approved special requirements in advisory committee by-laws. The terms are staggered so that in no event, will all terms on any committee expire in the same year. Incumbents may apply for subsequent terms of service. Terms of Office will expire on January 31, of the specified year.
- 6.6.2.2 Persons appointed to fill the remainder of a vacated office term may reapply to serve on the same advisory board.
- 6.6.2.3 Mid-term appointment to a vacant seat shall not preclude the appointee from serving additional terms.
- 6.6.2.4 As a general policy, an applicant shall not be appointed to serve on more than one advisory board, except that a member may also serve on one technical or special-purpose committee at the same time. If appointed to another committee, then he/she will be expected to resign from one board upon being appointed to another.

## **6.6.3 PROCESS**

- 6.6.3.1 Applications are obtained and filed with the City Clerk's Office.
- 6.6.3.2 Prior to November 30, of each year, the City Clerk shall advise the City Council of the terms that are due to expire on each advisory board. The City Clerk shall also notify each advisory member whose term is due to expire. Each of these members shall be given the opportunity to apply for reappointment.
- 6.6.3.3 The City Clerk shall then place an advertisement in the local newspaper, inviting citizens to apply for consideration as an appointment to an advisory board, with instructions regarding the application process.
- 6.6.3.4 It is recommended that applicants attend at least one meeting of the advisory body applied for prior to the interview with the City Council.
- 6.6.3.5 The City Council shall, in a noticed public meeting, interview qualified applicants. In making appointments, the Council shall strive for a representative cross-section of both lay and

professional knowledge. The Council will act by separate motion on each appointment made.

6.6.3.6.1 Applicants not appointed will be advised and their applications held for up to one year for consideration in the event of a future vacancy.

6.6.3.6.2 Candidates not appearing for interview before the City Council will be considered for appointment only upon a finding of the City Council by motion the absence arose from excusable neglect or personal difficulties.

CITY OF MORRO BAY  
ADVISORY BOARDS  
HANDBOOK  
AND  
BY-LAWS

Date: January 10, 2017

Approved by Resolution 02-17

### *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 1<sup>st</sup>, 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 1<sup>st</sup> 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 from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

## **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 1<sup>st</sup> 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 from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

## **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 1<sup>st</sup> 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. Unless otherwise approved in accordance with Council Policies and Procedures, section 6.6.1, each member must (i) be at least 18 years of age at the time of appointment and (ii) not be an Elected Official, Officer, or Employee of the City of Morro Bay. (See Council Policies and Procedures, Section 6.6.1.)

## **ABSENCE FROM MEETINGS**

Absence from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

## **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 from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

## **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 from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

## **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 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 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 31<sup>st</sup> 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 from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

## **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.

**RESOLUTION NO. 53-14**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
MODIFYING THE MAKE UP OF THE WATER RECLAMATION FACILITY  
CITIZEN'S ADVISORY COMMITTEE (WRFCAC)**

**The City Council  
City of Morro Bay, California**

**WHEREAS**, it has been determined to be in the interest of the public to form a citizens advisory committee for the new Water Reclamation Facility; and

**WHEREAS**, on May 27, 2014, the City Council adopted Resolution 34-14 forming that advisory committee (now referred to as "WRFCAC") to be composed of one member from the Public Works Advisory Board and one member from the Planning Commission as appointed by those bodies and five members and two alternates to be selected from the community at-large; and

**WHEREAS** on July 7 and 8, 2014, the City Council conducted interviews of 16 applicants to fill vacancies on the newly formed WRFCAC and appointed five members and two alternates to that committee; and

**WHEREAS**, at the meeting of July 8, 2014, the City Council expressed its desire to eliminate WRFCAC alternates and appoint seven full members.

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

1. WRFCAC is to be composed of one sitting member from the Public Works Advisory Board and one sitting member from the Planning Commission, as appointed by those bodies, and seven members selected from the community at-large to be appointed by City Council.
2. The initial City Council appointments to WRFCAC are:
  - Planning Commissioner: Richard Sadowski
  - Public Works Advisory Board Member: Steven Shively
  - At large member: Barbara Spagnola
  - At large member: Bill Woodson
  - At large member: Dale Guerra
  - At large member: John Diodati
  - At large member: Mary (Ginny) Garelick
  - At large member: Paul Donnelly
  - At large member: Valerie Levulett

3. Changes in the above appointments to WRFCAC can be ratified or approved by motion of the City Council without the need for adoption of a new resolution.

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

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

  
\_\_\_\_\_  
Jamie L. Irons, Mayor

ATTEST:

  
\_\_\_\_\_  
Jamie Boucher, City Clerk

**RESOLUTION NO. 34-14**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
REGARDING THE SITING OF A NEW WATER RECLAMATION FACILITY  
AND FORMATION OF A TECHNICAL REVIEW COMMITTEE**

THE CITY COUNCIL  
City of Morro Bay, California

**WHEREAS**, the City of Morro Bay has an existing Wastewater Treatment Plant that requires replacement; and

**WHEREAS**, it has been determined to be in the best interest of Morro Bay to construct a new Water Reclamation Facility that complies with the California Coastal Commissions actions of January 8, 2013; and

**WHEREAS**, it is in the best financial interest of the community to minimize the major maintenance and repair costs at the existing wastewater treatment plant; and

**WHEREAS**, on February 25, 2014, City Council adopted Resolution 17-14 committing to have a new Water Reclamation Facility operational prior to the expiration of the discharge permit for the existing wastewater treatment plant, being five years more or less, and

**WHEREAS**, on May 13, 2014, the City Council received and reviewed the report from John F. Rickenbach Consulting regarding recommended Water Reclamation Facility (WRF) sites and reclamation.

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

**SECTION 1:** The City Council provides the following direction to City staff:

- A. Begin preliminary discussions with the “Rancho Colina” property owner and regulatory agencies regarding site of a WRF on that property; and bring back to City Council a draft Memorandum of Understanding with the property owner that addresses the goals of each party, a negotiation timeline and general non-financial terms of the property acquisition.
- B. Continue parallel path discussions with County and regulatory staff regarding a WRF at the California Men’s Colony site.
- C. Form a WRF Technical Review Committee (TRC) that will be composed of one member from the Public Works Advisory Board and one member from the Planning Commission as appointed by each body and five members and two alternates to be selected from the community at-large. Council will appoint the at-large and alternate members using the same procedures as it uses to appoint to its standing advisory boards.

D. The City Council has reviewed the report entitled *New Water Reclamation Facility Project Report on Reclamation and Council Recommended WRF Sites* dated May 8, 2014, and will rely on its conclusions and recommendations as this process moves forward, with the understanding changes to those, and that reliance, may need to happen along the way due to more definitive or different information that may become available.

**PASSED, APPROVED, AND ADOPTED**, by the City of Morro Bay City Council, at a regular meeting held on this 27<sup>th</sup> day of May, 2014 by the following vote:

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

  
\_\_\_\_\_  
Jamie L. Irons, Mayor

ATTEST:

  
\_\_\_\_\_  
Jamie Boucher, City Clerk

**RESOLUTION NO. 39-15**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
AUTHORIZING FORMATION OF A GENERAL PLAN/  
LOCAL COASTAL PROGRAM ADVISORY COMMITTEE (GPAC)**

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

**WHEREAS**, the City of Morro Bay has both an outdated General Plan and Local Coastal Program; and

**WHEREAS**, the City Council has adopted the goal of updating and combining the General Plan and Local Coastal Program; and

**WHEREAS**, the City Council authorized preparation of a consultant prepared work plan for the update of General Plan/Local Coastal Program; and

**WHEREAS**, the City is in the process of preparing a Request for Proposal for consultant services to prepare an update of the General Plan/Local Coastal Program; and

**WHEREAS**, on April 14, 2015, the City Council moved to form a General Plan/Local Coastal Program Citizens Advisory Committee (GPAC), and directed staff begin recruitment for that committee to be selected and formed in May 2015; and

**WHEREAS**, following a broad outreach, the City Council held a special meeting on May 18, 2015 to conduct interviews and establish the committee.

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

- A. The GPAC is to be composed of nine members selected from the community at-large, with consideration also given to non-Morro Bay residents with established property or financial interests in the City, to be appointed by the City Council.
- B. The initial City Council appointments to GPAC are:
  - Rich Buquet
  - Robert Davis
  - Jan Goldman
  - Christine Rogers
  - Susan Schneider
  - Glenn Silloway
  - Melani Smith
  - Susan Stewart
  - Robert Tefft

**PASSED AND ADOPTED**, by the City of Morro Bay City Council, at a regular meeting held on this 9<sup>th</sup> day of June, 2015 by the following vote:

AYES: Irons, Headding, Johnson, Makowetski, Smukler  
NOES: None  
ABSENT: None

  
\_\_\_\_\_  
Jamie L. Irons, Mayor

ATTEST:

  
\_\_\_\_\_  
Dana Swanson, City Clerk

**RESOLUTION NO. 18-15**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
COMMITTING TO UPDATING THE CITY'S GENERAL PLAN AND LOCAL  
COASTAL PLAN BY DECEMBER 2017**

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

**WHEREAS**, the General Plan (GP) and Local Coastal Plan (LCP) are the blueprints for the City, they serve as the foundation for planning Morro Bay's future, they are the basis for the preparation of measures and the initiation of actions which guide proper development of the City; and

**WHEREAS**, the City's current GP was certified in 1988, and the City's current LCP was certified in 1982, both documents are sorely overdue for an update; and

**WHEREAS**, in 1997 the City embarked on updating both plans over the course of seven years, and on February 23, 2004 adopted an updated GP/LCP that was submitted to the California Coastal Commission (CCC) for their review and certification; and

**WHEREAS**, in 2008 a City Assessment performed by Management Partners made the number one recommendation to lobby the CCC for an expeditious approval of the City's GP/LCP, suggesting the City explain its grave financial position to the CCC and the need for certainty surrounding land use issues in order to attract investment to the community; and

**WHEREAS**, on February 28, 2011, the City received a letter from the CCC stating the City's 2004 GP/LCP application for certification was deemed withdrawn for lack of activity; and

**WHEREAS**, on April 23, 2013, City Council adopted a goal to update the City's GP/LCP; and

**WHEREAS**, on November 21, 2013, the City was awarded a \$250,000 grant from the Ocean Protection Council, and a \$147,000 grant from the CCC; and

**WHEREAS**, on February 24, 2015, the City Council reaffirmed the goal to update the City's GP/LCP including development and implementation of neighborhood design guidelines, by December 2017; and

**WHEREAS**, on March 24, 2015 a joint meeting between the City Council and Planning Commission reviewed the draft work plan performed by PMC consulting to update the GP/LCP, with an estimated cost to complete the update of between \$806,250 and \$1,590,800; and

**WHEREAS**, the work plan identifies Neighborhood Compatibility as a key issue in Morro Bay and calls for the formation of a citizens advisory committee to play a key role in the GP/LCP update including the development of Neighborhood Compatibility Standards; and

**WHEREAS**, the work plan lays out a timeline, cost, and the necessary steps to update the City's GP/LCP and it informs the public and City Council of the commitment required to achieve a updated GP/LCP; and

**WHEREAS**, the City Council understands in order to meet the City's goal of updating the GP/LCP by December of 2017 it must commit a minimum \$806,250, through all sources, including grants; and

**WHEREAS**, the City Council commits to working collaboratively with the CCC and all agencies to accomplish the update of the GP/LCP; and

**WHEREAS**, the City Council understands the negative effects an outdated GP/LCP has on the City and a new updated GP/LCP would address continued concerns regarding maintaining and improving the quality of life of residents and visitors for the future.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City Morro Bay affirms its desire to commit adequate resources to achieve meeting the City's goal of updating the City's General Plan and Local Coastal Plan by December 2017.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, at a regular city council meeting thereof held on the 14th day of April 2015, by the following vote:

AYES: Irons, Headding, Johnson, Makowetski, Smukler  
NOES: None  
ABSENT: None

  
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JAMIE L. IRONS, Mayor

  
\_\_\_\_\_  
DANA SWANSON, City Clerk

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AGENDA NO: C-2

MEETING DATE: August 22, 2017

## Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** August 2, 2017

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Consideration of Approval of Conditional Consent of Landowner Pertaining to Request for Proposals Award on Lease Site 87-88/87W-88W Located at 833 Embarcadero (Off the Hook) to TLC Family Enterprises

### **RECOMMENDATION**

Staff recommend the City Council consider granting Conditional Consent of Landowner (COL) approval to TLC Family Enterprises (TLC) for their proposal to redevelop Lease Site 87-88/87W-88W after reviewing the updated proposal information from TLC and additional staff analysis of the proposal.

Staff further recommend the City Council provide staff direction regarding management of the lease site after the current lease's expiration in March 2018, as outlined in the conclusion of this staff report.

### **ALTERNATIVES**

1. Do not grant COL approval to TLC, and direct staff to work with Central Coast Investments, Inc. (CCI) on their redevelopment proposal and bring back to a future Council meeting for consideration of COL approval.
2. Do not grant COL approval to TLC, and direct staff to bring back to Council for consideration reissuance of a new Request for Proposals (RFP) should Council wish to take the lease site in a different direction than proposed in either the TLC or CCI proposals.

### **FISCAL IMPACT**

There will be no fiscal impact until the lease site is redeveloped and businesses are operating. Once operational after the TLC-proposed redevelopment in ~2021, it is expected revenues to the Harbor Fund from this site will increase approximately \$80,000 per year from current levels, assuming the lease site performs as-expected. In addition, under the TLC proposal General Fund revenues of ~\$66,000, Measure Q revenues of ~\$9,000 and TBID revenues of ~\$14,000 should be realized.

### **BACKGROUND**

On September 13, 2016, the City Council reviewed and accepted the three proposals received (TLC, CCI and K&C Development) in response to the RFP issued for redevelopment of the subject lease site. Although the proposals were accepted, the proposers were requested by Council to further refine and revise them in terms of inconsistencies with the Waterfront Master Plan and other factors, with a deadline to re-submit.

Prepared By: EE

Dept Review: EE

City Manager Review: MRL

City Attorney Review: JWP

Only two of the three proposers, TLC and CCI, submitted revised proposals. On April 11, 2017, those two proposals were reviewed by the City Council for consideration of COL approval, and there was Council consensus to move forward with the TLC proposal, with staff to bring back a refined proposal, further proposal analysis and recommended COL language to include performance measures and project milestones for Council review and approval.

The minutes to the April 11, 2017 meeting can be found at this link:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/4226>

## **DISCUSSION**

Of primary interest to the City Council on April 11 for a revised proposal and analysis were the following:

1. Addressing any further Council input on building or site design.
2. 10-year proposal financial pro-forma analysis and performance measures.
3. Further vetting of “food court” concept and income assumptions.
4. Further vetting of proposer’s financial backing.
5. Proposer’s contribution to the approved Centennial and Market Plaza concept designs.
6. No phasing of the water lease improvement construction.
7. Performance measures and project milestones in COL document.

Staff received updated financial pro-forma and projection data from TLC, included with this staff report as Attachment 1.

Regarding the numbered Council concern items above, staff analysis is as follows:

**1. Council building/site input.** Community Services Director Scot Graham received no additional Council input on layout, design or other building or site elements.

**2. 10-year pro-forma and performance measures.** Staff have analyzed the updated TLC data, internally estimated revenue scenarios, and ground-truthed data sources.

Regarding revenues, and with input from Finance and Tourism personnel, staff analyzed up to three years of annual percent gross reporting from several like waterfront restaurant, retail and hotel establishments, and boat slip rates, to derive likely expected annual revenues for the proposed TLC project based on use square footages in the TLC proposal. The staff-derived numbers are, of course, only estimations based on likely comparison scenarios from known, established waterfront businesses.

As to the TLC pro-forma revenues, while some of their assumptions and numbers do appear to land outside the mean, overall their totals are not out of reason from what the site would be expected to generate based on staff’s comparators and analysis. To err on the very conservative side, therefore, staff would estimate \$2,000,000 as a sound number to use for total lease revenue potential in the five-year-out range, which accounts for lesser revenues in the early start-up years, and higher revenues as the site matures and reaches full stabilization.

In addition, revenues expected to the City are calculated in the analysis. The chart below is a summation of the staff analysis of the TLC proposal on an **annualized basis**, with all numbers rounded to the nearest whole \$5:

<b>Revenue Source</b>	<b>Staff Analysis</b>	<b>TLC Pro-forma</b>
<b>Minimum Rent</b>	\$37,440 <sup>1</sup>	\$38,000
<b>Retail Sales</b>	\$578,400 <sup>2</sup>	\$578,400 <sup>15</sup>
<b>Retail Percent Rent</b> <sup>3</sup>	\$28,920	\$28,920
<b>Retail Sales Tax</b> <sup>4</sup>	\$5,785 regular \$2,890 Measure Q	\$5,785 regular \$2,890 Measure Q
<b>Restaurant Sales</b>	\$1,116,250 <sup>5</sup>	\$1,353,000 <sup>16</sup>
<b>Restaurant Percent Rent</b> <sup>6</sup>	\$55,760	\$67,650
<b>Restaurant Sales Tax</b> <sup>4</sup>	\$11,160 regular \$5,580 Measure Q	\$13,530 regular \$6,765 Measure Q
<b>Fast Food Window Sales</b>	\$106,530 <sup>7</sup>	(included in restaurant sales)
<b>Fast Food Percent Rent</b> <sup>8</sup>	\$5,325	-
<b>Fast Food Sales Tax</b> <sup>4</sup>	\$1,065 regular \$530 Measure Q	- -
<b>Hotel Sales</b>	\$479,000 <sup>9</sup>	\$421,570 <sup>17</sup>
<b>Hotel Percent Rent</b> <sup>10</sup>	\$23,950	\$21,080
<b>Hotel TOT</b> <sup>11</sup>	\$47,900	\$42,160
<b>Hotel TBID</b> <sup>12</sup>	\$14,370	\$12,650
<b>Slip Rents</b>	\$24,360 <sup>13</sup>	\$19,970 <sup>18</sup>
<b>Slips Percent Rent</b> <sup>14</sup>	\$2,435	\$1,995
<b>Total Annual Lease Site Gross Revenue</b>	<b>\$2,304,540</b>	<b>\$2,170,500</b>
<b>Total Harbor Fund Revenue</b>	\$116,390	\$119,645
<b>Total General Fund Revenue</b>	\$65,910	\$61,295
<b>Total Measure Q Revenue</b>	\$9,000	\$9,655
<b>Total TBID Revenue</b>	\$14,370	\$12,650

Notes:

1. Based on recent waterfront average appraisal data of \$53/ft<sup>2</sup> land, \$26.50/ft<sup>2</sup> water. Subject site square footage: land 6,955, water 3,750, 8% of appraised value.
2. 1,446 square feet of retail space at \$400/ft<sup>2</sup>/year. Comparators: Three similarly situated businesses.
3. At 5% of gross sales.
4. 1% regular City of Morro Bay sales tax, ½% Measure Q sales tax.
5. 2,375 square feet of restaurant space at \$470/ft<sup>2</sup>/year. Comparators: Four similarly situated businesses.
6. At 5% of gross sales.
7. 318 square feet of fast food sales space at \$335/ft<sup>2</sup>/year. Comparators: Two similarly situated businesses.
8. At 5% of gross sales.
9. 7 rooms with \$250 average daily rate (ADR), 75% occupancy.
10. At 5% of gross sales.
11. 10% Transient Occupancy Tax (TOT). TOT amounts are not included in hotel sales or expenses as they are a "pass-through" item.
12. 3% Tourism Business Improvement District (TBID) tax. TBID amounts are not included in hotel sales or expenses as they are a "pass-through" item.
13. Four 35-foot slips at \$14.50/foot/month each (\$507.50/month).
14. At 10% of gross sales.
15. 1,446 square feet of retail space at \$400/ft<sup>2</sup>/year. Comparators: Under the Sea Galleries at 833 Embarcadero (Off the Hook) and 725 Embarcadero (Rose's Landing).
16. Includes total of restaurant and fast food (yoghurt window) sales.
17. 7 rooms with \$275 ADR, 60% occupancy.
18. Four slips at \$416/month each.

Regarding TLC’s projected revenues and expenses as master lessee, and their estimates of each primary business line (retail, restaurant and hotel), again, their estimated revenues fall within a reasonable range of the estimates generated by staff using known waterfront quantities.

Using market data, industry standards and benchmarks, and interviews with waterfront leaseholders, staff have reviewed TLC’s cost assumptions and estimates for the business lines as well. While some of TLC’s estimations do appear to fall outside the mean or accepted benchmarks in some cases, overall it is staff’s conclusion TLC likely derived their data from actual quotes for services, known costs from family-run businesses they have involvement with and/or direct data access to (Harbor Hut/Little Hut, Great American Fish Co. and Taco Temple restaurants, and Under the Sea Galleries in two locations) and interviews of waterfront business owners. Staff believe, therefore, TLC’s overall data appears sound for business planning purposes.

As with all business start-ups, particularly with restaurants and hotels, beginning year revenues and margins are expected to be less than robust as the businesses develop their clientele. These margins would be expected to increase as the various businesses reach maturity and stabilization in ~5-10 years.

An overall summary of the lease site’s annual (year one) performance follows:

<b>Annual Gross Site Revenue</b> 1	\$2,000,000
<b>- Retail Expenses</b>	\$439,120
<b>- Restaurant Expenses</b>	\$1,021,510
<b>- Hotel Expenses</b>	\$325,930
<b>Net Profit Retail, Restaurant, Hotel, Slips Combined</b>	\$213,440
<b>TLC Gross Revenue</b> 2	\$429,270
<b>- TLC Expenses</b>	\$288,000
<b>Net Profit TLC</b>	\$141,270

Notes:

1. TLC intends to own and operate the retail and hotel business lines as independent entities from TLC, and thus they are financially evaluated as such in the pro-forma data and as displayed in this analysis.
2. Derived from rents and fees from subtenants.

**3. Food Court Analysis.** While there are no direct comparators for TLC’s “food court” concept on the waterfront, a combination of self-serve-like (no wait staff, pay when you order) establishments such as Hofbrau and Tognazzini’s Dockside, and traditional sit-down restaurants such as Dutchman’s Seafood House and Off the Hook (before it closed) should provide likely plausible and conservative data for revenue generation capacity of such a venue at that location. Establishments such as Little Hut and Giovanni’s, with their long-established reputations, popularity and more singular take-out aspect, in staff’s opinion are “outliers” and therefore not ideally suited for comparison.

**4. Financial Backing.** TLC previously provided financial backing letters from Giovanni DeGarimore (owner/operator, Giovanni’s Fish Market & Galley) in the amount of \$500,000 (including evidence of said \$500,000 deposited in a TLC bank account at Heritage Oaks Bank), Mid-Coast Capital, Inc./Vincent Crooks in the amount of \$3,000,000, and Charles Zimmerman (private citizen) in the

amount of \$100,000. In addition, TLC has provided bank account evidence of ~\$150,000 of their own funds.

Heritage Oaks Bank provided TLC an “Expression of Interest” letter in funding the project in an amount and terms to be determined. Once COL is obtained, Heritage Oaks has indicated to TLC their ability to provide a Letter of Commitment; the next step above an “expression of interest.”

TLC’s redevelopment cost estimate at this time is \$3.2M-\$3.5M, and they intend to finance \$2.7M to \$2.9M, using their banked ~\$650,000 for planning and permitting costs to get them through to Concept Plan approval, at which point a new lease can be negotiated and financing secured since lenders require a lease in place with a term commensurate with the term of the proposed loan before they will lend.

At this stage, therefore, it appears TLC has the financial capacity to get them through the Concept Plan approval stage, after which point their financiers appear committed to back the project as-proposed.

**5. Contribution to Centennial/Market Concept Plans.** TLC had previously indicated it would be difficult to commit to anything not knowing the costs to do so, but are fully willing to commit to building some portion of the Centennial/Market plans. TLC is also willing to participate in maintenance of some of the features, once built. Additionally, TLC had commented during the public input phase of the development of those concept plans, and intends to continue to do so and remain participatory if and when those projects move forward, as TLC would have an obvious stake in the outcome should they become the developers and lessees of 87-88/87W-88W. In Attachment #1 is TLC’s Centennial participation response.

**6. Land/Water Development Phasing.** TLC is planning to move forward with both land and water redevelopment as simultaneously as possible to build out both portions in one phase.

**7. Performance Measures/Milestones in COL Document.** The proposed COL document, as shown in Attachment #2, contains the following parameters.

TLC must:

1. Obtain financial Letter(s) of Commitment and/or financial pre-approval for the project on or before December 31, 2017 (~4 months to complete from COL approval).
2. File a complete Conditional Use Permit application on or before January 2, 2018 (~4 months to complete from COL approval).
3. Obtain Concept Plan approval on or before August 31, 2018 (8 months to obtain approval).
4. Begin lease negotiations once Concept Plan is approved, and once new lease is effective, secure financing no later than 120 days of lease’s effective date.
5. File for Coastal Development Permit from the Coastal Commission and other required permits on or before October 31, 2018 (2 months to file from Concept Plan approval)
6. Obtain Coastal Development Permit and other permit approvals on or before April 30, 2019 (6 months to obtain approval).

7. File for Precise Plan approval on or before July 31, 2019 (3 months to file from Coastal Development and other permit approvals).
8. Obtain Precise Plan approval on or before November 30, 2019 (4 months to obtain approval).
9. File for Building Plan approval on or before February 28, 2020 (3 months to file from Precise Plan approval).
10. Obtain Building Plan approval on or before May 31, 2020 (3 months to obtain approval).
11. Commence construction on or before August 31, 2020 (3 months to commence from Building Plan approval)
12. Complete construction and receive Certificate of Occupancy on or before August 31, 2021 (one year to complete construction).

Once Concept Plan approval is obtained, the new lease negotiated and executed will incorporate the timelines listed above, or as amended, as conditions of the lease, and, therefore, should they not be achieved as prescribed would be subject to possible default of the lease.

### **CONCLUSION**

This proposed project is on a similar scale and concept to several other successful small, owner/operator-style lease site redevelopments on the Embarcadero waterfront. Staff have further analyzed TLC's proposal and financial capacity, and conducted revenue and expense calculations and comparisons to arrive at the conclusion the proposal appears financially viable as-proposed. In addition, it appears TLC will be adequately funded to complete the project, and has project team members and business participants with the capacity to plan, permit, build and operate the project.

Staff, therefore, recommend the City Council consider granting TLC Family Enterprises Conditional Consent of Landowner approval, as-proposed, to continue the process to redevelop lease Site 87-88/87W-88W.

Finally, the current lease on the site expires in March, 2018, and lease expiration will not coincide with readiness for redevelopment. Should TLC be granted COL approval, options to manage the site until a new, long-term lease is executed include going into holdover on the existing lease with the existing tenant, entering into a new, short-term interim lease with TLC until a new lease is executed with TLC in ~2018-2019, or the City managing the site as a building lease until a new lease is executed.

It would be staff's recommendation a short-term interim lease be executed with TLC, with automatic expiration upon either a new, long-term lease being successfully executed, or expiration of the COL in the event of COL performance parameter failure of TLC, where the lease site would then revert back to the City. A short-term interim lease with a "provisional" tenant is not without precedent, and occurred on this site with the previous master tenant, as well as at Lease Site 96/96W (House of JuJu) when that site underwent an RFP process in 2008-2009.

Should this be Council's direction, staff will bring back for direction in future closed session possible terms under which to negotiate an interim lease with TLC.

**ATTACHMENTS**

1. Updated proposal, pro-forma and financial projection data from TLC.
2. Draft Conditional Consent of Landowner approval document.

87/87W-88/88W  
Consent of Landowner  
Development Proforma  
of  
Under the Sea Lease Site  
833 Embarcadero Morro Bay  
by  
TLC Family Enterprises

Hello again City Council and Staff,

We would like to give you a review of items we have been working on since our last meeting. Travis and I have been diligently working on the future project.

- Travis has compiled his construction needs and has gathered all bids available at this stage.
- We have been preparing and gathering all data needed for banks to begin their process to commence once COL is granted. (All financial data available upon request and not viewable by public.)
- We have continued to fine-tune the internal layouts of hotel rooms, retail and dining.
- We have continued to work with our food vendors designing the most universal and efficient kitchen layouts for the food court.
- We have been vetting and attaining bids with many design specialists for our “Wave” entrance concept, playground designs and ocean viewing platform features.
- We are working on a story board that we would like to erect on the property, as soon as possible, showing the sites exciting future. This will alleviate current public concern that has arisen due to the property condition.
- We have been working with harbor experts designing docks and evaluating best use of space.
- We have increased the pedestrian harbor walkway to 15’ rather than the minimum of 10’. We want the area to be a comfortable place for people to stop and relax rather than just a thoroughfare.

There are many other innovative ideas we have been working on from naming the food area to choosing public bathroom hand dryers. We are covering all the bases and we are very excited for the chance to start giving the city money for permits and really get this ball rolling.

As always thank you for your time,

Cherise Hansson and Travis Leage

# MASTER LEASEE TLC RENTAL INCOME

Rent equation per Month	Year 1	Year 2 w/ 2% CPI	Year 3 w/ 2% CPI	Year 4 w/ 2% CPI	Year 5 w/ 2% CPI	Year 6 w/ 2% CPI	Year 7 w/ 2% CPI	Year 8 w/ 2% CPI	Year 9 w/ 2% CPI	Year 10 w/ 2% CPI
<b>Hotel Rent 4485@\$3/sqft</b>	161,460	164,689	167,983	171,343	174,769	178,265	181,830	185,467	189,176	192,960
<b>Retail Shops Rent 1446@\$4.75/sqft +100 CAM</b>	84,822	86,518	88,249	90,014	91,814	93,650	95,523	97,434	99,382	101,370
<b>5 Food Vendors Rent 3356@\$3.75/ sqft +\$1000 CAM</b>	163,020	166,280	169,606	172,998	176,458	179,987	183,587	187,259	191,004	194,824
<b>Dock Rent 25-35' 4 slips@\$416</b>	19,968	20,367	20,775	21,190	21,614	22,046	22,487	22,937	23,396	23,864
<b>Total Rental Income</b>	429,270	437,855	446,613	455,545	464,656	473,949	483,428	493,096	502,958	513,017

Hotel Rate is based on average costs for rooms and market value based on Andersen Inn, Estero Inn and Grey's Inn

Retail rent is based on rates for current tenants located at 725, 833, and 845 Embarcadero Rd Morro Bay \*Business names upon request

Food Vendor rate is based on similar rents with like services and kitchen size requirements, a monthly rent to each tenant will be between \$2,000-\$3,000 based on kitchen space utilized by their equipment plus common area of seating inside and outside with two unisex bathrooms for customers.

Dock Rent is based on boat and slip size as well as market rate in the area.

# MASTER LEASEE TLC FAMILY PROFORMA

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
<b>TOTAL RENTS</b>	429,270	437,855	446,613	455,545	464,656	473,949	483,428	493,096	502,958	513,017
<b>Base Rent</b>	38,000	38,760	39,535	40,326	41,132	41,955	42,794	43,650	44,523	45,414
<b>Insurances</b>	4,000	4,080	4,162	4,245	4,330	4,416	4,505	4,595	4,687	4,780
<b>Property Taxes</b>	29,000	29,580	30,172	30,775	31,391	32,018	32,659	33,312	33,978	34,658
<b>CAM</b>	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
<b>Debt Service</b>	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
<b>Administrative</b>	2,000	2,100	2,150	2,200	2,250	2,300	2,350	2,400	2,450	2,500
<b>NET CASH FLOW</b>	141,270	148,335	155,594	162,999	170,553	178,259	186,120	194,140	202,320	210,666

\*Annual increases based on CPI increase of 2% for sublease rents, harbor base rent and property taxes

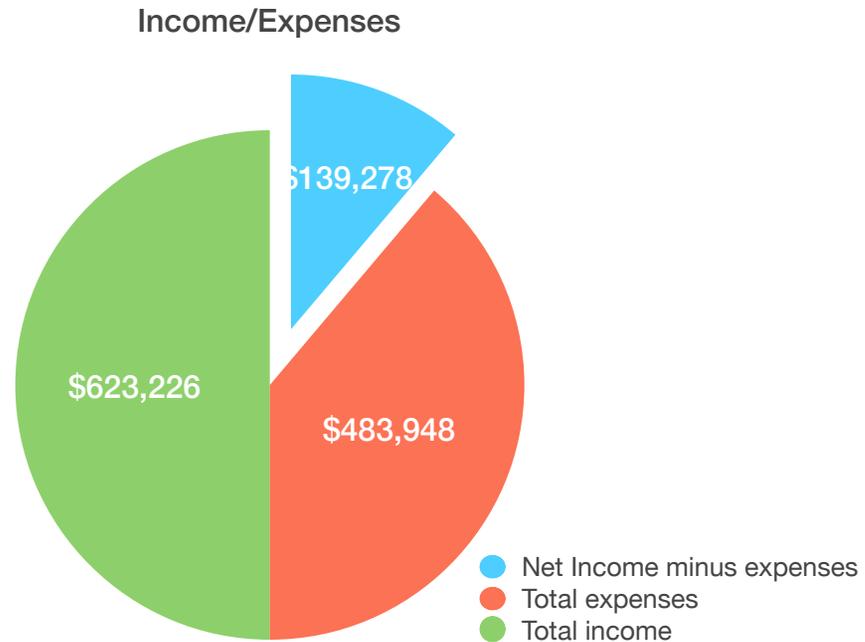
# Retail First Year Budget

## Moderate Estimate Based on Under the Sea Gallery Past and Present

MONEY IN	
1446 sq ft. @ \$400 per ft./month	\$578,400
Sales Tax	\$44,826
<b>TOTAL INCOME</b>	<b>\$623,226</b>

MONEY LEFT OVER	
Net Income minus expenses	\$139,278

MONEY OUT	
Rent + CAM	\$84,822
Harbor Percentage	\$28,920
Utilites	\$10,380
Tax and Insurance	\$1,500
cost of goods sold	\$270,000
labor and Worker's Comp	\$42,000
Administrative Overhead	\$1,500
Sales Tax	\$44,826
<b>TOTAL EXPENSES</b>	<b>\$483,948</b>



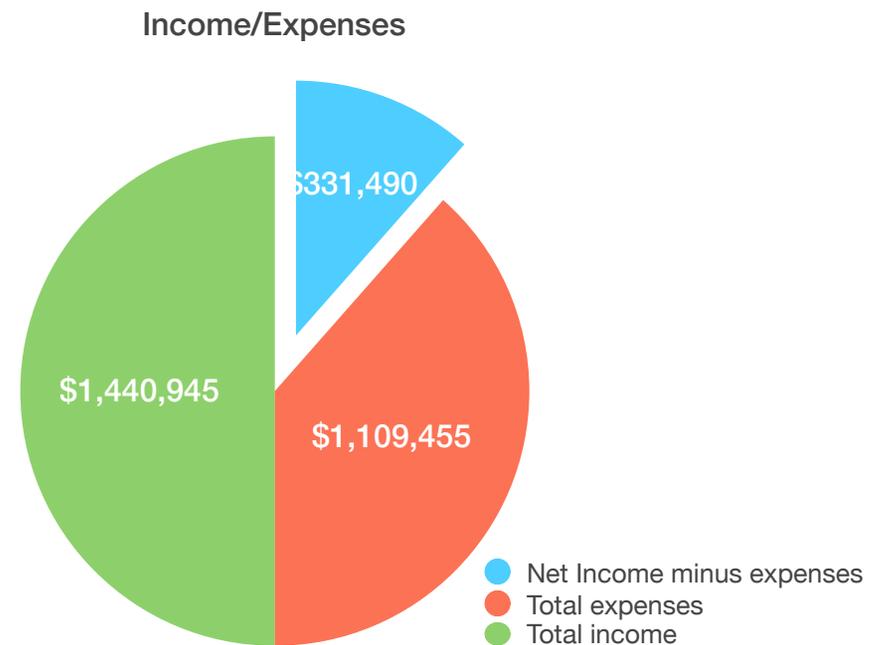
# Restaurant First year Budget Projections

## Based on Embarcadero Modest Average of Similar Venues

MONEY IN	
2706 sq ft. @ \$500 per ft.	\$1,353,000
Sales Tax (Dine-In, Hot Take-away)	\$87,945
<b>TOTAL INCOME</b>	<b>\$1,440,945</b>

MONEY LEFT OVER	
Net Income minus expenses	\$331,490

MONEY OUT	
Rent + CAM	\$163,020
Harbor Percentage @5%	\$67,650
Utilities	\$41,200
Insurance	\$6,000
Food Costs @35%	\$473,550
labor @15% owner operated/ take-away	\$202,950
supplies	\$34,800
Web Hosting/ Advertisement	\$1,440
Repair and maintenance	\$4,200
Merchant Services	\$24,000
Administrative	\$2,700
Sales Tax	\$87,945
<b>TOTAL EXPENSES</b>	<b>\$1,109,455</b>



\* Values based on similar existing restaurants on the Embarcadero without formal dining. Entities names upon request

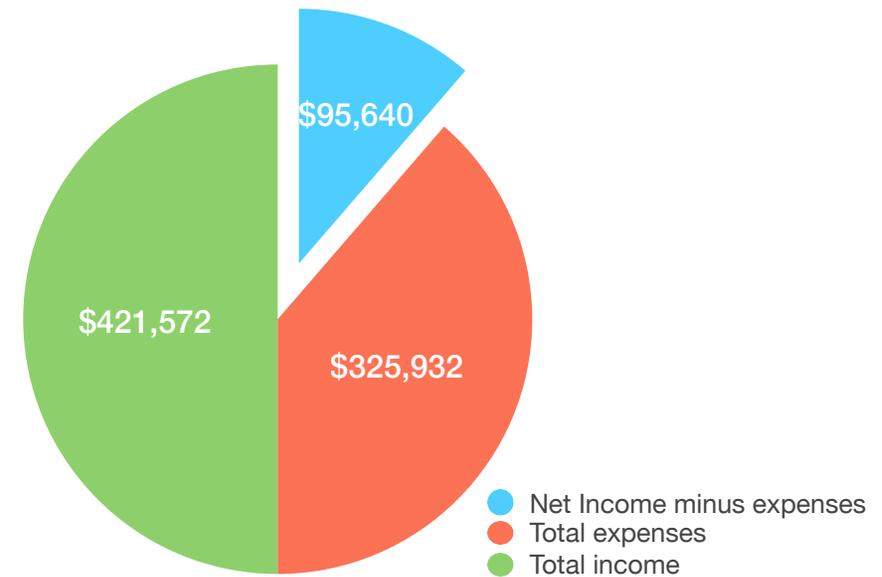
# Hotel First Year Budget Projections @ 60% OCC.

MONEY IN	
Occupancy rate@60% 7 rooms averaging \$275 a night	\$421,572
Additional income	\$0
<b>TOTAL INCOME</b>	<b>\$421,572</b>

MONEY OUT	
Rent	\$161,460
Harbor Percentage	\$26,472
Utilities and elevator	\$36,400
Insurance	\$6,000
Linen	\$3,600
Housekeeping	\$38,400
Administrative Overhead	\$38,000
Web Hosting/ Advertisement	\$9,600
Repair and maintenance	\$6,000
<b>TOTAL EXPENSES</b>	<b>\$325,932</b>

MONEY LEFT OVER	
Net Income minus expenses	\$95,640

Income/Expenses



\*Research for each expense based on square footage of rooms and similar businesses on the Embarcadero and verified by quotes from service providers.

# HARBOR DEPARTMENT ANNUAL INCOME

	Year 1	Year 2 w/ 10%inc	Year 3 w/ 10%inc	Year 4 w/ 8%inc	Year 5 w/ 6% inc	Year 6 w/ 5%inc	Year 7 w/ 4% inc	Year 8 w/ 4% inc	Year 9 w/ 3% inc	Year 10 w/ 3% inc
<b>Food @ 5%</b>	67,650	74,415	81,857	88,405	93,709	98,395	103,315	107,447	110,671	113,991
<b>Retail @5%</b>	28,920	31,812	34,993	37,793	40,060	42,063	43,746	45,496	46,860	48,266
<b>Hotel @ 5% with 60% Occupancy</b>	26,472	29,119	32,031	34,594	36,669	38,503	40,043	41,645	42,894	44,181
<b>Dock @ 10% 2%CPI only</b>	2,000	2,040	2,081	2,122	2,165	2,208	2,252	2,297	2,343	2,390
<b>HARBOR INCOME</b>	125,042	137,386	150,962	162,914	172,604	181,169	189,355	196,885	202,768	208,828

\*Food is averaged at 5 based on average rates for Bar, dine-in and dine-out sales

\*All other percentages are based on an average of current lease agreements and are subject to change based on lease negotiations.

\*All businesses growth is based on increases easily achieved by growing and establishing new businesses. Hotel increases are based on popularity and ability to raise room price average, not based on occupancy, see additional revenue based on occupancy rates chart enclosed.

# CITY OF MORRO BAY ANNUAL INCOME

	Year 1	Year 2 w/ 10%inc	Year 3 w/ 10%inc	Year 4 w/ 8%inc	Year 5 w/ 6% inc	Year 6 w/ 5%inc	Year 7 w/ 4% inc	Year 8 w/ 4% inc	Year 9 w/ 3% inc	Year 10 w/ 3% inc
<b>Food @ .5%</b>	6,765	7,442	8,186	8,841	9,371	9,839	10,331	10,745	11,067	11,399
<b>Retail @ .5%</b>	2,892	3,181	3,499	3,779	4,006	4,206	4,375	4,550	4,686	4,827
<b>Hotel TOT @ 10%</b>	42,157	46,373	51,010	55,091	58,396	61,316	63,769	66,319	68,309	70,358
<b>Hotel TBD @ 3%</b>	12,647	13,912	15,303	16,527	17,519	18,395	19,130	19,896	20,493	21,107
<b>CITY INCOME</b>	64,461	70,907	77,998	84,238	89,292	93,756	97,605	101,509	104,555	107,691

# HOTEL CONTRIBUTIONS TO CITY AND HARBOR DEPARTMENT BASED ON %OCCUPANCY WITH AN ADR OF \$275/NIGHT

	50% Occupancy	55% Occupancy	60% Occupancy	65% Occupancy	70% Occupancy	75% Occupancy	80% Occupancy	85% Occupancy	90% Occupancy	95% Occupancy	Grey's Inn Status
<b>Gross</b>	351,312	386,925	421,575	456,225	492,800	527,450	562,100	596,750	631,400	667,975	702,625
<b>HARBOR LEASE @5%</b>	17,566	19,346	21,079	22,811	24,640	26,373	28,105	29,838	31,570	33,399	35,131
<b>CITY TOT @10%</b>	35,131	38,693	42,158	45,623	49,280	52,745	56,210	59,675	63,140	66,798	70,263
<b>CITY TBID @3%</b>	10,539	11,608	12,647	13,687	14,784	15,824	16,863	17,903	18,942	20,039	21,079
<b>TOTALS MORRO BAY BENEFITS</b>	63,236	69,647	75,884	82,121	88,704	94,941	101,178	107,415	113,652	120,236	126,473

## Centennial Parkway

We would like to continue our participation in the development of the Centennial Parkway. We will continue to be a voice and aid in the concept planning for the approved design. Once final plans are decided and accepted, we will offer support both physically and financially in the construction where we may be of help. We will also play a role in recruiting others to help support Centennial Project completion.

Our particular site is brimming with public benefit features. We believe that Centennial Parkway is offering a huge area for the purpose of public benefit due to the lack of public benefit provided by other lease sites. We wish to have council acknowledge that in our development we would have to remove some of our current design features to make funds available for any financial contributions to centennial parkway. At the time of design we would like the features to be weighed as to what funds should go to what feature and what would be best for the public enjoyment of Morro Bay. We are also available for long term maintenance of specific features. Regardless of outcome a large amount of funds for our development will be going to public benefit.

A possible contribution we are willing to pursue is a paved public area between The Libertine and Roses. We will coordinate with other groups like Morro Bay in Bloom, the Chamber of Commerce, neighboring Master Leasee's and other businesses willing to help fund: paving, seating, "Rock" play structure as well as other possible embellishments. I believe that this addition to the Embarcadero is the most substantial change in the area that will greatly benefit public enjoyment. The parking area there, although needed, is a congested mess of cars vs people. It does not draw anyone to the open viewing area of the bay. This is a perfect area for smaller venues of entertainment for the public, like movie night or boat safety kiosks, July 4th fireworks benefit, and many more...

Whatever our contribution is towards Centennial Parkway, we would like our involvement to be of an active participant in the developing and maintenance of our contribution. We would like to make sure it will be an enjoyed and a beneficial addition to the Embarcadero for many years to come.

**City of Morro Bay**  
**Tidelands Trust Grant Properties**  
**Consent of Landowner Agreement Form**

Consent For:

**Redevelopment of Lease Site 87-88/87W-88W, 833 Embarcadero Road,  
by TLC Family Enterprises, as proposed in Revised Request for Proposals  
response presented to the City Council on April 11, 2017, and negotiation of  
new lease.**

Site Location: Lease Site 87-88/87W-88W, 833 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: TLC Family Enterprises, Inc. Telephone: 805-441-1867

Address: 665 Kings Ave. City: Morro Bay State: CA Zip: 93442

I, as representative of the City of Morro Bay, the owner of record of the trust interest in the above noted land for which an application for a Conditional Use 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 April 11, 2017 and to be submitted to the City of Morro Bay Community Development Department for processing in accordance with the following timelines:

1. The Applicant must obtain a Letter or Letters of Commitment and/or financial pre-approval to finance the proposed project from accredited financiers, or proof of sufficient cash reserves available to fund the proposed project, on or before December 31, 2017 at 4:00 p.m. or this Consent of Landowner Agreement will expire on January 1, 2018.
2. The Applicant must file a complete application for a Conditional Use Permit for the project as-proposed, per the City Planned Development Overlay Zone and Concept Plan Submittal Requirements, with the Community Development Department by January 2, 2018 at 4:00 p.m. or this Consent of Landowner Agreement will expire on January 3, 2018.
3. The Applicant must obtain Concept Plan approval from the Planning Commission and City Council on or before August 31, 2018 at 4:00 p.m. or this Consent of Landowner Agreement will expire on September 1, 2018.
4. The Applicant, after obtaining Concept Plan approval by the Planning Commission and City Council, shall negotiate in good faith for a new lease on the lease site. Once the new lease is effective, the Applicant shall secure financing for the proposed project as evidenced by a Deed of Trust approved by the City Council on or before 120 days of the lease's effective date.
5. The Applicant must file a complete application for a Coastal Development Permit from the Coastal Commission, and any other necessary agency permits, for the approved Concept Plan for the

project on or before October 31, 2018 at 4:00 p.m. or this Consent of Landowner Agreement will expire on November 1, 2018.

6. The Applicant must obtain a Coastal Development Permit and other permits on or before April 30, 2019 at 4:00 p.m. or this Consent of Landowner Agreement will expire on May 1, 2019.
7. The Applicant must file a complete application for Precise Plan by the Planning Commission and City Council approval for the project by July 31, 2019 at 4:00 p.m. or this Consent of Landowner Agreement will expire on August 1, 2019.
8. The Applicant must obtain Precise Plan approval from the Planning Commission and City Council for the project on or before November 30, 2019 at 4:00 p.m. or this Consent of Landowner Agreement will expire on December 1, 2019.
9. The Applicant must file for Building Plan approval by the Building Department for the project on or before February 28, 2020 at 4:00 p.m. or this Consent of Landowner Agreement will expire on March 1, 2020.
10. The Applicant must obtain Building Plan approval on or before May 31, 2020 at 4:00 p.m. or this consent of Landowner Approval will expire on June 1, 2020.
11. The Applicant must commence construction for the approved project on or before August 31, 2020.
12. The Applicant must complete construction for the approved project on or before August 31, 2021, as evidenced by a Certificate of Occupancy issued by the City.

If, due to any reason within or outside the control of Applicant, as reasonably determined by the City Manager, one or more extensions to any or all of these compliance dates may be granted.

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**Martin R. Lomeli, Interim City Manager**

**Date**



**Resolution No. 2**

RESOLUTION SUPPORTING LEGISLATION AMENDING GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS

Source: City of Tracy

Referred to: Public Safety Policy Committee

**CONCLUSION**

Staff recommends that Council review the enclosed materials and provide direction to the City's voting delegate and alternate regarding the annual League of California Cities conference resolution.

**ATTACHMENTS**

1. 2017 Annual Conference Resolutions Packet
2. Memos from Chief Allen and Chief Knuckles

AUG 07 2017

Administration

1400 K Street, Suite 400 • Sacramento, California 95814  
Phone: 916.658.8200 Fax: 916.658.8240  
www.cacities.org



July 26, 2017

TO: Mayors, City Managers and City Clerks  
League Board of Directors

RE: Annual Conference Resolutions Packet  
Notice of League Annual Meeting

Enclosed please find the 2017 Annual Conference Resolutions Packet.

**Annual Conference in Sacramento.** This year's League Annual Conference will be held September 13 - 15 in Sacramento. The conference announcement has previously been sent to all cities and we hope that you and your colleagues will be able to join us. More information about the conference is available on the League's Web site at [www.cacities.org/ac](http://www.cacities.org/ac). We look forward to welcoming city officials to the conference.

**Closing Luncheon/General Assembly - Friday, September 15, 12:30 p.m.** The League's General Assembly Meeting will be held at the Sacramento Convention Center.

**Resolutions Packet.** At the Annual Conference, the League will consider two resolutions introduced by the deadline, Saturday, July 15, 2017, midnight. The resolutions are included in this packet. Resolutions submitted to the General Assembly must be concurred in by five cities or by city officials from at least five or more cities. These letters of concurrence are included with this packet. We request that you distribute this packet to your city council.

We encourage each city council to consider the resolutions and to determine a city position so that your voting delegate can represent your city's position on the resolution. A copy of the resolution packet is posted on the League's website for your convenience: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

The resolutions packet contains additional information related to consideration of the resolutions at the Annual Conference. This includes the date, time and location of the meetings at which the resolutions will be considered.

**Voting Delegates.** Each city council is encouraged to designate a voting delegate and two alternates to represent their city at the General Assembly Meeting. A letter asking city councils to designate their voting delegate and two alternates has already been sent to each city. If your city has not yet appointed a voting delegate, please contact Meg Desmond at (916) 658-8224 or email: [mdesmond@cacities.org](mailto:mdesmond@cacities.org).

**Please Bring This Packet to the Annual Conference  
September 13 - 15, Sacramento**





*Annual Conference  
Resolutions Packet*

*2017 Annual Conference Resolutions*



*Sacramento, California  
September 13 – 15, 2017*



## INFORMATION AND PROCEDURES

**RESOLUTIONS CONTAINED IN THIS PACKET:** The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees.

**POLICY COMMITTEES:** One policy committee will meet at the Annual Conference to consider and take action on the resolutions referred to it. The committee is Public Safety. The committee will meet from 9:00 – 11:00 a.m. on Wednesday, September 13, at the Hyatt Regency. The sponsors of the resolutions have been notified of the time and location of the meeting.

**GENERAL RESOLUTIONS COMMITTEE:** This committee will meet at 1:00 p.m. on Thursday, September 14, at the Hyatt Regency in Sacramento, to consider the report of the policy committee regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

**ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY:** This meeting will be held at 12:30 p.m. on Friday, September 15, at the Sacramento Convention Center.

**PETITIONED RESOLUTIONS:** For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 14. Resolutions can be viewed on the League's Web site: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: [mdesmond@cacities.org](mailto:mdesmond@cacities.org) or (916) 658-8224

## **GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS**

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

### **Guidelines for Annual Conference Resolutions**

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
  - (a) Focus public or media attention on an issue of major importance to cities.
  - (b) Establish a new direction for League policy by establishing general principles around which more detailed policies may be developed by policy committees and the board of directors.
  - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
  - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

## LOCATION OF MEETINGS

### **Policy Committee Meetings**

Wednesday, September 13

Hyatt Regency Sacramento

1209 L Street, Sacramento

9:00 – 11:00 a.m.: Public Safety

### **General Resolutions Committee**

Thursday, September 14, 1:00 p.m.

Hyatt Regency Sacramento

1209 L Street, Sacramento

### **Annual Business Meeting and General Assembly Luncheon**

Friday, September 15, 12:30 p.m.

Sacramento Convention Center

1400 J Street, Sacramento

**KEY TO ACTIONS TAKEN ON RESOLUTIONS**

Resolutions have been grouped by policy committees to which they have been assigned.

Number                      Key Word Index                      Reviewing Body Action

		1	2	3
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1 - Policy Committee Recommendation  
to General Resolutions Committee  
2 - General Resolutions Committee  
3 - General Assembly

**PUBLIC SAFETY POLICY COMMITTEE**

		1	2	3
1	Implement Strategies to Reduce Negative Impacts of Recent Changes to Criminal Laws			
2	Local Control for Emergency Medical Response			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: [www.cacities.org](http://www.cacities.org). The entire Resolutions Packet will be posted at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

## KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

### KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

### KEY TO ACTIONS TAKEN

- A Approve  
D Disapprove  
N No Action  
R Refer to appropriate policy committee for study

### ACTION FOOTNOTES

\* Subject matter covered in another resolution

\*\* Existing League policy

\*\*\* Local authority presently exists

- a Amend+  
Aa Approve as amended+  
Aaa Approve with additional amendment(s)+  
Ra Refer as amended to appropriate policy committee for study+  
Raa Additional amendments and refer+  
Da Amend (for clarity or brevity) and Disapprove+  
Na Amend (for clarity or brevity) and take No Action+  
W Withdrawn by Sponsor

### Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Resolution Process](#).

## 2017 ANNUAL CONFERENCE RESOLUTIONS

### RESOLUTION REFERRED TO PUBLIC SAFETY POLICY COMMITTEE

#### 1. A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING UPON THE GOVERNOR AND LEGISLATURE TO ENTER INTO DISCUSSION WITH LEAGUE AND OTHER PUBLIC SAFETY STAKEHOLDERS TO IDENTIFY AND IMPLEMENT STRATEGIES THAT WILL REDUCE THE UNINTENDED NEGATIVE IMPACTS OF EXISTING CRIMINAL LAW

Source: City of Whittier

Concurrence of five or more cities/city officials: Cities: La Mirada; Lakewood; Monrovia; Pico Rivera; Rolling Hills; Santa Fe Springs; and South Gate

Referred to: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

**WHEREAS**, during the past several years, State legislative changes have made fundamental alterations to the fabric of California's criminal justice system. Many of those changes have been needed and necessary, as not all crimes should be punished with jail sentences; and

**WHEREAS**, California cities, counties, and the State, however, are facing increased crime which endangers the health and safety of police officers, residents, business owners, and property due to some of these legislative changes which created a situation where violent and career criminals are serving little to no prison time; and

**WHEREAS**, negative impacts from State legislative changes have been far reaching and crime rates and the number of victims are skyrocketing throughout California. The negative impacts of these laws were unintended when voters and legislators approved the laws, which were instead intended to help lower the prison population in California prisons and appropriately rehabilitate non-violent offenders; and

**WHEREAS**, incentives for offenders to voluntarily enroll in substance abuse programs have diminished, which has had the effect of eroding the safety of our communities; and

**WHEREAS**, AB 109 transferred nearly 45,000 felons from the State prison system to local jail facilities, which were not designed to house criminals on a long-term basis and were unprepared for such an increase in incarcerations, resulting in lower-level criminals being released early, directly impacting rising property crime rates throughout the State; and

**WHEREAS**, many probationers who have severe mental illness are released into communities where they continue to commit crimes that adversely impact the safety of community members and drain the resources of probation departments and police departments throughout the state; and

**WHEREAS**, Proposition 47, The Safe Neighborhoods and Schools Act, downgraded a number of serious crimes from felonies to misdemeanors—drug possession, repeated shoplifting, forging checks, gun theft, and possession of date-rape drugs; and

**WHEREAS**, Proposition 57 categorizes rape by intoxication, rape of an unconscious person, human trafficking involving sex with minors, drive-by shooting, assault with a deadly weapon, domestic violence, hate crime causing physical injury, and corporal injury to a child as “non-violent” felonies and offenders convicted of violating such laws are able to avoid appropriate prison sentences; and

**WHEREAS**, under Proposition 57, criminals who commit multiple crimes against multiple victims will be eligible for release at the same time as offenders who only committed a single crime against a single victim and allows repeat criminals to be eligible for release after the same period of incarceration as first time offenders; and

**WHEREAS**, cities must join together to voice their concerns for these legislative changes that have created an adverse impact on the safety of residents and businesses in local communities.

**NOW, THEREFORE, BE IT RESOLVED** by the General Assembly of the League of California Cities, assembled in Sacramento on September 15, 2017, to:

1. Direct League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent and future criminal law based on appropriate documentation by local agencies to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.
2. Promote an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction.
3. Continue to advocate to place into law that for the purposes of Section 32 of Article I of the California Constitution, a violent offense includes any of the following:
  - Murder or voluntary manslaughter.
  - Mayhem.
  - Rape.
  - Sodomy by force, violence, duress, menace, or threat of great bodily harm.
  - Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
  - Lewd acts on a child under the age of 14 years.
  - Any felony punishable by death or imprisonment in the state prison for life.
  - Any other felony in which the defendant inflicts great or serious bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven.
  - Attempted murder.
  - Assault with intent to commit rape or robbery.

- Assault with a deadly weapon or instrument on a peace officer.
  - Assault by a life prisoner on a non-inmate.
  - Assault with a deadly weapon by an inmate.
  - Arson.
  - Exploding a destructive device or any explosive with intent to injure.
  - Exploding a destructive device or any explosive causing great bodily injury.
  - Exploding a destructive device or any explosive with intent to murder.
  - Robbery.
  - Kidnapping.
  - Taking of a hostage by an inmate of a state prison.
  - Attempt to commit a felony punishable by death or imprisonment in the state prison for life.
  - Any felony in which the defendant personally used a dangerous or deadly weapon.
  - Escape from a state prison by use of force or violence.
  - Assault with a deadly weapon.
  - Extortion as defined in Penal Code section 518, or threats to victims or witnesses as defined in Penal Code section 136.1, which would constitute a felony violation of Penal Code section 186.22.
  - Carjacking.
  - Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft.
  - Throwing acid or flammable substances with intent to injure.
  - Continuous sexual abuse of a child.
4. Request the State to improve the Smart Justice platform to provide an effective statewide data sharing to allow state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.
  5. Encourage the collection and organization of real world data from cities and counties on the universe of post-release community supervision (PRCS) offenders.
  6. Encourage cities throughout California to join in these advocacy efforts to mitigate the unintended negative impacts of recent policy changes to the criminal justice system.
  7. Call for the Governor and the Legislature to work with the League and others stakeholders to consider and implement such criminal justice system reforms.

//////////

## Background Information on Resolution No. 1

**Source:** City of Whittier

**Background:**

During the past several years, State legislative changes have made fundamental alterations to the fabric of California's criminal justice system. Some changes have been needed, as not all crimes should be punished with jail sentences. These changes included AB 109 as well as Propositions 47 and 57.

Approved in 2011, AB 109 was approved, transferring nearly 45,000 felons from the State prison system to local jail systems, resulting in lower-level criminals being released early. Then, Proposition 47, so called The Safe Neighborhoods and Schools Act, was approved by California voters in 2014. It reclassified and downgraded a number of serious crimes from felonies to misdemeanors. Similarly, Proposition 57, called The Public Safety and Rehabilitation Act, was approved by voters in 2016 and allows the State to provide for the release of up to 30,000 criminals convicted of "non-violent" felonies, including rape by intoxication, driveby shooting, human trafficking involving sex act with minors, assault with a deadly weapon, to name a few. Additionally, under Prop 57 repeat criminals are eligible for release after the same period of incarceration as first time offenders.

Now, California cities and counties are facing increasing crime rates which are being connected to these legislative actions which created a situation where violent and career criminals are serving little to no prison time while low-level offenders commit multiple crimes with limited consequences. This increasing level of crime endangers the health and safety of our residents, police officers, and property. Negative impacts from these State legislative changes have been far reaching, and crime rates and the number of victims are increasing throughout California. The negative impacts of these laws were unintended when voters and legislators approved the laws, which were instead intended to help lower the prison population in California prisons and appropriately rehabilitate non-violent offenders.

As an example, the Public Policy Institute of California reports since 2015:

- California has experienced an uptick in overall crime
- Property crime is up 145%, violent crime up 54%
- One in four Californians view violence and street crime in their community as a substantial problem
- Arrests dropped 31% for property crimes and 68% for drug offenses (due to Prop. 47)
- The report concludes auto theft increase is a direct result of AB109

To make matters even worse, during the past two years we've seen officers shot, wounded and killed in communities throughout California including Whittier, Downey, Lancaster, Palm Springs, San Diego, Stanislaus County, and Modoc County. Further, the number of U.S. police officers killed in the line of duty hit a five-year high in 2016. The National Law Enforcement Officers Memorial Fund's preliminary report shows that this year's 135 fatalities were a 10% increase over the 123 officers who died in the line of duty last year.

When taken together the increases in crime in our communities and reductions in arrests for many crimes plus violent attacks against police officers underscores the need for a call to action amongst California's state and local leaders. This conference resolution is an important first step and seeks to initiate both a dialogue as well as actions to begin reforming California's criminal justice system by requesting that League staff analyze the negative impacts of recent criminal law, identify necessary changes, and work with stakeholders to promote support for such advocacy efforts. The resolution also calls on the Governor, Legislature, cities, and other stakeholders to work together toward reforms.

The resolution contains three specific reforms:

1. Address Issues with AB 109

The conference resolution promotes the amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction.

2. Revise the Definition of Violent Crime

The resolution calls for the League to advocate to place into law for the purposes of Section 32 of Article I of the California Constitution, a violent offense includes any of the following crimes:

- Murder or voluntary manslaughter
- Mayhem
- Rape
- Sodomy by force, violence, duress, menace, or threat of great bodily harm
- Oral copulation by force, violence, duress, menace, or threat of great bodily harm
- Lewd acts on a child under the age of 14 years
- Any felony punishable by death or imprisonment in the state prison for life
- Any other felony in which the defendant inflicts great or serious bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven
- Attempted murder
- Assault with intent to commit rape or robbery
- Assault with a deadly weapon or instrument on a peace officer
- Assault by a life prisoner on a non-inmate
- Assault with a deadly weapon by an inmate
- Arson
- Exploding a destructive device or any explosive with intent to injure
- Exploding a destructive device or any explosive causing great bodily injury
- Exploding a destructive device or any explosive with intent to murder
- Robbery
- Kidnapping
- Taking of a hostage by an inmate of a state prison

- Attempt to commit a felony punishable by death or imprisonment in the state prison for life
- Any felony in which the defendant personally used a dangerous or deadly weapon
- Escape from a state prison by use of force or violence
- Assault with a deadly weapon
- Extortion as defined in Penal Code section 518, or threats to victims or witnesses as defined in Penal Code section 136.1, which would constitute a felony violation of Penal Code section 186.22
- Carjacking
- Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft.
- Throwing acid or flammable substances with intent to injure.
- Continuous sexual abuse of a child.

### 3. Data Sharing

The resolution requests the State to improve the Smart Justice platform to provide an effective statewide data sharing to allow state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.

//////////

### **League of California Cities Staff Analysis on Resolution No. 1**

Staff: Tim Cromartie  
 Committee: Public Safety

#### **Summary:**

This Resolution seeks to address increases in crime in the wake of AB 109 (2011), Proposition 47 (2014), which reclassified a host of felony offenses as misdemeanors, and Proposition 57 (2016), which revised the rules of parole for what are designated “non-violent” offenders under the California Penal Code, but in fact comprise a number of criminal acts that are violent in nature, or may be committed to facilitate a violent outcome (for example, discharging a firearm from a motor vehicle).

This Resolution would direct staff to seek legislation expanding the term “violent felony” as defined in the California Penal Code; to tighten the criteria for the release of non-violent, non-serious, non-sex offender inmates; to mandate consideration of an inmate’s entire criminal history as part of the deliberations involving whether to grant individual parole; and to consider creation of a task force that would be charged with issuing a report recommending further changes in law, and supported by documentation collected by local agencies and other key stakeholders.

### **Background:**

Since 2011, changes in state law, starting with AB 109, altered the fabric of California's criminal justice system. In 2011, AB 109 began to shift nearly 45,000 felons from the state prison system to local county jails. Prior to AB 109, many of California's more heavily populated counties already had jail systems that were operating under court-ordered or self-imposed population caps. As a result, AB 109 implementation triggered changes in that county jails experienced over time an influx of a rougher class of offender, and many lower level petty criminals committing new offenses were simply booked and released, serving no jail time at all.

Proposition 47 followed in 2014, reclassifying a host of felony offenses as misdemeanors and increasing the threshold amount for a felony charge of grand theft from \$450.00 to \$900.00. The effect of this change was to significantly stimulate the volume of petty theft, shoplifting, auto theft, and organized retail theft (shoplifting involving multiple persons with cell phones, designated getaway drivers, and a pre-determined escape route often involving a short trip to a major highway). Proposition 57, approved by voters in 2016, facilitates the potential early release of a large number of "non-violent" offenders by providing that inmates are eligible for parole once they have served 100% of their base sentence, without regard to any time served as a result of any sentencing enhancements. The universe of "non-violent" offenders could include individuals who have committed the following offenses: rape by intoxication, attempted drive-by shooting, assault with a deadly weapon, throwing acid with the intent to disfigure, to name but a few offenses. Since current law defines a "non-violent offender" based on the individual's most recent commitment offense, even if the individual is a repeat offender, the State Parole Board must still consider that person's parole application.

This state of affairs includes factors such as a higher proportion of offenders at large on our city streets, many of whom have had little in the way of rehabilitation programming while incarcerated, some with drug habits, who are more violent now than when initially incarcerated. Unless they engage in major illegal activity (murder, rape, arson, armed robbery), the available sanctions for any violations they commit, such as flash incarceration, i.e. temporary incarceration for 48-72 hours in a city or county jail, scarcely provide a meaningful deterrent to further criminal activity.

Communities in California are now facing increasing crime rates which can be linked to these recent legislative changes, which probation officers and local law enforcement are struggling to monitor and contain a situation in which a dramatically increase universe of offenders are at large in our communities.

The Public Policy Institute of California reports that since 2015:

- California has experienced an increase in overall crime
- Property crime is up 145%
- Violent crime is up 54%
- One in four Californians view violence and street crime in their community as a substantial problem
- Arrests dropped 31% for property crimes and 68% for drug offenses (due to Prop. 47)
- The report concludes auto theft increase is a direct result of AB 109

**Support:**

Cities of La Mirada, Lakewood, Monrovia, Pico Rivera, Rolling Hills, Santa Fe Springs, and South Gate

**Opposition:**

None received.

**Fiscal Impact:**

The collective and cumulative effect of the current criminal justice policies has led to increased pressure on county general funds for increased resources for probation supervision and incarceration in county jails, as well as identical pressure on municipal general funds related to increased law enforcement activity and in some areas, increased emergency medical services calls. Should the objectives outlined by the resolution be achieved, those pressures will be alleviated to a significant but undetermined amount.

**Comment:**

This measure is a response to a trend of rapidly mounting frustration among cities beset by calls for more law enforcement resources as a result of ongoing, sustained criminal activity. There is a growing sense among law enforcement professionals and local elected officials that current policies which have reduced criminal penalties, reclassified felonies as misdemeanors and facilitated what amounts to early release of many offenders who are not truly non-violent, will in time result in a high-profile tragedy involving significant loss of life.

**Existing League Policy:**

In regard to incarceration policy, the League supports stiffer penalties for violent offenders. In 2014, the League joined the California Police Chiefs in opposing Proposition 47, which reduces sentencing penalties for specified non-serious and non-violent drug and property crimes. It directed that the following offenses would be treated as misdemeanors, in most instances irrespective of the circumstances:

- Commercial Burglary
- Forgery
- Passing Bad Checks
- Grand Theft
- Receipt of Stolen Property
- Petty Theft with a Prior Offense
- Drug Possession

In 2013, the League Board of Directors approved a resolution pertaining to AB 109 (2011), which implemented Public Safety Realignment and brought significant changes to the state's incarceration policy. Specifically, it provided that specified categories of felony offenders previously sentenced to state prison, would prospectively be sentenced to terms in county jails.

The League's Resolution had two significant components relevant to this resolution:

- 1) It urged the Governor's office to adjust the implementation of Public Safety Realignment so that the criteria examined to evaluate the appropriateness of release of non-violent, non-serious, non-sex offender inmates would include their total criminal and mental

history, instead of merely the most recent criminal conviction for which they are currently committed; and

- 2) It urged the Governor's office to expedite the development of an effective statewide data sharing mechanism allowing state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.

Finally, the League in 2016 opposed Proposition 57, which altered rules for parole eligibility for non-violent felons, potentially facilitating parole before an individual has served any time toward a sentencing enhancement, and ushered in new rules for good time behavior seeking to incentivize inmates to undergo rehabilitation programming of an educational/vocational nature.

## **RESOLUTION REFERRED TO PUBLIC SAFETY POLICY COMMITTEE**

### **2. A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING LEGISLATION AMENDING GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS**

Source: City of Tracy

Concurrence of five or more cities/city officials: Cities: Lathrop, Lodi, Manteca, Stockton, and Consumnes Fire Department (Cities of Elk Grove and Galt)

Referred to: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

**WHEREAS**, Government Code Section 38611 was last amended in 1957 and does not contain language clarifying the broad scope of emergency services as provided by present day fire departments; and

**WHEREAS**, Government Code Section 38611 requires further definition for general law and charter cities in determining service levels for the delivery of emergency services commensurate with the resources provided by the local government body; and

**WHEREAS**, pursuant to Section 7 of Article XI of the California Constitution, municipal governments are vested with police power which imposes on the responsibility to protect public safety and public health and municipal governments must provide or contract for fire and/or emergency medical services; and

**WHEREAS**, the local provision of fire protection services, rescue services, emergency medical services, hazardous material emergency response services, ambulance services, and other services relating to the protection of lives and property is critical to the public peace, health, and safety of the state; and

**WHEREAS**, local fire and/or emergency medical services are financed by local taxpayers and the availability and use of such services is determined by the local governing body of the jurisdiction to which services are directly provided; and

**WHEREAS**, amending Government Code Section 38611 would provide the chief of a fire department specific authority to protect public safety and public health within the jurisdictional boundaries of the fire department.

**RESOLVED**, that the League of California Cities General Assembly, assembled at the League Annual Conference on September 15, 2017 in Sacramento, calls for the Governor and the Legislature to work with the League and other stakeholders to amend Government Code Section 38611 clarifying the definition of local control, providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

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### **Background Information on Resolution No. 2**

**Source:** City of Tracy

**Background:**

In 1980, the State Legislature enacted the Emergency Medical Services (EMS) Act in response to the development of paramedic services and a concern that there was a lack of medical oversight and coordination of emergency medical services. The EMS Act contains 100 different provisions in nine separate chapters of the California Health and Safety Code. The EMS Act created a two-tiered system that established a State EMS Agency to coordinate state-wide EMS activities and to develop state-wide minimum EMS policies and a local tier (Local EMS Agency) to plan, implement and evaluate an EMS System. The statute also includes language that establishes *“The medical direction and management of an emergency medical services system shall be under the medical control of the medical director of the local EMS Agency.”* In each county, the local EMS Agency sets local EMS policy, administers and provides medical oversight for cities and special fire districts to deliver EMS services within the county.

In the late 1970’s, as the EMS Act was being developed, the League of California Cities weighed heavily concerning the impact of the proposed EMS Act on cities. The League of California Cities argued against depriving a city of local control over EMS service levels. The League of California Cities wrote, *“We believe (local control) is important because city taxpayers financially support (EMS) programs and city management is responsible for their efficient utilization. The city council is responsible for the level of service and the cost of the program, wholly unrelated to the medical questions.”* Based on that argument, additional language was included in the EMS policy that allowed local agencies that were providing EMS service to continue (and even obligated) them to continue to provide EMS services at the same levels as prior to 1980. This addition to the EMS Act (Section 1797.201 – became known as “201

Rights”) has been very controversial and has led to several lawsuits between cities/special districts and local EMS Agencies.

The City of Tracy in San Joaquin County has become the epicenter on the issue of local control as it relates to who has the authority to determine which resources will respond to medical emergencies. Several incidents have been noted where poor patient outcomes were the result of a failed county policy (SJCEMS Agency Policy 3202) that restricts local fire departments from responding to “low-level” emergencies. The EMS policy decisions within San Joaquin County have potential implications on every local community within the state of California and increasingly threaten local control.

#### Proposed Amendment

The proposed amendment to Government Code Section 38611 would clarify local control and allow the local governing bodies to determine which services are directly provided within their respective jurisdictions. The existing law is extremely limited in scope having been last amended in 1957, at a time when fire departments did not routinely provide many of the specialized services of today. Changes in services provided include but are not limited to hazardous materials response, specialized rescue, and emergency medical services. The amendment aims to support the long-standing tradition in California of local control over the types, levels, and availability of these services.

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### **League of California Cities Staff Analysis on Resolution No. 2**

Staff: Tim Cromartie  
Committee: Public Safety

#### **Summary:**

This resolution calls for the Governor and the Legislature to work with the League and other stakeholders to amend Government Code Section 38611 clarifying the definition of local control, providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

#### **Background:**

In 1980, the State Legislature enacted the Emergency Medical Services (EMS) Act in response to the development of paramedic services and a concern that there was a lack of medical oversight and coordination of emergency medical services. The EMS Act contains 100 different provisions in nine separate chapters of the California Health and Safety Code. The EMS Act created a two-tiered system that established a State EMS Agency to coordinate state-wide EMS activities and to develop state-wide minimum EMS policies and a local tier (Local EMS Agency) to plan, implement and evaluate an EMS System.

The statute also includes language that establishes “*The medical direction and management of an emergency medical services system shall be under the medical control of the medical director*”

*of the local EMS Agency.*” In each county, the local EMS Agency sets local EMS policy, administers and provides medical oversight for cities and special fire districts to deliver EMS services within the county.

In the late 1970’s, as the EMS Act was being developed, the League of California Cities weighed heavily concerning the impact of the proposed EMS Act on cities. The League argued against depriving a city of local control over EMS service levels. The League wrote, *“We believe (local control) is important because city taxpayers financially support (EMS) programs and city management is responsible for their efficient utilization. The city council is responsible for the level of service and the cost of the program, wholly unrelated to the medical questions.”* Based on that argument, additional language was included in the EMS policy that allowed local agencies that were providing EMS service to continue (and even obligated) them to continue to provide EMS services at the same levels as prior to 1980. This addition to the EMS Act (Section 1797.201 – became known as “201 Rights”) has been very controversial and has led to several lawsuits between cities/special districts and local EMS Agencies.

The City of Tracy in San Joaquin County has become one of the epicenters on the issue of local control as it relates to who has the authority to determine which resources will respond to medical emergencies. Several incidents have been noted where poor patient outcomes have been attributed by some observers to a county policy (SJCEMS Agency Policy 3202) that restricts local fire departments from responding to “low-level” emergencies. The EMS policy decisions within San Joaquin County have potential implications on every local community within the state of California and increasingly threaten local control.

**Support:**

Cities of Lathrop, Lodi, Manteca, City of Stockton, and Consumnes Fire Department (Cities of Elk Grove and Galt)

**Opposition:**

None received.

**Fiscal Impact:**

This resolution, if its directive can be achieved, will have no direct fiscal impact on cities. It will however, provide an atmosphere in which cities that have invested significant resources in building up and maintaining an independent EMS capability can have confidence that it will be deployed as intended.

**Comment:**

While this resolution calls for very specific action to clarify the rules governing emergency medical services, ideally it would be more generally worded to allow greater flexibility in pursuing legislative and other solutions to a problem that has existed for decades, spawning both legislation and multiple incidents of litigation.

However, it accurately expresses the legitimate frustration of cities in their efforts to provide emergency medical services (EMS) while abiding by the directives of their local emergency medical services authorities (LEMSA’s), which are county entities. Counties have broad

discretion under existing case law in how they administer EMS under the doctrine of medical control. To the degree there is dissatisfaction on the part of cities within a given county or counties, the following should be noted:

- 1) A task force convened by the California Emergency Medical Services Authority, the state entity with jurisdiction over this subject matter, made significant headway in crafting regulations governing the provision of ground emergency medical transport -- until disputes over local control and the criteria under which a local (municipal) agency could lay claim to the exclusive right to provide EMS in a specific operating area led to a lawsuit being filed by the California Fire Chiefs Association. That suit effectively suspended the work of the Task Force.
- 2) Over the past two decades, multiple attempts at legislation to resolve this issue have been tried, most without success. It was in part the multiple attempts at legislation that triggered the formation of the above-referenced task force.

**Existing League Policy:**

The League supports the fire service mission of saving lives and protecting property through fire prevention, disaster preparedness, hazardous-materials mitigation, specialized rescue, etc. as well as cities' authority and discretion to provide all emergency services to their communities.

The League supports and strives to ensure local control of emergency medical services by authorizing cities and fire districts to prescribe and monitor the manner and scope of pre-hospital emergency medical services, including transport through ambulance services, all provided within local boundaries for the purpose of improving the level of pre-hospital emergency medical service.

The League supports legislation to provide the framework for a solution to longstanding conflict between cities, counties, the fire service and LEMSA's particularly by local advisory committees to review and approve the EMS plan and to serve as an appeals body. Conflicts over EMS governance may be resolved if stakeholders are able to participate in EMS system design and evaluation and if complainants are given a fair and open hearing.

The League opposes legislation, regulations and standards that impose minimum staffing and response time standards for city fire and EMS services since such determinations should reflect the conditions and priorities of individual cities.

The League supports Emergency 911 systems to ensure cities and counties are represented on decisions affecting emergency response.

# **LETTERS OF CONCURRENCE**

## Resolution No. 1

Implement Strategies to Reduce Negative Impacts of  
Recent Changes to Criminal Laws



**CITY OF LA MIRADA**  
DEDICATED TO SERVICE

13700 La Mirada Boulevard  
La Mirada, California 90638  
P.O. Box 828  
La Mirada, California 90637-0828  
Phone: (562) 943-0131 Fax: (562) 943-1464  
www.cityoflamirada.org

July 11, 2017

**LETTER OF SUPPORT**

General Resolutions Committee  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**SUBJECT: 2017 CONFERENCE RESOLUTION STRATEGIES TO IMPROVE NEGATIVE IMPACTS OF CRIMINAL LAW**

Dear Committee:

The City of La Mirada supports the League of California Cities Annual Conference Resolution proposed by the City of Whittier calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

The City of La Mirada has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. Specifically, since 2014 the City of La Mirada has seen property crime increase by 41 percent. The proposed resolution seeks to correct these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include one's total criminal and mental health history instead of only the most recent criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms to enhance public safety in our community. For these reasons, the City of La Mirada strongly supports this resolution to strategically address criminal justice reforms.

Sincerely,

**CITY OF LA MIRADA**

Ed Eng  
Mayor

EE:JB:vdr

Steve Croft  
Vice Mayor

Jeff Wood  
Council Member

Ron Piazza  
Council Member



Todd Rogers  
Council Member

July 10, 2017

General Resolutions Committee  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

Diane DuBois  
Mayor

**RE: 2017 Conference Resolution – Notice of Support  
Strategies to Improve Negative Impacts of Criminal Law**

Dear Committee:

The City of Lakewood supports the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

Like other cities, Lakewood has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. The proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts. These include:

- Request League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes and work with key stakeholders to promote support for resulting advocacy efforts.
- Promote an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent."
- Request that the State improve the "Smart Justice" platform to allow state and local law enforcement agencies to rapidly share information to track offenders and encourage data collection on post-release community supervision offenders.

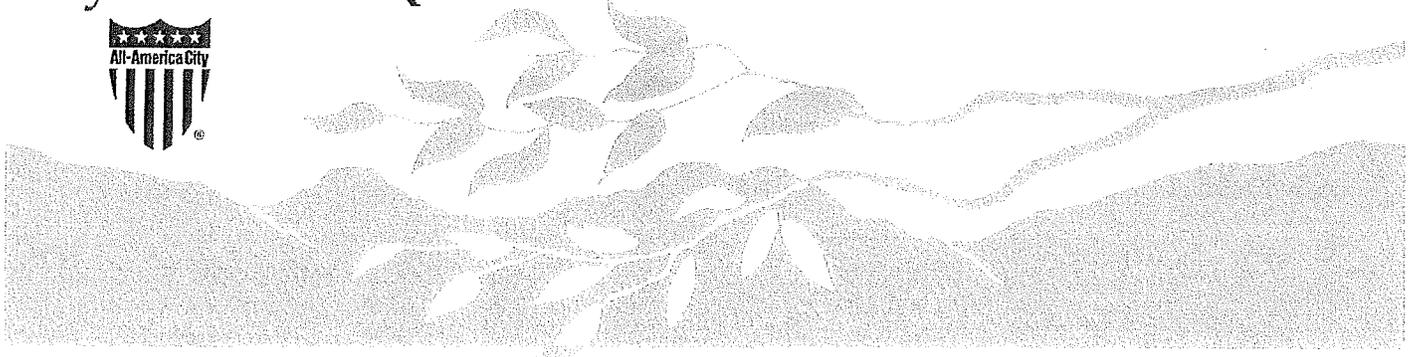
The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, the City of Lakewood strongly supports this resolution to strategically address criminal justice reforms.

Sincerely,

A handwritten signature in cursive script that reads "Diane DuBois".

Diane DuBois  
Mayor

# Lakewood



July 11, 2017

President JoAnne Mounce  
The League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: Letter of Support for the Resolution Brought Forward by the City of Whittier Regarding the Unintended Negative Consequences of Recent Legislative Changes to California's Criminal Justice System**

Dear Ms. Mounce:

The City of Monrovia strongly supports the Resolution brought forth by the City of Whittier, which asks the League of California Cities (League) to initiate and facilitate further discussion between the Governor, the State Legislature, and other key public safety stakeholders regarding the legislative changes that have been made to California's criminal justice system during the past few years.

Taken together, Assembly Bill 109, Proposition 47, and Proposition 57 have reshaped how we approach public safety issues in our State. And certainly, the identified measures have resulted in measurable and positive impacts to California's criminal justice system, such as a decrease in the State prison system population. However, the cumulative effect of these legislative actions have had several significant unintended consequences, which have resulted in California cities now needing to address increasingly complex public safety challenges.

For example, in the City of Monrovia, violent and property crimes increased by 19% when comparing 2016 crime levels against 2015 rates. On-the-street information being provided by our Police Officers seems to correlate that the increasing levels of crime are connected with the legislative changes that have been enacted in California during the past several years. Additionally, the public safety issues we are experiencing in Monrovia are not occurring in a vacuum, as other neighboring jurisdictions are reporting similar concerns that impact our region as a whole.

Given these factors, we believe that California's overall criminal justice system needs to be carefully reexamined for potential methods to mitigate these emerging public safety issues. The City of Whittier's Resolution represents a positive first step, which includes the formation of a task force to examine possible criminal justice system modifications in greater detail. We believe that such a step would be a move in the right direction for California.

For these reasons, the City of Monrovia strongly supports the Resolution brought forth by the City of Whittier. Of course, please feel free to contact me if I can provide any additional information. I can be reached at (626) 932-5501, or via email at [ochi@ci.monrovia.ca.us](mailto:ochi@ci.monrovia.ca.us).

Best regards,

A handwritten signature in black ink, appearing to read "Oliver Chi".

Oliver Chi  
City Manager



City of Pico Rivera  
**OFFICE OF THE CITY MANAGER**

6615 Passons Boulevard · Pico Rivera, California 90660

(562) 801-4379

Web: [www.pico-rivera.org](http://www.pico-rivera.org) · e-mail: [rbobadilla@pico-rivera.org](mailto:rbobadilla@pico-rivera.org)

**René Bobadilla, P.E.**  
City Manager

**City Council**

Bob J. Archuleta  
Mayor

Gustavo V. Camacho  
Mayor Pro Tem

David W. Armenta  
Councilmember

Gregory Salcido  
Councilmember

Brent A. Tercero  
Councilmember

July 12, 2017

General Resolutions Committee  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: 2017 Conference Resolution  
Strategies to Improve Negative Impacts of Criminal Law  
Notice of Support**

Dear Committee:

The City of Pico Rivera supports the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

The City of Pico Rivera has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. Following are some specific impacts provided by the Pico Rivera Sheriff's Department:

Part I crimes

Robbery is up 10.26% in 2017 compared to 2016

Larceny Theft is up 4.09% in 2017 compared to 2016

Part II crimes

Weapon Law is up 9.68% in 2017 compared to 2016

Felony Transport & or Sales of controlled substance (except Marijuana) is up 44.44% compared to 2016

Misdemeanor Possession of a Controlled Substance (excluding Marijuana) is up 56.06% compared to 2016

Under the influence of Narcotic is up 28.57% in 2017 compared to 2016

The proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

General Resolutions Committee

**2017 Conference Resolution – Strategies to Improve Negative Impacts of Criminal Law**

Notice of Support

July 12, 2017

Page 2

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make “violent offenses” include crimes that meet the plain language definition of “violent”.

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, the City of Pico Rivera strongly supports this resolution to strategically address criminal justice reforms.

Best regards,



René Bobadilla, P.E.  
City Manager  
City of Pico Rivera



*City of Rolling Hills*

INCORPORATED JANUARY 24 1957

NO. 2 PORTUGUESE BEND ROAD  
ROLLING HILLS, CALIF. 90274  
(310) 377-1521  
FAX: (310) 377-7288

July 12, 2017

General Resolutions Committee  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: 2017 Conference Resolution  
Strategies to Improve Negative Impacts of Criminal Law  
Notice of Support**

Dear Members of the General Resolutions Committee:

As a member of the Rolling Hills City Council, I support the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and with other public safety stakeholders to identify and implement strategies that will relieve the unintended negative impacts of existing criminal law.

The City of Rolling Hills has seen increases in burglaries, mail/package theft and other property related crime that may have resulted from a combination of legislative actions and voter-approved initiatives. The City has also seen a significant jump in identity theft. The proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

General Resolutions Committee

July 12, 2017

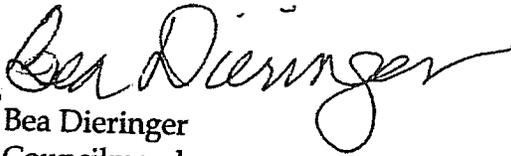
Re: 2017 Conference Resolution Strategies to Improve Negative Impacts of Criminal Law -  
Notice of Support

Page 2

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, I strongly support this resolution to strategically address criminal justice reforms.

Sincerely,



Bea Dieringer  
Councilmember  
City of Rolling Hills

RC:BD:hl

07-12-17League Resolution Support.docx



July 11, 2017

General Resolutions Committee  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: 2017 Conference Resolution  
Strategies to Improve Negative Impacts of Criminal Law  
Notice of Support**

Dear Committee:

The City of Santa Fe Springs supports the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

The City of Santa Fe Springs has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. In addition, the City of Santa Fe Springs contracts with the Whittier Police Department for Law Enforcement Services. In February, Whittier Police Department Officer Keith Boyer was gunned down by a AB 109 offender in a heinous act of indiscriminate violence. We feel strongly that AB 109 and the loosening of oversight and control over recidivist offenders was at least partially responsible in Officer Boyer's death. We believe that the proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

William K. Rounds, Mayor • Jay Sarno, Mayor Pro Tem  
City Council  
Richard J. Moore • Juanita Trujillo • Joe Angel Zamora  
City Manager  
Thaddeus McCormack  
CC 8.22.17 Page 171 of 181

July 10, 2017

Page 2

**2017 Conference Resolution**

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, the City of Santa Fe Springs strongly supports this resolution to strategically address criminal justice reforms.

Sincerely,



William K. Rounds, Mayor  
City of Santa Fe Springs

William K. Rounds, Mayor • Jay Sarno, Mayor Pro Tem  
City Council  
Richard J. Moore • Juanita Trujillo • Joe Angel Zamora  
City Manager  
Thaddeus McCormack



# City of South Gate

8650 CALIFORNIA AVENUE + SOUTH GATE, CA 90280-3075 + (323) 563-9543  
WWW.CITYOFSOUTHGATE.ORG FAX (323) 569-2678

MARIA DAVILA, Mayor  
MARIA BELEN BERNAL, Vice Mayor  
DENISE DIAZ, Council Member  
JORGE MORALES, Council Member  
AL RIOS, Council Member

July 11, 2017

General Resolutions Committee  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: 2017 ANNUAL CONFERENCE RESOLUTION: STRATEGIES TO IMPROVE  
NEGATIVE IMPACTS OF CRIMINAL LAW-NOTICE OF SUPPORT**

Dear Committee:

As a Council Member of the City of South Gate, and a Member of the League's Public Safety Policy Committee, I am writing to express my support of the City of Whittier's 2017 Annual Conference Resolution (Resolution.) The proposed Resolution calls on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders, to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

Cities in Los Angeles County have experienced increases in property crimes that may have resulted from a combination of legislative actions and voter-approved initiatives. The proposed Resolution seeks to remedy many of the negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The passage of this Resolution would provide a range of important League directives to address the growing public safety concerns in these communities. For these reasons, I strongly support this Resolution to strategically address criminal justice reforms.

Sincerely,

Jorge Morales  
Council Member

# **LETTERS OF CONCURRENCE**

Resolution No. 2

Local Control for Emergency Medical Response



COSUMNES FIRE DEPARTMENT

10573 E Stockton Blvd.  
Elk Grove, CA 95624

(916) 405-7100  
Fax (916) 685-6622  
www.yourcsd.com

July 13, 2017

The Honorable JoAnne Mounce, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

**RE: RESOLUTION THAT SUPPORTS LEGISLATION TO AMEND GOVERNMENT  
CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL**

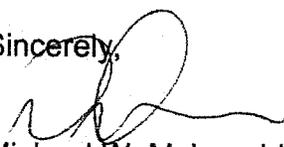
Dear President Mounce,

The Cosumnes CSD Fire Department, which encompasses the Cities of Elk Grove and Galt supports the proposed resolution that would support legislation to amend Government Code Section 38611 to clarify the definition of local control as it pertains to emergency services.

A core function of local government is the ability to determine and provide the appropriated level of emergency response resources. Allowing Local Emergency Medical Services Agencies (LEMSAs) to determine when and how local fire agencies respond to emergencies circumvents the role of Fire Chiefs and municipal and special fire district legislative bodies. It should be the role of the Fire Chief to determine the required service levels and the role of the local legislative bodies to support the Fire Chief's recommendations based on community expectations, community risk reduction strategies and available resources.

Therefore, the Cosumnes CSD Fire Department supports the proposed resolution and future legislation that would serve to ensure local government determines their emergency response service levels. If further clarification is required, please let me know.

Sincerely,

  
Michael W. McLaughlin  
Fire Chief



Office of the City Manager

390 Towne Centre Dr. – Lathrop, CA 95330  
Phone (209) 941-7220 – fax (209) 941-7248  
[www.ci.lathrop.ca.us](http://www.ci.lathrop.ca.us)

July 14, 2017

The Honorable JoAnne Mounce, President  
League of California Cities  
1400 K Street  
Sacramento, CA 95814

Sent to Via Email to: [Meg Desmond mdesmond@cacities.org](mailto:mdesmond@cacities.org)<<mailto:mdesmond@cacities.org>

**Re: RESOLUTION THAT SUPPORTS LEGISLATION TO AMEND GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL**

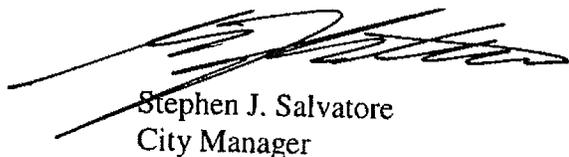
Dear President Mounce,

The City of Lathrop supports the proposed resolution that would support legislation to amend Government Code Section 38611 to clarify the definition of local control as it pertains to emergency services.

A core function of local government is the ability to determine and provide the appropriated level of emergency response resources. Allowing Local Emergency Medical Services Agencies (LEMSAs) to determine when and how local fire agencies respond to emergencies circumvents the role of Fire Chiefs and municipal and special fire district legislative bodies. It should be the role of the Fire Chief to determine the required service levels and the role of the local legislative bodies to support the Fire Chief's recommendations based on community expectations, community risk reduction strategies and available resources.

Therefore, the City of Lathrop supports the proposed resolution and future legislation that would serve to ensure local government determines their emergency response service levels. If further clarification is required, please let me know.

Thank you,



Stephen J. Salvatore  
City Manager

Cc: Members of the City of Lathrop City Council  
Lathrop Manteca Fire Chief, Gene Neely  
Tracy City Manager, Troy Brown  
Tracy Fire Chief, Randall Bradley  
Central Valley Regional Public Affairs Manager LOCC, Stephen Qualls

CITY COUNCIL

DOUG KUEHNE, Mayor  
ALAN NAKANISHI,  
Mayor Pro Tempore  
MARK CHANDLER  
BOB JOHNSON  
JOANNE MOUNCE

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6702 / FAX (209) 333-6807  
[www.lodi.gov](http://www.lodi.gov)     [cityclerk@lodi.gov](mailto:cityclerk@lodi.gov)

STEPHEN SCHWABAUER  
City Manager

JENNIFER M. FERRAILOLO  
City Clerk

JANICE D. MAGDICH  
City Attorney

July 19, 2017

The Honorable JoAnne Mounce, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING  
LEGISLATION AMENDING GC §38611 TO CLARIFY DEFINITION OF LOCAL  
CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL  
OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT  
EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS**

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The City of Lodi supports the proposed resolution to support legislation amending Government Code §38611 to clarify the definition of local control providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Accordingly, we concur in the submission of the resolution for consideration by the League of California Cities General Assembly at its annual meeting on September 15, 2017.

Government Code Section 38611 does not contain language clarifying the broad scope of emergency services as provided by present day fire departments. The code requires further definition for general law and charter cities in determining service levels for the delivery of emergency services commensurate with the resources provided by the local government body. Amending Government Code Section 38611 would provide the chief of a fire department specific authority to protect public safety and public health within the jurisdictional boundaries of the fire department.

The City of Lodi is in strong support of providing statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Sincerely,



Doug Kuehne  
Mayor, City of Lodi

DK/JMF

cc: Larry Rooney, Fire Chief, City of Lodi  
Randall Bradley, City of Tracy, [randall.bradley@ci.tracy.ca.us](mailto:randall.bradley@ci.tracy.ca.us)  
Stephen Qualls, League of California Cities, [squalls@cacities.org](mailto:squalls@cacities.org)



## CITY OF MANTECA - FIRE DEPARTMENT

1154 S. UNION ROAD • MANTECA, CA 95337  
(209) 456-8300 • FAX (209) 923-8936

July 13, 2017

League of California Cities  
1400 K Street, Suite 400  
Sacramento CA 95814

**RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING LEGISLATION AMENDING GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS**

To Whom It May Concern:

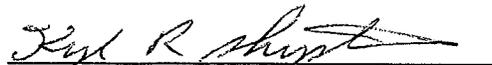
This letter confirms that the City of Manteca supports the resolution on Emergency Medical Services submitted to the League of California cities by the City of Tracy. The City of Manteca believes that local control of Emergency Services is critical to ensure that the best possible service and protection of our citizens/taxpayers is provided.

We appreciate the City of Tracy's willingness to bring this crucial issue to the forefront.

Respectfully,

  
Greg Showerman, Acting City Manager

Date: 13 July 2017

  
Kyle Shipherd, Fire Chief

Date: 13 July 2017

MICHAEL TUBBS  
Mayor

ELBERT HOLMAN  
Vice Mayor  
District 1



# CITY OF STOCKTON

OFFICE OF THE CITY COUNCIL  
CITY HALL • 425 N. El Dorado Street • Stockton, CA 95202  
209 / 937-8244 • Fax 209 / 937-8568

DAN WRIGHT  
District 2

SUSAN LOFTHUS  
District 3

SUSAN LENZ  
District 4

CHRISTINA FUGAZI  
District 5

JESÚS ANDRADE  
District 6

July 13, 2017

The Honorable JoAnne Mounce, President  
League of California Cities  
1400 K Street  
Sacramento, CA 95814

**SUBJECT: Resolution of the League of California Cities Supporting Legislation Providing Broad Statutory Authority for Local Officials to Determine Emergency Service Levels - SUPPORT**

Dear President Mounce,

On behalf of the City of Stockton, I wish to voice our support of the City of Tracy proposed resolution for consideration by League membership. Stockton supports this resolution for the following reasons:

- 1) The City of Stockton Legislative Program seeks the broadest authority for the City Council to make decisions locally, particularly related to the local exercise of police powers;
- 2) The City of Stockton Legislative Program advocates for efforts that impact the City's ability to enhance the well-being, quality of life, health, and safety of residents;
- 3) The City of Stockton has experienced challenges and frustrations in delivering the highest quality of emergency medical services to our residents due to provision of the Emergency Medical Services (EMS) Act.
- 4) Amendments to the EMS Act would clarify local control and allow governing bodies to determine which services are directly provided within their respective jurisdictions.

For these reasons, the City of Stockton concurs with and supports the City of Tracy proposed resolution for consideration by League membership.

MICHAEL TUBBS  
MAYOR

MT:cc

cc: Stockton City Councilmembers  
Kurt Wilson, Stockton City Manager

# MEMO

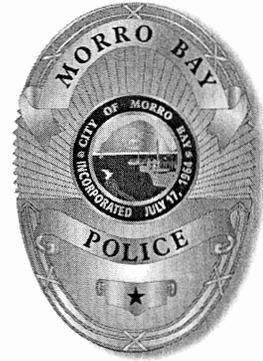
To: The Honorable City Council

From: Police Chief Gregory Allen

Date: August 15, 2017

Subject: SUPPORT FOR LEAGUE OF CALIFORNIA CITIES RESOLUTIONS No. 1 and 2

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Honorable City Council,

At this year's upcoming Annual 2017 League of California Cities Annual Conference, two public safety resolutions will be presented. I am in full support of Resolutions No. 1 and No. 2.

## Summary

Resolution No. 1 seeks to address unanticipated crime increases in the wake of AB 109, which reclassified a host of felony offenses as misdemeanors; Proposition 47, which reclassified a host of felony offenses to misdemeanors; and Proposition 57, which revised the rules of parole for what are designated "non-violent" offenders (for example, discharging a firearm from a motor vehicle if no one is struck).

Resolution No. 2 supports legislation amending Government Code Section 38611 to clarify the definition of local control providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Support of the above Resolutions is in alignment with our public safety and crime reduction goals, and will assist in enhancing the quality of life of our Morro Bay community.

A handwritten signature in black ink, appearing to read "Gregory Allen", is written over a large, light-colored circular scribble.

Gregory Allen,  
Police Chief  
Morro Bay, Ca.



## CITY OF MORRO BAY

### FIRE DEPARTMENT

715 Harbor Street  
Morro Bay, CA 93442



# Memorandum

**To:** City Council  
**CC:** Martin Lomeli, City Manager  
**From:** Steven C. Knuckles, Fire Chief   
**Date:** August 15, 2017  
**Re:** League of California Cities resolution that supports legislations to amend Government Code Section 38611 to clarify the definition of local control

---

Dear Council,

The City of Morro Bay has been providing Advanced Life Support to our citizens since 1982 as requested by its citizens. Our paramedic program is regulated by our local County and State Emergency Services Medical Agency (EMSA) since the inception of our countywide program. I support the proposed League of California Cities resolution that would support legislation to amend Government Code Section 38611 to clarify the definition of local control as it pertains to emergency services.

I strongly believe our citizens should have a choice of the level of emergency services it wants to provide and pay for. With the level of service our community has chosen, your City is responsible for the efficient utilization that is funded through the City Council under the regulatory guidelines set by our local County and State EMSA. Allowing our local County EMSA to determine when and how local cities responds to emergency events eludes the role of our City Councils, our City Manager, and our Fire Chief to manage and fund the services our citizens want. Amending Government Code Section 38611 would provide our City specific authority to protect public safety within our city limits with a level of service that is determined by our citizen's expectations, community risk reduction strategies, and available resources.

The proposed amendment would clarify local control and allow the local governments to determine which emergency services it would provide. The existing law is extremely limited in scope having been last amended in 1957, at a time when fire departments did not routinely provide many of the specialized services of today.

I support the proposed resolution by the League of California Cities that would ensure local government control determining their emergency response services to our citizens. I personally believe our local emergency response to our citizens and visitors is the first and most efficient step to our national healthcare system. It is extremely important our City does not lose its choice in the level service it provides and pays for. Please do not hesitate to contact me for any further questions.