



# CITY OF MORRO BAY CITY COUNCIL AMENDED 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, February 13, 2018 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

- San Luis Obispo Council of Governments (SLOCOG) Presentation on SB-1, by Pete Rodgers, Deputy Director
- Presentation of Black History Month Proclamation

### 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 JANUARY 9, 2018 CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE JANUARY 23, 2018 CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF MINUTES FOR THE JANUARY 23, 2018 CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-4 APPROVAL OF JANUARY 24, 2018 CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-5 ADOPTION OF RESOLUTION NO. 05-18 AUTHORIZATION FOR THE EXECUTION OF SGR PROGRAM CERTIFICATION AND ASSURANCES AND AUTHORIZED AGENTS, AND RESOLUTION NO. 06-18 AUTHORIZATION FOR THE CITY OF MORRO BAY'S PROJECT LIST FOR FY 17/18 FOR THE CALIFORNIA STATE OF GOOD REPAIR (SGR) PROGRAM; (PUBLIC WORKS)

**RECOMMENDATION: Staff recommends the City Council do the following:**

- 1. Adopt Resolution No. 05-18, authorizing the Public Works Director and Management Analyst to execute all required documents of the SGR Program and any amendments thereto, with the California Department of Transportation; and**
- 2. Adopt Resolution No. 06-18, authorizing the FY 2018/18 City of Morro Bay SGR Project List include the Morro Bay Transit replacement vehicle.**

A-6 APPROVAL OF PROCLAMATION DECLARING FEBRUARY 2018 AS BLACK HISTORY MONTH; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

B. PUBLIC HEARINGS - None

C. BUSINESS ITEMS

C-1 REQUEST FOR DIRECTION REGARDING DIABLO CANYON NUCLEAR POWER PLANT CLOSURE SETTLEMENT AGREEMENT AND BUDGET APPROPRIATIONS FOR LEGAL COSTS AND COMMUNITY IMPACT MITIGATION PROGRAM; (CITY MANAGER)

**RECOMMENDATION: Direct the City Manager to bring back for formal City Council consideration and adoption, a budget appropriation as part of the FY 2017/2018 Mid-Year Budget Review, to include Risk Management Fund appropriation in an amount up to \$15,000, to reimburse the City of San Luis Obispo ("SLO") for legal costs assumed by SLO as the lead agency for the**

**Coalition of Cities in support of the Diablo Canyon Nuclear Power Plant Closure Settlement Agreement, and**

**Consider City financial support for the Diablo Canyon Nuclear Power Plant Closure Community Impact Mitigation Program, in partnership with San Luis Obispo County (“County”) and the cities therein, and other partners, through the development of a regional economic study and strategy.**

- C-2 REVIEW OF AND DIRECTION REGARDING HARBOR ADVISORY BOARD RECOMMENDATIONS ON FY 17/18 WORKPLAN OBJECTIVES AND CONSIDERATION OF ESTABLISHING FEE-BASED BOAT/RV STORAGE IN THE “TRIANGLE” PARKING LOT, AND LICENSING / PERMITTING FOR-PROFIT ACTIVITIES AND BUSINESSES OCCURRING ON TIDELANDS TRUST PROPERTIES; (HARBOR)

**RECOMMENDATION: Provide staff input and direction as outlined in the goal objective “research and bring to Council for consideration” items detailed in this report.**

- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

- E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, February 27, 2018 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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PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	Assistant City Attorney
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Greg Allen	Police Chief
	Steve Knuckles	Fire Chief
	Eric Endersby	Harbor Director

#### ESTABLISH QUORUM AND CALL TO ORDER

<https://youtu.be/lxwg3X2GHA8?t=36s>

The meeting was called to order at 6:02 p.m., with all members present.

#### MOMENT OF SILENCE

#### PLEDGE OF ALLEGIANCE

RECOGNITION - None

CLOSED SESSION REPORT – Assistant City Attorney Neumeyer reported the Council met in Closed Session and discussed one item CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: 1 matter involving Morro Bay Action Team's claim of a CEQA and Brown Act violation at the November 14, 2017, meeting. The Council, after discussion in Closed Session, voted unanimously to respond with a letter to the Morro Bay Action Team. That letter will be included on the Consent Agenda for the January 23<sup>rd</sup> meeting for public consumption.

#### MAYOR AND COUNCIL MEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

#### CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS

#### PRESENTATIONS

- Presentation of Proclamation in Recognition of San Luis Obispo Museum of Art
- Bird Festival Proclamation

#### PUBLIC COMMENT

<https://youtu.be/lxwg3X2GHA8?t=29m47s>

Carole Truesdale, Morro Bay, expressed concern about the City's financial condition and urged the Council cease spending and consider solutions being offered by those with project management experience.

Dawn Bettie, Morro Bay, appreciated the City's Proclamation in recognition of the San Luis Obispo Museum of Art ("SLOMO") and urged the community to visit and see Jeffrey Bacon's display, available through the end of January.

Jeff Bacon, Morro Bay, invited the public to visit SLOMO to view an exhibit of movie posters he designed.

David Nelson, Morro Bay, expressed concern about the data being used to design the water reclamation facility and urged the Council to not move forward with the current project

Anne-Marie Schnetzler, Morro Bay, offered a wish list for the year to come, thanked staff for its financial reporting, hoped the City would live within its means and that the water/sewer project would advance with caution and fiscal responsibility.

Betty Winholtz, Morro Bay, shared thoughts and appreciation for former Morro Bay resident, Nelson Sullivan, who recently passed away. A memorial service will be held for him in a few months.

The public comment period was closed.

In response to questions raised during the public comment period, Public Works Director provided a brief presentation on wastewater treatment plant average daily flows for Morro Bay and the financial benefit of receiving subsidized financing.

- A. CONSENT AGENDA  
<https://youtu.be/lxwg3X2GHA8?t=51m20s>

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

- A-1 APPROVAL OF MINUTES FOR THE NOVEMBER 14, 2017 CITY COUNCIL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-2 APPROVAL OF MINUTES FOR THE NOVEMBER 14, 2017 CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-3 APPROVAL OF MINUTES FOR THE DECEMBER 12, 2017 CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-4 APPROVAL OF MINUTES FOR THE DECEMBER 13, 2017 CITY COUNCIL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-5 APPROVAL OF BIRD FESTIVAL PROCLAMATION; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-6 APPROVAL OF PROCLMATION IN RECOGNITION OF THE SAN LUIS OBISPO MUSEUM OF ART; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-7 APPOINTMENT OF MAYOR PRO TEMPORE FOR 2018; (CITY CLERK)

**RECOMMENDATION: Council affirm the appointment of Council Member McPherson as Mayor Pro Tempore for calendar year 2018.**

A-8 APPROVAL OF AND AUTHORIZATION FOR THE CITY MANGER TO SIGN A LICENSE AGREEMENT WITH SO CAL GAS FOR INSTALLATION OF A UTILITY POLE AND DATA COLLECTION DEVICE ON A CITY-OWNED LOT AT 2692 NUTMEG AVENUE, SUBJECT TO APPROVAL OF THE CITY ATTORNEY; (PUBLIC WORKS)

**RECOMMENDATION: Council approve and authorize the City Manager to sign a license agreement to allow So Cal Gas to use a portion of City-owned lot (APN: 068-251-001) for installation of a utility pole and data collection device.**

A-9 APPROVAL OF PARTNERSHIP AGREEMENT WITH ESTERO BAY COMMUNITY RADIO; (CITY MANAGER)

**RECOMMENDATION: City Council authorize the City Manager to enter into a 3-year partnership agreement with Estero Bay Community Radio (EBC Radio) waiving a portion of facility use fees for its annual fundraising event and extending the current lease agreement for office space at 695 Harbor Street through June 30, 2020.**

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

Mayor Irons requested if significant discussion is needed on a Consent Agenda item, that it be done at the end of the meeting or continued to a future meeting.

Council Members Davis, Headding and McPherson pulled Item A-9

MOTION: Council Member Headding moved the Council approve all items on the Consent Agenda except Item A-9. The motion was seconded by Council Member Davis and carried unanimously, 5-0.

Council Member Davis disclosed he is part of the air talent and has a monthly program on EBC Radio for which he receives no compensation. Assistant City Attorney Neumeyer confirmed Council Member Davis has no financial interest and is not required by State law to recuse himself. Council Member Headding and Mayor Irons disclosed the same situation applies to them.

Council Member McPherson supported EBC Radio, but had concerns about the Partnership Policy on which the agreement is based. She recommended moving forward with a 1-year contract to allow for further Council discussion and guidance on partnership agreements.

Council Member Davis supported a 1-year contract with a future discussion of the Partnership Policy.

MOTION: Council Member Davis moved the Council authorize the City Manager to enter into a 1-year partnership agreement with Estero Bay Community Radio waiving a portion of facility use fees for its annual fundraising event and extending the current lease agreement for office space at 695 Harbor Street for a term ending December

13, 2018. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 REVIEW OF AND DIRECTION FOR WATER RECLAMATION FACILITY (WRF) PROGRAM MANAGEMENT STRUCTURE AND PROVIDE OTHER COMMENTS AND DIRECTION AS DEEMED APPROPRIATE; (CITY MANAGER/PUBLIC WORKS)  
<https://youtu.be/lxwg3X2GHA8?t=59m49s>

City Manager Collins presented the report and, along with Public Works Director Livick, responded to Council inquiries.

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

Jeff Heller, Morro Bay, requested the Council not reassign the Public Works Director to become the program manager, but to hire an owner's agent. He offered to volunteer his time for the next 60 days to find an experienced and qualified person with insurance and a clerical support to act as the owner's agent on a contract basis.

Terry Simons, Morro Bay, shared a fable he prepared based on the tale of Blind Men and the Elephant and asked the Council to take blinders off, get new set of eyes and stop feeding the elephant.

David Nelson, Morro Bay, stated the City does not need a new management team and the proposed plant isn't right for Morro Bay.

Karen Beckman, Morro Bay, urged the Council to replace the present management team and stated the importance of anticipating and meeting project deadlines.

Bart Beckman, Morro Bay, recommended the City keep MKN on to complete the EIR and look for a new program manager to act as a cost control manager.

Tom Rost, Morro Bay, suggested the City listen to the experts in the community and explore other alternatives.

Cynthia Hawley requested the City hire a program manager familiar with land use law and expressed concern those processes are not currently being followed.

Kerrigan Mahan, Morro Bay, asked what can be done to the existing plant to bring it into compliance and stop this project.

Steve Stevens, Morro Bay, supported having a project manager look at the alternatives and supported a project that stays within the community's means.

Betty Winholtz, Morro Bay, stated if the WIFIA timeline were missed, a less expensive project should be pursued. She supported having Mr. Livick remain in his current capacity and hiring of an owner's agent to focus on this project.

Tina Metzger, Morro Bay, asked why the draft EIR is late and expressed concern the project is being pushed forward to fit a funding process. She supported hiring an owner's agent to watch out for the community's interests.

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

Assistant City Attorney Neumeyer responded to questions raised during the public comment period related to land use and the CEQA process. Mr. Livick added he anticipates the EIR will be brought to the Planning Commission in March.

There was Council consensus to move forward with Option C provided in the staff report and begin recruitment of a project manager on a contract basis. Some of the required skill sets for that position would be: sound fiscal management, financial oversight with emphasis on cost-control, strategic big picture thinking, construction management experience, subcontractor management skills, communication skills, and experience managing uncertainty and risk. The Council agreed MKN is providing excellent technical service and the contract should not be terminated, but should be reevaluated once the new program manager is in place. After discussion, it was agreed the City Manager should bring back recommended contract amendments at the appropriate time.

MOTION: Council Member McPherson moved to direct staff to recruit for Project Manager position either as a consultant or member of City staff to lead the project with the existing program management team and report directly to the City Manager. The motion was seconded by Council Member Makowetski for discussion.

Council Member Makowetski inquired – who will be running the project during recruitment process - MKN? Scott? Rob? City Manager Collins responded yes to all. The motion carried 5-0.

MOTION: Council Member Heading moved to have the City Manager revise MKN's contract to reflect only the desired technical services we wish to contract for and adjust the scope and costs commensurate with that and include an incentive for outcomes as opposed to processes. The motion was seconded by Council Member McPherson for discussion.

Mayor Irons supported changing the contract but felt the motion was too detailed. He suggested the City Manager come back with a recommendation at the appropriate time.

Council Member Heading withdrew the motion and Council Member McPherson withdrew the second.

MOTION: Council Member Heading moved management evaluate and adjust the MKN contract, as appropriate given the change in Program Manager, and to bring back when determined necessary. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

The Council took a brief recess at 8:42 p.m. The meeting reconvened at 8:57 p.m. with all members present.

C-2 REVIEW AND RECEIVE AND FILE THE INFORMATION AND RECOMMENDATIONS REGARDING FINANCIAL REPORTING AND AUTHORIZE THE CITY MANAGER TO SIGN A 3-YEAR AGREEMENT, SUBJECT TO APPROVAL OF THE CITY ATTORNEY, WITH OPENGOV TO PROVIDE ON-LINE TRANSPARENCY FOR CITY FINANCIAL MATTERS; (FINANCE)

<https://youtu.be/lxwg3X2GHA8?t=2h46m21s>

Finance Director Callaway presented the staff report and responded to Council inquiries.

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

Jeff Heller, Morro Bay, appreciated the report and supported financial information being summarized in a way residents can understand at a high level.

Ken Green, Morro Bay, resident and member of Morro Bay Action Team supported the staff recommendation for financial reporting and subscription to OpenGov.

Cynthia Hawley, on behalf of Morro Bay Action Team, spoke in support of the proposed financial reporting and use of OpenGov.

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

The Council was pleased with the report format and appreciated staff's work to meet community requests for increased transparency.

**MOTION:** Council Member Heading moved the Council authorize the City Manager enter into three-year contract with OpenGov to provide an on-line financial transparency portal for a three-year total contract amount of \$31,045.80, in a form approved by the City Attorney. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

**C-3 AUTHORIZATION FOR TRAVEL TO WASHINGTON, D.C. FOR ATTENDANCE AT THE C-MANC ANNUAL WASHINGTON, D.C. "WASHINGTON WEEK" MEETINGS AND FOR SUPPORT OF FUNDING FOR THE WATER RECLAMATION FACILITY, AND APPROVAL OF RESOLUTION NO. 01-18 IN SUPPORT OF CONGRESSIONAL BILL H.R. 1176, THE "KEEP AMERICA'S WATERFRONTS WORKING ACT"; (HARBOR/CITY MANAGER)**  
<https://youtu.be/lxwg3X2GHA8?t=3h30m14s>

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

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

Jeff Heller, Morro Bay, spoke in support of staff recommendation and, if the new WRF project director is in place, would suggest that person also attend.

Betty Winholtz, Morro Bay, stated traditionally the Commercial Fishermen's Organization has paid for one, if not two, people to attend, and felt the City Manager and Harbor Director could cover both fronts.

Tina Metzger, Morro Bay, supported recommendations #1 and #3, but felt it was unnecessary for three people to go to Washington D.C.

The public comment period was closed.

Mayor Irons stated the importance of the City's involvement in C-MANC to gain funding to keep the harbor dredged. He also shared the importance of gaining funding for the WRF project and encouraged the City send three delegates, plus the Public Works Director. He also suggested others on the Council should have that experience.

Council Member Heading agreed it was critical the City advocate for WRF project funding and suggested it would be important to include the Bureau of Energy Management (“BOEM”) as well. He supported sending an extract Council Member and volunteered to attend.

The Council supported staff recommendations and agreed there was great power in meeting directly with congressional representatives in Washington D.C. There was full support to send an additional Council Member and appreciation Council Member Heading offered to attend.

MOTION: Mayor Irons moved staff recommendations 1, 2 and 3, including alternative C sending an additional Council Member and that member being Council Member Heading. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
<https://youtu.be/lxwg3X2GHA8?t=4h3m56s>

Council Member Davis requested discussion augmenting the City’s utility discount program in order to assist low income residents to pay utility fees (water and sewer) and expectation those may rise significantly. Part of the discussion would be to identify new sources of revenue to augment that program. There was full support for this item.

Council Member Heading requested discussion of the development of minimum financial criteria for individuals entering into financial relationships with the City. There was full support for this item.

Council Member McPherson requested reexamine the City’s partnership program related to events and services provided to those organizations. There was full support for this item.

E. ADJOURNMENT  
<https://youtu.be/lxwg3X2GHA8?t=4h10m40s>

The meeting adjourned at 10:22 p.m. The next Regular Meeting will be held on Tuesday, January 23, 2018, at 6:00 p.m. at the Veteran’s Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson  
City Clerk

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MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING – JANUARY 23, 2018  
VETERANS MEMORIAL HALL  
209 SURF STREET – 4:00 P.M.

PRESENT:	Jamie Irons Robert Davis John Headding Matt Makowetski Marlys McPherson	Mayor Council Member Council Member Council Member Council Member
STAFF:	Scott Collins Joe Pannone Dana Swanson Jennifer Callaway Rob Livick Damaris Hanson Joe Mueller	City Manager City Attorney City Clerk Finance Director Public Works Director Environmental Programs Manager Utilities Division Manager

ESTABLISH A QUORUM AND CALL TO ORDER

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

PUBLIC COMMENT

The public comment period was opened for this agenda item; seeing none, the public comment period was closed.

SPECIAL MEETING AGENDA ITEM:

- I. **Review of OneWater Plan: Including Water Supply Evaluation Criteria.**  
<https://youtu.be/ApEhJaABylU>

Public Works Director Livick introduced Eric Casares and Lydia Holmes of Carollo Engineers, Inc. who presented the report, and responded to Council inquiries. The PowerPoint presentation can be found [here](#).

The Mayor re-opened public comment.

Barry Branin, Morro Bay, asked to keep information regarding water use and infiltration in mind for Item C-2 during the regular City Council meeting.

The public comment period was closed.

The Council did not take any formal action.

ADJOURNMENT

The meeting adjourned at 5:16 p.m.

Recorded by:

Dana Swanson,  
City Clerk

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PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joe Pannone	City Attorney
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Cindy Jacinth	Senior Planner
	Greg Allen	Police Chief
	Matt Vierra	Fire Marshal
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

<https://youtu.be/Lh437P9djNY?t=42s>

The meeting was called to order at 6:00 p.m., with all members present.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION - None

CLOSED SESSION REPORT – No closed session meeting was held.

MAYOR AND COUNCIL MEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PRESENTATIONS - None

PUBLIC COMMENT

<https://youtu.be/Lh437P9djNY?t=11m59s>

Cindy Williams from Rustic Diamond located at 1190 Main Street provided the business spot. Rustic Diamond features collections by a number of local vendors, including whimsical art, – unique lighting and lamps, mosaic stepping stones, clothing and jewelry. Winter hours are Thursday through Sunday, 10 a.m. – 5 p.m. Summer hours will be Monday through Sunday 10 a.m. – 5 p.m.

Ken Green, Morro Bay, spoke on behalf of Morro Bay Action Team and CAL, expressing concern about discrepancies between the water reclamation facility project being pursued and that discussed at the April 25, 2017 meeting. He asked the Council to vote on the location and nature of the project so that it was clear.

Ray McKelvey, Morro Bay, spoke representing the Lions Club regarding a car donation program made possible by coalition of private business, Community Resource Connections and the Morro

Bay Lions Club. Bill Todd from Todd's Garage started this program in 2014 to provide safe and reliable cars to individuals and families to help improve their lives.

Mandy Davis, Morro Bay, spoke regarding the Downtown Waterfront Strategic Plan, expressing concern a number of ESHA areas were eliminated on the map provided in the Waterfront portion of that plan.

Jeff Heller, Morro Bay, thanked the Council for effort to look for WRF Program Manager and suggested the City not issue an RFP until that person is on board.

Tina Metzger, Morro Bay, requested the Council consider policy change concerning when a vote is taken by the Council, the Clerk repeat the motion slowly back to be sure the Council knows it was taken down correctly and the citizens have an opportunity to hear the motion again. She also recommended pulling Item A-3.

Barbara Doerr, Morro Bay, expressed appreciation for the Morro Bay Fire and Police Departments for their response to a recent call for service, requested odor prevention be added as a requirement for the WRF, urged the Council to not reduce the number of advisory board members, and to protect eelgrass.

David Nelson, Morro Bay, asked whether the City was pursuing a water reclamation facility or a sewer and if South Bay had been chosen as the site. Regarding Item C-2, he felt it was unfair one of the bidders has been compensated for work on the project.

Betty Winholtz, Morro Bay, spoke in opposition to Item A-3, expressing concern a major land use change was being approved on Consent. She asked the Council to honor the zoning code and not allow R-1 in R-4 zoning.

The public comment period was closed.

The Council and staff responded to questions raised during public comment.

A. CONSENT AGENDA  
<https://youtu.be/Lh437P9djNY?t=51m36s>

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

A-1 APPROVAL OF MINUTES FOR THE JANUARY 9, 2018 CITY COUNCIL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE JANUARY 9, 2018 CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 ADOPTION OF DOWNTOWN WATERFRONT STRATEGIC PLAN; (COMMUNITY DEVELOPMENT)

**RECOMMENDATION: Council adopt the Downtown portion of the Downtown Waterfront Strategic Plan (DWSP), completing the overall adoption process for the document.**

A-4 APPROVAL OF PROCLAMATION RECOGNIZING JANUARY 21-27, 2018 AS SCHOOL CHOICE WEEK; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-5 RECEIVE AND FILE CITY RESPONSE TO MORRO BAY ACTION TEAM REGARDING ALLEGED BROWN ACT VIOLATION, AND PROVIDE COMMENT AS DEEMED APPROPRIATE; (CITY ATTORNEY)

**RECOMMENDATION: Receive and file.**

A-6 RECEIVE THE FIRST QUARTER INVESTMENT REPORT (JULY THROUGH SEPTEMBER 2017) FOR FISCAL YEAR 2017/18 AND APPROVE CHANGES TO THE INVESTMENT POLICY; (FINANCE)

**RECOMMENDATION: Council:**

- 1. Receive the attached First Quarter Investment Report (July through September 2017) for Fiscal Year 2017/18; and,**
- 2. Approve the recommended changes to the Investment Policy.**

A-7 ADOPTION OF RESOLUTION NO. 04-18 ESTABLISHING A CITY MANAGER EVALUATION PROCESS; (CITY MANAGER)

**RECOMMENDATION: City Manager Evaluation sub-committee recommends the City Council review and adopt Resolution No. 04-18, establishing a City Manager evaluation process and rescinding Resolution No. 73-15.**

Council Member McPherson pulled Items A-3, A-5 and A-6.

Mayor Irons announced the Council will discuss all except Item A-3. At that time, he and Council Member Heading will recuse themselves from Item A-3 due to the financial interest based on ownership of property in downtown.

MOTION: Council Member McPherson moved to approve all but Items A-3, A-5 and A-6. The motion was seconded by Council Member Heading and carried unanimously, 5-0.

A-5 RECEIVE AND FILE CITY RESPONSE TO MORRO BAY ACTION TEAM REGARDING ALLEGED BROWN ACT VIOLATION, AND PROVIDE COMMENT AS DEEMED APPROPRIATE; (CITY ATTORNEY)  
<https://youtu.be/Lh437P9djNY?t=53m26s>

At Council's request, City Attorney Pannone explained the City's response to the Morro Bay Action Team regarding the alleged Brown Act violation.

MOTION: Council Member Heading moved for approval of Item A-5. The motion was seconded by Council Member Makowetski and carried unanimously, 5-0.

Mayor Irons recognized the need to open public comment on this item.

MOTION: Council Member Heading moved to rescind approval of Item A-5. The motion to rescind was seconded by Council Member McPherson and carried unanimously, 5-0.

The public comment period for Item A-5 was opened.

Cynthia Hawley stated the City had misunderstood the issue and her continued concern the contract approved by the Council fit all elements of approval of the project. She suggested the City used the contract approval process to avoid the public hearing process and 10-day noticing requirement.

Barbara Doerr, Morro Bay, suggested there were procedural problems and there should be a motion to take agenda items out of order.

The public comment period for Item A-5 was closed.

Staff responded to questions raised during public comment, confirming the Council had approved a design engineering contract to allow the EIR to move forward for a project that will come back to Council for approval.

MOTION: Council Member Headding moved for approval of Item A-5. The motion was seconded by Council Member Makowetski and carried unanimously, 5-0.

A-6 RECEIVE THE FIRST QUARTER INVESTMENT REPORT (JULY THROUGH SEPTEMBER 2017) FOR FISCAL YEAR 2017/18 AND APPROVE CHANGES TO THE INVESTMENT POLICY; (FINANCE)  
<https://youtu.be/Lh437P9djNY?t=1h5m10s>

Mayor Irons requested staff bring a portfolio performance sheet during budget meetings for discussion.

MOTION: Mayor Irons moved for approval of Item A-6. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

Mayor Irons turned the meeting over to Mayor Pro Tem McPherson and, along with Council Member Headding, left the dais at 7:05 p.m.

A-3 ADOPTION OF DOWNTOWN WATERFRONT STRATEGIC PLAN; (COMMUNITY DEVELOPMENT)  
<https://youtu.be/Lh437P9djNY?t=1h7m1s>

Community Development Director Graham provided the history of this project and responded to Council inquiries.

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

Kristen Headland, Morro Bay, expressed concern about the proposed change in building height.

Skip Sorich, Morro Bay, found the suggested height changes to be interesting and believes those in the affected area should have been noticed.

Norm Williams, Morro Bay, opposed the change in building height and was concerned it would obstruct public view corridors and be out of character for Morro Bay.

Erica Crawford, Morro Bay Chamber of Commerce, explained the Chamber's function and the purpose of the Downtown Waterfront Strategic Plan, noting the document had been developed over a period of a year with significant outreach. She urged the Council to keep momentum and move forward with the downtown portion of the Plan.

Nancy Bast, Morro Bay, suggested the item be tabled that height increase deserves no further consideration.

Tina Metzger, Morro Bay, expressed concern about height increase and impacts on viewshed to water and the rock.

Jeff O'Dell, Morro Bay, was concerned the City would be sued on every project brought forward if the zoning ordinance allowed 44'. He suggested tabling the item and identify locations where you'll allow that height.

Barbara Doerr, Morro Bay, asked the Council to not raise the height limit to 44' and instead include the Downtown Plan for consideration as part of the overall General Plan/LCP process.

Kacey Caldwell, Morro Bay, stated she is proponent of design guidelines but was concerned the small town feeling would be lost with increased building height. She recommended the item be tabled pending Planning Commission review.

Cynthia Hawley, on behalf of Morro Bay Action Team, stated the document is part of the General Plan by definition and must be approved at a noticed public hearing.

David Nelson, Morro Bay, expressed concern about 3-story buildings and suggested a workshop is needed to gather public input.

Jeff Heller, Morro Bay, suggested language regarding 37' height plus 7' be stricken from the document. He participated on the GPAC and recalled the idea of 3-story buildings was proposed by staff and consultants but not supported by the GPAC.

Walter Heath, Morro Bay, wanted to relay concerns that having this prospective document will cause a rush of businesses to come down town. With respect to process, he suggested people sign up to get agendas and be part of the process.

Debbie Highfill, Morro Bay, asked the Council not to vote tonight and consider Ms. Hawley's comments regarding general plan procedures.

Jennifer Hollaway, Morro Bay, the importance of watershed views cannot be understated. Once you put up 44' building, you can't take it down. Don't want to see mural of rock so we know what the rock looks like.

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

Staff responded to issues raised during public comment.

Council Member Davis asked what effect it would have if the sentence about height were stricken from the plan. Mr. Graham confirmed it would have no effect and would be addressed in the zoning process. There was Council consensus to strike the language and adopt the remainder of the plan.

**MOTION:** Council Member Davis moved for adoption of the Downtown portion of the DWSP and strike the sentence in Chapter 3, Section 3.2 II A.1.a., "Downtown: Up to 37 feet. Architectural projections such as towers and turrets may extend an additional 7 feet above maximum building height." The motion was seconded by Council Member Makowetski and carried 3-0-2 with Mayor Irons and Council Member Heading having recused themselves due to a conflict of interest.

Mayor Irons and Council Member Headding rejoined the meeting at 8:12 p.m.

The Council took a brief recess at 8:12 p.m. The meeting reconvened at 8:20 p.m. with all members present.

B. PUBLIC HEARINGS

B-1 ADOPTION OF RESOLUTION NO. 03-18 APPROVING CONDITIONAL USE PERMIT NO. UP0-448 FOR GRAYS INN, 561 EMBARCADERO. PROJECT INCLUDES PUBLIC HARBORWALK AND VERTICAL ACCESS IMPROVEMENTS, SIDEWALK, ADA, PARKING AND BUILDING FAÇADE IMPROVEMENTS; (COMMUNITY DEVELOPMENT)  
[https://youtu.be/fsF\\_ErjuVA?t=15s](https://youtu.be/fsF_ErjuVA?t=15s)

Senior Planner Jacinth presented the staff report, pointing out the Recommendation statement both in the staff report and agenda include text regarding approval of parking exception, which is no longer part of the project. The rest of the staff report, as well as the resolution are correct. It was a carryover from the past staff report. Mayor Irons confirmed with City Attorney Pannone this did not present a legal issue.

Ms. Jacinth discussed a request by applicant to revise Condition 9 regarding Pre- and Post-construction surveys. Copies of the proposed revised language were provided to the Council and made available to the public.

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

Barry Branin, Morro Bay, expressed concern parking spaces used by Thai Bounty were going to be reserved for Gray's Inn during prime business hours. He suggested the Council consider designating parking on the west side of the Embarcadero or perhaps beginning at 5 p.m., instead of 3 p.m.

Cathy Novak spoke on behalf of the applicant. She described the project revisions and requested changes to Condition 9 (Pre- and Post-Construction Surveys), but focused her attention on parking, which was cause of some concern. If required to forfeit two spaces for one ADA space, they're left with two spaces for a 3-unit hotel. She asked the Council to consider allowing the three parking spaces to remain on-site and install an ADA space on the street in front of the hotel, to be reserved for use by their guests. A second option would be to provide parking at the end of Driftwood. Should the Council require off-site parking, since there is currently adequate on-site parking and no increase in rooms, she asked the Council to consider a reduced annual fee for \$1,705 per space.

Gene Doughty, architect, commented on some of the challenges working on the Embarcadero, including the additional cost to extend and cantilever the harborwalk into the neighboring lease site.

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

The Council appreciated the features that had been added to the project and supported off-site parking on the east side of the Embarcadero, located further back than the proposed location. There was consensus to use Pismo Beach parking rate of \$1,705 for a limited term of three years, until a comprehensive parking program was developed, then revisited and adjusted appropriately.

Ms. Jacinth read the proposed language for Condition #9 into the record.

Condition 9. Pre- and Post-construction surveys. Applicant shall be subject to the California Eelgrass Mitigation Policy (CEMP) which requires that a pre-construction survey shall be completed within 30-60 days prior to issuance of a building permit. Post-construction survey shall be completed within 30 days of construction completion or as otherwise determined by the National Marine Fisheries Service (NMFS) in order to determine amount of impact if any and CEMP-required annual reporting and mitigations. Translucent grating shall be used for the Harborwalk in the area that extends beyond the area covered by the rock rip rap and to the greatest extent feasible over the unvegetated 5 meter eelgrass buffer. Any change in eelgrass extent shall be documented and reported to the Community Development Director. If the report identifies a reduction in eelgrass coverage then a plan shall be prepared to identify the appropriate mitigations necessary and in line with the specifications for mitigation of eelgrass habitat as provided for in the California Eelgrass Mitigation Policy, dated October 2014.

The Council agreed to accept Condition 9 as presented by Cathy Novak Consulting correspondence dated 1/23/18 and read into the record by Ms. Jacinth, and to amend Condition 20 to reduce parking to \$1,705 for three years, subject to review for increase or decrease by the City Council at the end of the 3-year period.

Regarding the parking location, it was proposed Condition 20 be modified to replace, “as depicted and described” with, “as determined by staff at the end of the street end on Driftwood and Embarcadero ...” and with fees set as noted above.

**MOTION:** Council Member Heading moved to approve Resolution No. 03-18, a resolution of the City Council of the City of Morro Bay, California approving Conditional Use Permit UP0-448 as Concept/Precise Plan for construction of new harborwalk lateral access, installation/sleeving of piles, vertical access pathway, sidewalk and parking lot improvements and miscellaneous building façade improvements at Gray’s Inn located at 561 Embarcadero Road, also known as City Lease Site 63-64 and 63W-64W, with amendments as stated to Conditions 9 and 20. The motion was seconded by Council Member McPherson for discussion.

Mayor Irons clarified the language for Condition 9 was as presented by applicant on January 22, 2018.

The proposed language for Condition 20 was read into the record:

Two parking spaces on Driftwood and Embarcadero as determined by staff shall be signed and dedicated for Gray’s Inn guests from 3 p.m. to 11 a.m. daily. Applicant shall enter into a license agreement with the City for an amount equal to parking rates of \$1,705 annually for a three-year period subject to increase or decrease with Council approval. That parking license agreement shall be finalized prior to issuance of a building permit and shall be incorporated into the Applicant’s Master Lease Agreement for the City lease site.

The motion carried unanimously, 5-0.

C. BUSINESS ITEMS

- C-1 RECEIVE THE CITIZENS FINANCE ADVISORY COMMITTEE REPORT ON FY 2016/17 MEASURE Q TRANSACTIONS AND OTHER ACTIVITIES DURING THE YEAR;(FINANCE)  
[https://youtu.be/fsF\\_ErljuVA?t=1h21m47s](https://youtu.be/fsF_ErljuVA?t=1h21m47s)

Finance Director Callaway provided an overview and introduced Barbara Spagnola, Citizens Finance Advisory Committee Chair, to present the Committee Report.

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

The Council expressed its appreciation for the Committee's work and commitment. It was agreed the carry over funds will be discussed at mid-year.

MOTION: Council Member McPherson moved the Council accept the Citizens Finance Advisory Committee's recommendation to put remaining Measure Q funds from FY 2016/17 and have incorporated into the FY 2017/18 mid-year budget of \$72,553. The motion was seconded by Council Member Heading and carried unanimously, 5-0.

MOTION: Council Member Heading moved to accept the CFAC report and recommendations. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

C-2 AUTHORIZE RELEASE OF A REQUEST FOR PROPOSAL (RFP) FOR DESIGN/BUILD OF THE CITY OF MORRO BAY WATER RECLAMATION FACILITY ONSITE IMPROVEMENTS TO THREE PRE-QUALIFIED DESIGN BUILD ENTITIES THAT SUBMITTED STATEMENTS OF QUALIFICATIONS (SOQ) IN ACCORDANCE WITH THE REQUEST FOR QUALIFICATIONS (RFQ) ISSUED ON OCTOBER 27, 2017; (PUBLIC WORKS)  
[https://youtu.be/fsF\\_ErIjuVA?t=1h41m34s](https://youtu.be/fsF_ErIjuVA?t=1h41m34s)

Public Works Director Livick presented the staff report and responded to Council inquiries.

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

Barry Branin, Morro Bay, expressed various concerns about the RFP and suggested the project manager should review before it is released.

Tom Rost, Morro Bay, suggested the item be tabled until a new program manager has an opportunity to review the document.

Kristen Headland, Morro Bay, expressed concern about Item 3 regarding a community member or group initiating communications with the Design-Build team regarding the project. She appreciates being able to ask people first hand what's going on.

Tina Metzger, Morro Bay, shared her concerns about Item 6, the conceptual layout, and asked for an explanation of Item 3, community member initiates communication with design build team during the proposal process.

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

Mayor Irons asked staff to clarify Item 3.

The Council discussed the program manager hiring process and timeline and determined it wasn't necessary to delay release of the RFP until that person was on board.

Mayor Irons suggested adding the following to Item 6, "with option of full landscape buffer around the entire facility."

There was some concern about the building size and floorplan. Mike Nunley referred to Appendix E, which will have just a list of operations without specific numbers and square footages. Staff

confirmed a comparison of using the existing building vs. expanding space to accommodate additional staff members will be brought to Council.

Council Member McPherson suggested adding a paragraph to the project goals acknowledging, “we conducted (date) a peer review panel (composed of) and they identified approximately \$17M in cost savings from the facilities master plan.”

Council Member McPherson asked staff to revisit evaluation criteria, add to management approach, including subcontractor and take points from other items.

MOTION: Mayor Irons moved the meeting go past 11:00 p.m. The motion was seconded by Council Member McPherson and carried 3-2 with Council Members Davis and Makowetski opposed.

MOTION: Council Member Headding moved the Council authorize release of the RFP for design/build of WRF onsite improvements to three pre-qualified design build entities that submitted statements of qualifications in accordance with the Request for Qualifications, and amend the RFP to include those amendments council stated previously. The motion was seconded by Council Member Davis and carried unanimously, 5-0.

C-3 ACCEPT THE VOLUNTARY RESIGNATIONS OF WATER RECLAMATION FACILITY CITIZEN’S ADVISORY COMMITTEE (WRFCAC) MEMBERS, CONSIDER A REQUEST FOR LEAVE OF ABSENCE, AND PROVIDE DIRECTION REGARDING THE NUMBER OF COMMITTEE MEMBERS AND PURPOSE FOR THAT COMMITTEE; (CITY CLERK/PUBLIC WORKS)  
[https://youtu.be/fsF\\_ErjuVA?t=2h44m26s](https://youtu.be/fsF_ErjuVA?t=2h44m26s)

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

Tina Metzger, Morro Bay, supported keeping the citizens advisory committee and suggested Mr. Diodati should resign as his work for the County creates the appearance of a conflict of interest.

Barbara Spagnola, Morro Bay resident, Chair of Citizen’s Finance Committee and Vice-Chair of WRFCAC, spoke as individual, not on behalf of those two committees, stated it may be difficult to fill 3 – 4 vacancies and suggested reducing the number of members to seven. She also asked the Council to consider at some point transferring the engineering portion to PWAB and financial aspect to CFAC. She believes the CFAC is now in a position to take on that workload.

Tom Rost, Morro Bay, urged the Council to keep the WRFCAC and suggested members from CAL would be qualified and able to formulate a plan B for when the 218 vote fails.

Paul Donnelly, a member of WRFCAC spoke as a resident, stated there are still issues to work on including environmental committee, pipeline routes, and inject for re-use. He read a portion of the Minutes from the first WRFCAC meeting, “the essential role is to be a bridge between the City Council and the general public.” He believed the WRFCAC can continue to be that bridge.

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

There was Council consensus to reduce the number of committee members from nine to seven, including appointees by the Planning Commission and PWAB. The Council discussed Mr. Diodati’s request for a 4-6 month leave of absence and, though his expertise was appreciated, the majority felt that length of time was excessive given the status of the project.

Council Member Davis read a proposed Mission Statement:

“To advise and make recommendations to Council on matters relating to development of a WRF as described in Resolution 34-14. Such advice is to be consistent with and intended to meet the community goals adopted by Council.”

The Council discussed transferring financial responsibilities to the CFAC at the appropriate time.

MOTION: Council Member Headding moved the Council continue with the WRFCAC to include seven members, and accept the resignations from those who submitted full resignations and, unfortunately, deny the request by Mr. Diodati for a leave of absence and accept his resignation; with one member to be appointed by the Planning Commission and one by the PWAB and the remainder to be vetted by Council; and to accept the mission statement as eloquently stated by Council Member Davis. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

As the Council liaison to the APCD, Council Member Headding requested discussion of south county health issues and consideration of a letter outlining the City's concerns. He offered to write the report and bring that information forward. There was unanimous support for the item.

E. ADJOURNMENT

[https://youtu.be/fsF\\_ErjuVA?t=3h16m33s](https://youtu.be/fsF_ErjuVA?t=3h16m33s)

The meeting adjourned at 11:37 p.m. The next Regular Meeting will be held on Tuesday, February 13, 2018, at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
JANUARY 24, 2018 – 4:30 P.M.  
CITY HALL CONFERENCE ROOM

AGENDA NO: A-4  
MEETING DATE: February 13, 2018

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

STAFF:               Scott Collins                            City Manager  
                           Joe Pannone                            City Attorney

ESTABLISH QUORUM AND CALL TO ORDER  
The meeting was called to order at 4:30 p.m. 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 on the agenda; seeing none, the public comment period was closed.

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

**CS-1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Paragraph (1) of subdivision (d) of Section 54956.9  
Name of Case: City of Morro Bay v. CCO Social I, LLC; Charter Communications, Inc.; et al; Case Number: 17CV-062

**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 4:33 P.M.

Recorded by:

Dana Swanson  
City Clerk

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AGENDA NO: A-5  
 MEETING DATE: February 13, 2018

# Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** January 30, 2018  
**FROM:** Janeen Burlingame, Management Analyst  
**SUBJECT:** Adoption of Resolution No. 05-18 Authorization for the Execution of SGR Program Certification and Assurances and Authorized Agents, and Resolution No. 06-18 Authorization for the City of Morro Bay's Project list for FY 17/18 for the California State of Good Repair (SGR) Program

**RECOMMENDATION**

Staff recommends the City Council do the following:

1. Adopt Resolution No. 05-18, authorizing the Public Works Director and Management Analyst to execute all required documents of the SGR Program and any amendments thereto, with the California Department of Transportation; and
2. Adopt Resolution No. 06-18, authorizing the FY 2018/18 City of Morro Bay SGR Project List include the Morro Bay Transit replacement vehicle.

**FISCAL IMPACT**

There is no fiscal impact to the City's General Fund. The City's Transit Enterprise Fund revenue will increase by \$540. The SGR funds will be allocated to the Morro Bay Transit bus replacement project that was approved in the FY17/18 Transit budget.

**SUMMARY**

The Road Repair and Accountability Act of 2017, includes a program, State of Good Repair (SGR), that will provide additional revenues for transit infrastructure repair and service improvements. The SGR Program will provide approximately \$105 million annually to transit operators in California for eligible transit maintenance, rehabilitation and capital projects.

The SGR is funded from a portion of a new Transportation Improvement Fee on vehicles registrations due on or after January 1, 2018. A portion of this fee will be transferred to the State Controller's Office (SCO) for the SGR Program. In collaboration with the SCO, the California Department of Transportation is tasked with the management and administration of the SGR Program. Those funds will be allocated under the State Transit Assistance Program formula to eligible agencies pursuant to Public Utilities Code section 99312.1. Half is allocated according to population and half according to transit operator revenues.

The City will receive a direct allocation (for FY 17/18 that amount is \$540) and will be eligible to submit project applications to compete for a portion of the regional discretionary fund allocation, a pass through that is administered by the San Luis Obispo Council of Governments.

**DISCUSSION**

For the FY 17/18 cycle, the City will receive \$540 and recommends using the funds for the Morro Bay Transit replacement vehicle project that has been adopted in the FY17/18 Transit budget. Prior to receiving funds from the FY 2017/18 SGR Program, the City is required to submit an authorized FY 17/18 SGR Project List, adopt a Governing Body Resolution, appoint authorized agents, and

<b>Prepared By:</b> <u>J Burlingame</u>	<b>Dept Review:</b> <u>RL</u>
<b>City Manager Review:</b> _____	<b>City Attorney Review:</b> <u>JWP</u>

adopt a Resolution authorizing execution of SGR Certifications and Assurances prior to any allocation of funds from the State Controller's Office.

Each recipient agency is required to annually report on all activities completed with those funds to the Department. Each agency also must include the SGR revenues and expenditures in their annual Transportation Development Act Audit. In subsequent years, a project list will be due to the Department on September 1<sup>st</sup> each year.

### **CONCLUSION**

Staff recommends the City Council do the following:

1. Adopt Resolution No. 05-18; and
2. Adopt Resolution No. 06-18.

### **ATTACHMENTS**

- A. Resolution No. 05-18 – SGC Authorized Agent and Certifications and Assurances
- B. Resolution No. 06-18 – SCG FY 17/18 Project List
- C. Authorized Agent and SGR Recipient Certifications and Assurances Forms

**ATTACHMENT A**

**RESOLUTION NO. 05-18**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AUTHORIZING THE EXECUTION OF THE CERTIFICATIONS AND ASSURANCES FOR THE  
CALIFORNIA STATE OF GOOD REPAIR (SGR) PROGRAM**

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

**WHEREAS**, the City of Morro Bay (City) is an eligible project sponsor and may receive State Transit Assistance funding from the State of Good Repair Account (SGR) now or sometime in the future for transit projects; and

**WHEREAS**, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

**WHEREAS**, Senate Bill 1 (2017) named the Department of Transportation (Department) as the administrative agency for the SGR; and

**WHEREAS**, the Department has developed guidelines for the purpose of administering and distributing SGR funds to eligible project sponsors, such as the City; and

**WHEREAS**, the City Council wishes to delegate authorization to execute those documents and any amendments thereto to either the City's Public Works Director, Rob Livick, or the City's Management Analyst, Janeen Burlingame.

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

1. The City agrees to comply with all conditions and requirements set forth in the Certification and Assurances document and applicable statutes, regulations and guidelines for all SGR funded transit projects.

2. Subject to the approval of the City Attorney as to form, the City's Public Works Director, Rob Livick, or the City's Management Analyst, Janeen Burlingame, are authorized to execute all required documents of the SGR program and any Amendments, thereto, with the California Department of Transportation.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13<sup>th</sup> day of February 2018 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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

ATTEST:

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

**ATTACHMENT B**

**RESOLUTION NO. 06-18**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AUTHORIZING THE CITY OF MORRO BAY PROJECT LIST FOR THE FY 2017/18  
CALIFORNIA STATE OF GOOD REPAIR (SGR) PROGRAM**

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

**WHEREAS**, the City of Morro Bay is an eligible project sponsor and may receive State Transit Assistance funding from the SGR Account now or sometime in the future for transit projects; and

**WHEREAS**, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

**WHEREAS**, Senate Bill 1 (2017) named the Department of Transportation Department, as the administrative agency for the SGR; and

**WHEREAS**, the Department has developed guidelines for the purpose of administering and distributing SGR funds to eligible project sponsors; and

**WHEREAS**, the Department requires eligible SGR recipient agencies to submit an annual list of proposed SGR projects.

**NOW, THEREFORE, BE IT RESOLVED** the City of Morro Bay does hereby authorize the FY 2017/18 City of Morro Bay SGR Project List to include the Morro Bay Transit replacement vehicle.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13<sup>th</sup> day of February 2018 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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

ATTEST:

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

ATTACHMENT C

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**Division of Rail and Mass Transportation**  
**State Transit Assistance State of Good Repair Program**  
**Authorized Agent Form**



Authorized Agent

The following individual(s) are hereby authorized to execute for and on behalf of the City of Morro Bay, and to take any actions necessary for the purpose of obtaining State Transit Assistance State of Good Repair funds provided by the California Department of Transportation, Division of Rail and Mass Transportation. This form is valid at the beginning of Fiscal Year 2017-2018 until the end of the State of Good Repair Program. If there is a change in the authorized agent, the project sponsor must submit a new form. This form is required even when the authorized agent is the executive authority himself.

Rob Livick, Public Works Director OR  
(Name and Title of Authorized Agent)

Janeen Burlingame, Management Analyst  
(Name and Title of Authorized Agent)

AS THE Mayor  
(Chief Executive Officer / Director / President / Secretary)

OF THE City of Morro Bay  
(Name of County/City Organization)

Jamie L. Irons  
(Print Name)

Mayor  
(Title)

\_\_\_\_\_  
(Signature)

Approved this 13th day of February 2018

**State Transit Assistance State of Good Repair Program  
Recipient Certification and Assurances**

**Recipient:** City of Morro Bay (CITY)

**Effective Date:** February 13, 2018

In order to receive State of Good Repair Program (SGR) funds from the California Department of Transportation (Department), recipients must agree to following terms and conditions:

**A. General**

- (1) The recipient agrees to abide by the State of Good Repair Guidelines as may be updated from time to time.
- (2) The potential recipient must submit to the Department a State of Good Repair Program Project List annually, listing all projects proposed to be funded by the SGR program. The project list should include the estimated SGR share assigned to each project along with the total estimated cost of each project.
- (3) The recipient must submit a signed Authorized Agent form designating the representative who can submit documents on behalf of the recipient and a copy of the board resolution authorizing the agent.

**B. Project Administration**

- (1) The recipient certifies required environmental documentation will be completed prior to expending SGR funds. The recipient assures that each project approved for SGR funding comply with Public Resources Code § 21100 and § 21150.
- (2) The recipient certifies SGR funds will be used for transit purposes and SGR funded projects will be completed and remain in operation for the estimated useful lives of the assets or improvements.
- (3) The recipient certifies it has the legal, financial, and technical capacity to deliver the projects, including the safety and security aspects of each project.
- (4) The recipient certifies there is no pending litigation, dispute, or negative audit findings related to any SGR project at the time an SGR project is submitted in the annual list.
- (5) Recipient agrees to notify the Department immediately if litigation is filed or disputes arise after submission of the annual project list and to notify the Department of any negative audit findings related to any project using SGR funds.
- (6) The recipient must maintain satisfactory continuing control over the use of project equipment and/or facilities and will adequately maintain project equipment and/or facilities for the estimated useful life of each project.
- (7) Any and all interest the recipient earns on SGR funds must be reported to the Department and may only be used on approved SGR projects or returned to the Department.
- (8) The recipient must notify the Department of any proposed changes to an approved project list by submitting an amended project list.
- (9) Funds will be expended in a timely manner.

### **C. Reporting**

- (1) Per Public Utilities Code subdivisions 99312.1 (e) and (f), the recipient must submit the following SGR reports:
  - a. Annual Expenditure Reports within six months after the close of the fiscal year (by December 31<sup>st</sup>) of each year.
  - b. The annual audit required under the Transportation Development Act, to verify receipt and appropriate expenditure of SGR funds. A copy of the audit report must be submitted to the Department within six months of the close of each fiscal year in which SGR funds have been received or expended.

### **D. Cost Principles**

- (1) The recipient agrees to comply with Title 2 of the Code of Federal Regulations Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- (2) The recipient agrees, and will assure its contractors and subcontractors will be obligated to agree, (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual project cost items and (b) those parties shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- (3) Any project cost for which the recipient has received payment that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, are subject to repayment by the recipient to the State of California (State). If the recipient fails to reimburse moneys due to the State within thirty (30) days after demand, or within such other period as may be agreed in writing between the Parties hereto, then the State is authorized to intercept and withhold future payments due the recipient from the State or any third-party source, including but not limited to, the State Treasurer and the State Controller.

### **E. Record Retention**

- (1) The recipient agrees and will assure its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred project costs and matching funds by line item for the project. The accounting system of the recipient, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of the recipient, its contractors and subcontractors connected with SGR funding shall be maintained for a minimum of three (3) years from the date of final payment and shall be held open to inspection, copying, and audit by representatives of the State and the California State Auditor. Copies thereof will be furnished by the recipient, its contractors, and subcontractors upon receipt of any request made by the State or its agents. In conducting an audit of the costs claimed, the State will rely to the maximum extent possible on any prior audit of the recipient pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the recipient's external and internal auditors may be relied upon and used by the State when planning and conducting additional audits.
- (2) For the purpose of determining compliance with Title 21, California Code of Regulations, section 2500 *et seq.*, when applicable, and other matters connected with the performance of the recipient's contracts with third parties pursuant to Government Code § 8546.7, the recipient, its contractors and subcontractors and the Department shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire project period and for three (3) years after the date of final payment. The State, the

California State Auditor, or any duly authorized representative of the State, shall each have access to any books, records, and documents that are pertinent to a project for audits, examinations, excerpts, and transactions, and the recipient shall furnish copies thereof if requested.

- (3) The recipient, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this document.

**F. Special Situations**

- (1) The recipient acknowledges if a project list is not submitted timely, then the recipient forfeits its apportionment for that fiscal year.
- (2) If the recipient is delinquent expenditure reports, then that may risk future eligibility for future SGR funding.
- (3) The recipient acknowledges the Department shall have the right to perform an audit and/or request detailed project information of the recipient's SGR funded projects at the Department's discretion from SGR award through 3 years after the completion and final billing of any SGR funded project. The recipient agrees to provide any requested project information.

I certify all these conditions will be met.

***CITY OF MORRO BAY***

**BY:** \_\_\_\_\_  
Jamie L. Irons, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGAL EFFECT:**

\_\_\_\_\_  
Joseph Pannone, City Attorney

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

**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DECLARING FEBRUARY 2018 AS BLACK HISTORY MONTH**

**WHEREAS**, Black History Month affords us the honor and special opportunity of recognizing and acknowledging the many significant contributions made by African Americans in our Country, and to become more knowledgeable about Black heritage, and to honor and celebrate the courage, sacrifice and the many accomplishments and contributions of African Americans and their leaders, sung and unsung, who have contributed so much to the richness and struggle for equality for all in our nation; and

**WHEREAS**, such knowledge enhances us as a community, and underscores our commitment to respect for the dignity of all, and that our strength as a community lies in our humanity, cohesiveness and respect for diversity, inclusion, human rights, and the great strides that have been made in the crusade to eliminate the barriers of equality for all segments of our community, and the continuing struggle against racial discrimination and poverty;

**NOW THEREFORE, BE IT RESOLVED** the City Council of the City of Morro Bay designates the month of February 2018 as “**BLACK HISTORY MONTH**” and urges our citizens to join together in making this period of rededication to the principles of justice and equality for all people.

**IN WITNESS WHEREOF** I have  
hereunto set my hand and caused the  
seal of the City of Morro Bay to be affixed  
this 13<sup>th</sup> day of February 2018

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Jamie L. Irons, Mayor  
City of Morro Bay

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AGENDA NO: C-1

MEETING DATE: February 13, 2018

## Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** February 9, 2018

**FROM:** Scott Collins, City Manager

**SUBJECT:** Request for Direction Regarding Diablo Canyon Nuclear Power Plant Closure Settlement Agreement update and Budget Appropriations for Legal Costs and Community Impact Mitigation Program

### **RECOMMENDATION**

Direct the City Manager to bring back for formal City Council consideration and adoption, a budget appropriation as part of the FY 2017/2018 Mid-Year Budget Review, to include Risk Management Fund appropriation in an amount up to \$15,000, to reimburse the City of San Luis Obispo ("SLO") for legal costs assumed by SLO as the lead agency for the Coalition of Cities in support of the Diablo Canyon Nuclear Power Plant Closure Settlement Agreement, and

Consider City financial support for the Diablo Canyon Nuclear Power Plant Closure Community Impact Mitigation Program, in partnership with San Luis Obispo County ("County") and the cities therein and other partners, through the development of a regional economic study and strategy.

### **ALTERNATIVES**

The City Council can direct staff other than as being recommended.

### **FISCAL IMPACTS**

Staff recommends legal costs of up to \$15,000 be taken from the Risk Management Fund. Based on Council direction, authorized funding for the Community Impact Mitigation Program would be taken from the General Fund Emergency Reserve. Budget adjustments required for those expenditures would be formally approved at the February 27, 2018 Council Meeting.

### **BACKGROUND**

The closure of the Diablo Canyon Nuclear Power Plant in 2024-2025 will result in reduced local tax revenues and a loss of well-paying jobs, with corresponding potential for significant adverse economic impacts on the local area. A 2013 report by the Nuclear Energy Institute and Cal Poly's Orfalea College of Business predicted the closure's impact on the County is nearly \$1 Billion annually, encompassing jobs, schools, infrastructure and other businesses. The County could lose over 3,200 jobs in virtually every sector.

In response to the anticipated economic hardships of the planned closure, PG&E, the County, the cities within the County; the San Luis Obispo Coastal School District (School District) and other partners negotiated a settlement agreement that included the Community Impact Mitigation Program (CIMP) that would bring \$85 Million to the region to alleviate some of the burden. Of that amount, \$39 Million would be distributed among the county, cities and community service districts

Prepared By: SC

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

City Manager Review: SC

City Attorney Review: JWP

to help offset projected revenue losses and another \$10 Million to form an economic development fund for the cities and county. Of that amount, \$400,000 would be set aside for immediate economic planning.

In addition, SB 968 was signed in to law in 2015, approving a study (Monning Study) to analyze the impacts of nuclear power plant closures. It was anticipated funding for the Monning Study would join the \$400,000 set aside for economic planning to create upwards of \$600,000 - \$800,000, to provide a long-term economic and workforce development strategy that addresses the various needs of the micro economies within the County.

In an effort to avoid litigation, the City joined the Coalition of Cities (Coalition), as well as the County and School District, to help negotiate the settlement agreement with PG&E and advocate at the California Public Utilities Commission (CPUC), in public forums and in the media to successfully move the agreement forward. SLO served as the lead agency for the Coalition, assuming responsibility for associated legal fees and processing of information. Those costs would be distributed across the agencies in equitable manner. City Council approved the City's participation in the agreement on December 13, 2016 (agenda report attached).

The agreement was brought before the CPUC in the fall of 2017. The Administrative Law Judge assigned to the item issued an opinion unfavorable to the CIMP, stating, in his legal opinion, PG&E ratepayers are not required by law to mitigate the impacts of the Diablo Canyon closure. CPUC, on guidance from its Administrative Law Judge's opinion, rejected the proposed Community Impact Mitigation Program on January 11, 2018, determining the CPUC lacks authority to approve ratepayer funding of the mitigation funds. That is a disappointing outcome, as the decision severely limits the region's ability to address the impacts of Diablo Canyon's closure.

In the meantime, the SB 968 study was granted to the University of California Berkeley. The scope was modified in the process, limiting the ability to leverage the SB 968 study with the \$400,000 that was anticipated to come from the settlement agreement to fund an economic strategy. The combination of the loss of the settlement agreement funds and the modification of the SB 968 study means that the arrangement for the economic study and strategy will need to be changed significantly.

## **DISCUSSION**

In the process of joining the Coalition, the City Managers agreed to an operating framework whereby the cities within the Coalition spread the legal fees and economic impact study and strategy development costs equitably. In the framework, SLO served as the lead agency for legal representation of the Coalition, to argue on behalf of the local communities for the CPUC to approve the settlement agreement. In the framework, the City of Morro Bay supported the development of a contingency plan, which would be activated in the unanticipated circumstance the Joint Proposal and associated agreement with PG&E was rejected by the CPUC. Because the CPUC rejected the settlement agreement, the City is now responsible to reimburse SLO up to \$15,000, to cover Morro Bay's agreed upon share of the legal expenses. We do not anticipate any future legal costs at this time and if such are needed would return to the Council in a litigation closed session to discuss that possibility.

In addition, according to the contingency plan, the City Managers would recommend to their respective City Council funding an equitable portion of the economic impact study and strategy development. The total cost of the study and strategy development is now expected to reach \$1,000,000. While the exact amount of the cities' share of that total is being developed, it is

anticipated that Morro Bay's share of that amount would not exceed \$25-\$40,000. As the impacts of the closure extend beyond local government agencies, including all sectors and industries, it is anticipated that the group of partners will help encourage other entities to financially support the study and strategy development process.

While the Coalition works with the County and other partners to pursue an economic development strategy, efforts are underway on various avenues to fund the CIMP. Currently, our partners are pursuing a legislative response. A spot bill has been created on the issue, that ultimately, if successful, would make it possible to provide funding for the CIMP. City staff will keep Council informed on the bill's progress through the legislative process.

### **CONCLUSION**

The outcome of the CPUC hearing was disappointing. The Coalition, the County, EVC, School District, PG&E and other partners worked diligently to create a fair and comprehensive settlement agreement to address the significant economic impacts expected from the Diablo Canyon closure. Because the agreement was rejected by the CPUC, the City and its partners must seek alternative avenues to fund the CIMP. In the meantime, as part of the Coalition framework, the City is obligated to fund an equitable share of the SLO's legal fees that helped result in the settlement agreement and promoted it before the CPUC, as well as consider funding the City's share of the economic study and strategy, which will provide a blueprint for the region to adequately prepare for and prosper in wake of the Diablo closure.

### **ATTACHMENT**

December 13, 2016 Staff Report



AGENDA NO: A-7

MEETING DATE: December 13, 2016

## Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 6, 2016

**FROM:** David Buckingham, City Manger  
Joseph W. Pannone, City Attorney

**SUBJECT:** Public Ratification of Tentative Settlement Agreement with PG&E regarding Closure of Diablo Canyon Power Plant

### **RECOMMENDATION**

Ratify the Council approval of the tentative settlement agreement among PG&E and the cities of Arroyo Grande, Atascadero, Morro Bay, Paso Robles, Pismo Beach and San Luis Obispo (collectively, the "Coalition Cities") to assist with mitigation of the economic impacts that will result from the closure of the Diablo Canyon Power Plant.

### **ALTERNATIVES**

Staff does not recommend any alternatives to ratifying the tentative settlement agreement.

### **FISCAL IMPACT**

Approval of the tentative agreement, subject to approval by the California Public Utilities Commission, will provide the City with \$497,472 to assist with mitigating the economic impacts that will result from the closure of the Diablo Canyon Power Plant.

### **BACKGROUND/DISCUSSION**

Officials from the Coalition Cities have reached a tentative agreement with PG&E calling for the utility to establish a \$10 Million Economic Development Fund to help plan and implement ways to ease the economic impact of the Diablo Canyon Power Plant closure in 2025.

The Coalition Cities reached the agreement in collaboration with the County of San Luis Obispo after weeks of discussions with PG&E. The Coalition was formed proactively in September 2016 on behalf of their residents primarily to address the economic impacts related to Diablo's planned closure.

PG&E will contribute an initial \$400,000 within 30 days of the initial approval by the California Public Utilities Commission (CPUC) so that regional economic impact planning can begin quickly. The rest of the \$10 Million will be disbursed once the CPUC has made all final approvals, with 60 percent going to the Coalition Cities (\$5.76 Million) and 40 percent to the County (\$3.84 Million).

The tentative agreement also permits the Coalition Cities to participate in the CPUC's review of any additional economic mitigation that might result from the economic impact report required by SB 968, authored by Senator Bill Monning. That means the Coalition Cities may advocate for more funding beyond the Economic Development Fund to address additional economic impacts uncovered by the Monning Study. This is an important additional opportunity to ensure that our communities have the best possibilities for economic vitality once additional data is known.

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Prepared By: JWP

Dept Review: JWP

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

City Attorney Review: JWP

The Coalition Cities' \$5.76 Million share of the \$10 Million Economic Development Fund will be distributed to the six member cities as shown below. The distribution was based on a formula that relied primarily on size of General Fund expenditures in each City, and the number of DCPD employees that live in each City. Morro Bay's share is relatively low when compared to the other Coalition Cities due to Morro Bay's smaller General Fund, and the very limited number of DCPD employees who live in Morro Bay.

- Arroyo Grande \$747,422
- Atascadero \$783,106
- Morro Bay \$497,472
- Paso Robles \$1.15 million
- Pismo Beach \$767,028
- San Luis Obispo \$1.82 million

The \$10 Million Economic Development Fund will be in addition to the original \$49.5 million PG&E proposed in June as a Community Impact Mitigation Fund. The County and San Luis Coastal Unified School District also negotiated for additional support.

**CONCLUSION**

Staff recommends the City Council publically ratify the tentative settlement agreement, which will provide funding to assist the City with mitigating the economic impacts that will result from the closure of the Diablo Canyon Power Plant.

**ATTACHMENTS**

1. Tentative Settlement Agreement

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AGENDA NO: C-2

MEETING DATE: February 13, 2018

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** January 31, 2018

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Review of and Direction Regarding Harbor Advisory Board Recommendations on FY 17/18 Workplan Objectives and Consideration of Establishing Fee-Based Boat/RV Storage in the “Triangle” Parking Lot, and Licensing / Permitting For-Profit Activities and Businesses Occurring on Tidelands Trust Properties

## RECOMMENDATION

Provide staff input and direction as outlined in the goal objective “research and bring to Council for consideration” items detailed in this report.

## ALTERNATIVES

The City Council can direct staff other than as being recommended.

## FISCAL IMPACTS

Under item 1 below, if a 50-space paid vessel/RV storage lot were established in a portion of the Triangle Lot property the City acquired from Dynegy as-proposed, then initial costs to establish it would be approximately \$12,000, while at 75% occupancy (near 100% would be anticipated, but 75% is being conservatively used), annual revenues would be ~\$41,000.

Under items 2 and 3 below, unknown but likely minimal positive fiscal impacts would be expected.

Under item 4 below, significant, but quite varying, positive fiscal impacts are being realized now, and will continue to be so. In this fiscal year, for example, the Harbor Department has received approximately \$350K in various grants, with more being sought.

Under item 5 below, moderate, but at this time unknown, cost savings may be realized over time.

Under item 6 below, as-proposed a modest positive fiscal impact would be expected as events now under a Public Area Use Permit (PAUP) process with minimal processing fees would pay 10% of the proposers’ gross revenues. That would be expected to generate perhaps low thousands of dollars of new revenue, as opposed to a few hundred dollars as is currently generated.

Under item 7 below, as-proposed no direct fiscal impacts would be expected, however, some minor negative impact on staff time would occur.

## BACKGROUND

Several Harbor Advisory Board (HAB) work plan elements for the FY17/18 Council-approved

Prepared By: EE

Dept Review: EE

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

City Attorney Review: JWP

objectives are “research and bring to Council for consideration” revenue-generating or cost-saving items. Since adoption, several of those objectives were researched and brought to the HAB for input and recommendation, and are ready for Council consideration, as-follows:

Reviewed by the HAB September 7, 2017

1. Goal 1, Objective (d), Work Program Element (WPE) 6; fee-based RV and/or boat/trailer storage parking in a portion of the Triangle Lot until some permanent use is allocated to the location.
2. Goal 1, Objective (d), WPE 8; production of more drive/walk-in movie nights at the rock and/or Tidelands.
3. Goal 1, Objective (d), WPE 10; a waterfront leaseholder incentive to obtain more years on the term of their leases in exchange for diversifying the caliber or type of products or services they sell to types that are lacking/needed in the area.
4. Goal 1, Objective (d), WPE 11; seek and establish a more robust grant-seeking process.
5. Goal 3, Objective (e), WPE 1; identify facilities in need or opportunities for participation and/or projects, and identify groups or organizations likely willing to adopt or take on projects in/on waterfront facilities.

Reviewed by the HAB October 5, 2017

6. Goal 1, Objective (d), WPE 2; moving for-profit events and activities from the Public Area Use Permit process (no revenue generation) to a License Agreement process (with revenue generation).
7. Goal 1, Objective (d), WPE 4; establishment of License Agreements with base and/or percent rents for various for-profit business operations being conducted on the Bay that are not currently operating as an approved lease or sublease from a lease site (this item was considered again on November 2, 2017 as the HAB’s October action was not responsive to the goal objective).

## **DISCUSSION**

For numbers 2, 3, 4 and 5 above, staff believe the goal is complete with no further action or direction being sought, other than Council concurrence they are complete. For numbers 1, 6 and 7 staff is seeking further Council input and direction.

Items staff and the HAB deem complete; no Council direction sought:

2. Drive/Walk-In movies at the Rock. It was generally agreed by the Friends of the Harbor Department (sponsors and organizers of the past two drive-in movie events at the Rock) and the HAB these events are too much to organize and put on more than just occasionally on a volunteer/staff basis, and recommend, that while great events, if future ones are done more than just occasionally they be on a contract basis such as the recent holiday events last December were.  
*Staff concurs with this recommendation.*

3. Lease incentive for certain products. The HAB's conclusion on this item was to let the marketplace determine what products and services are provided from our lease sites as the private sector is the best judge of what is and isn't needed, and thus recommended the City take no action in this regard.  
*Staff concurs with this recommendation.*
4. Grant-seeking. The department's Administrative Technician was tasked last year with initial new grant research, while the department continues to actively and aggressively seek and obtain various grants from Boating & Waterways, the Central Coast Joint Cable Fisheries Liaison Committee and others. Without additional funding for an employee position or contractor to seek grants, however, the department is doing all it can and this objective is considered complete (and ongoing).  
*The HAB agreed with this assessment and did not recommend any further action.*
5. Public project "adopt-a-thing" volunteers. With HAB input, staff developed a list of potential projects and groups/organizations that could potentially be involved assisting to implement them, and forwarded that list to the then Deputy City Manager, who was tasked with putting projects and groups together to accomplish.  
*The HAB made no further recommendations.*

Items for which staff are seeking Council input and direction:

1. Staff determined approximately 55 10' x 30' parking spaces would fit into the eastern portion of the lot in a two-row, pull-through configuration taking approximately 1/3 of the existing lot footprint. Attachment 1 to this staff report is an overhead view of the Triangle Lot area in question. Fencing, space identification and other necessary basic infrastructure would cost approximately \$10,000-\$12,000 to install. The current Harbor Department Master Fee rate is \$91.50 per month (30-day month at \$3.05/day) for a ~9' x 20' space in the department's storage area near the fisherman's gear storage, while other local storage yards charge ~\$65-\$85 per month for a ~30-foot space.

Staff brought the HAB the following issues to consider and HAB's recommendations are as follows:

- a. Rates. The HAB recommended a storage fee or rate equal to or slightly higher than the average local private rate, in order to not unfairly compete with the private sector. The HAB recommended looking at the rates at Port San Luis as well. Port San Luis charges \$77/month for an approximate ~10' x 30' space.  
*Staff concur with the HAB and recommend staying with the current Master Fee rate.*
- b. Security considerations. To ensure a minimum degree of security, the HAB recommended fencing the area, with key or gate card access.  
*Staff concur with that recommendation.*
- c. Lighting. The HAB recommended directional lighting to not affect nearby neighbors.  
*Staff believe lighting beyond what is already in place may be complicated and excessively expense to implement, therefore, recommend any additional lighting be achieved as a future phase, if deemed necessary and a funding source is identified.*
- d. Issuing spaces. The HAB recommended the spaces be issued on a first-come/first-saved basis, with a waiting list established should all spaces be filled.  
*Staff concur with those recommendations.*

- e. Management. The HAB recommended the Harbor Department manage the program.  
*Staff concur with that recommendation.*
- f. Revenues. The HAB recommended the majority of revenues should go to the department managing the program (Harbor), with possible revenue-sharing with the General Fund (80%/20% was suggested).  
*Staff concur with that recommendation, with some revenues possibly dedicated to lot area infrastructure improvements and/or boatyard research/establishment efforts.*
- g. Type of storage. The HAB recommended boat storage be given preference, with allowance for RV's on a space-available basis after the boat storage demand is met.  
*Staff concur with those recommendations.*
- h. Priority. The HAB recommended priority on the waiting list to "locals," meaning Morro Bay residents, with local commercial fishermen being given top priority. There was also HAB recommendation for a possible price break for "locals."  
*Staff recommend "local" be defined as residents of Morro Bay first, and elsewhere in San Luis Obispo County second, and a 5% price break for Morro Bay residents (since 5% will still be equal to or more than the private sector rates).*
- i. Other suggestions from individual HAB members were a reduced "sublease" rate in the event a user was not occupying their spot for a time being so as to not lose their spot that could be rented out to another user at the full rate for the vacancy period, a security deposit to help ensure derelict vessels and/or trailers do not get left for the City to deal with, and a requirement for insurance on a stored vessel. The full HAB did not discuss these three items; they were just left as suggestions to consider.  
*Staff believe a "sublease" program would likely be more to manage than is worth doing, and therefore do not recommend it. Further, staff believe requiring insurance could solve the derelict problem, but could also pose a financial barricade to participation, and recommend further research into likely insurance costs to determine if it would be an impediment. Staff do believe a security deposit should be required for various reasons.*

Finally, staff have recently permitted a limited number (5) of trailer vessels being stored in the eastern portion of the Triangle Lot on a trial basis to determine the demand, usefulness and management required of such a program. There appears to be ample demand (including two "mast-up" sailboats ready to launch), while management is relatively minimal once accounts are established. In addition, given the very limited amount of regular public parking occurring in the lot, there appears to be adequate space for expanded storage while still maintaining ample space for public parking.

Regarding items 6 and 7, licensing/permitting for certain activities and businesses occurring on Tidelands properties, it is in the Harbor Department's mission to promote business throughout the harbor and Tidelands Trust area in a *safe, orderly and professional manner*, encourage the offering of essential marine-related services, and increase opportunities for small businesses that have no fixed place of business or lease on the waterfront. Examples of for-profit events and activities occurring (or that could occur) on Tidelands Trust properties are weddings or corporate retreats arranged and executed by for-hire planners (such as "Beach Butlerz" is currently doing periodically), beach item vendors or surf lessons. Examples of for-profit businesses conducting business on Tidelands Trust properties are vessel maintenance and repair, bottom cleaning, marine surveying or six-pack charters.

In staff's opinion, a licensing/permitting program would:

- Ensure those conducting business in the Tidelands Trust have an appropriate Business License and any other required licensing or certification for their line of work.
- Ensure those conducting business in the Tidelands Trust are properly insured, if and where appropriate, including naming the City as additionally insured.
- Provide a means for the City to ensure, by enforcement if necessary, those working in the Tidelands Trust are legitimate businesses who follow best management practices, environmental and other regulations and do not abuse the privileges of doing business on the bay.
- Provide surety and peace of mind to those in need of such services that entities providing them are legally conducting business with the proper authorizations.

For businesses operating on the bay and providing boating/harbor services, staff do not view a licensing/permitting program for them as an economic revenue generator per se; rather, it is a means of protecting the public's interest and the City's liability, and ensuring entities conducting business on our bay are doing so legally and in a sound manner by providing some reasonable degree of oversight. Many harbors along the coast employ such programs for these purposes.

6. The HAB's input and recommendations regarding item 6 are as follows:
  - a. One-time public events. The HAB recommended occasional public-type events such as surf contests and kite festivals continue to remain under the PAUP process.  
*Staff concur with that recommendation.*
  - b. License/Permit issuance. The HAB recommended licenses/permits be issued on an annual basis, with allowance for an RFP process should there be a significant demand for a particular service or activity.  
*Staff concur with those recommendations.*
  - c. Permit number limits. The HAB recommended to let the market determine the number of licenses/permits issued.  
*Staff concur with that recommendation, with the addition of allowance for an RFP process should demand be significant as previously noted.*
  - d. Competition. The HAB recommended existing "brick and mortar" businesses should be afforded some type of priority over or protection from itinerate businesses, perhaps via a fee structure or an RFP process.  
*Staff recommend if a business or service is applied for that is in direct competition with a Morro Bay "brick and mortar" business, then any permit or license be issued via an RFP process in order to afford the "brick and mortar" operator equal opportunity.*
  - e. "Six-pack" charters. The HAB recommended "six-pack" (those Coast Guard licensed for-hire vessels limited to six or less passengers) and other charters be limited to operating out of existing lease sites with that as an approved use in their leases due to increased liabilities and wear and tear on public facilities they would otherwise operate from.  
*Staff concur with those recommendations.*

- f. Fees. The HAB recommended a flat 10% of sales/revenues be charged, in addition to a flat fee and with possible revenue scaling on a case-by-case basis, all negotiated as-appropriate on a case-by-case basis.  
*Staff concur with those recommendations.*
  - g. Approval. The HAB recommended these licenses/permits be administratively approved by the Harbor Department.  
*Staff concur with that recommendation.*
7. The HAB's input and recommendations regarding item 7 were generally such businesses should be minimally regulated due to both their small scale and importance to the boating/harbor community. As such, the HAB recommended no additional permit or license layer be added; rather, the City's existing business approval process will include an added level of review and approval by the Harbor Department based on certifications, professional licenses or other appropriate requirements as necessary, with annual review and re-approval. Additionally, the HAB felt an insurance requirement could be too financially onerous for such small-scale, often one-person businesses.  
*Staff concurs with those recommendations.*

## **CONCLUSION**

Staff are seeking Council concurrence on the completed status of items 2, 3, 4 and 5, as indicated.

Further, staff recommend Council authorize staff to pursue establishment of a fenced, controlled access ~25-50 space paid storage area in the easternmost portion of the Triangle Lot for trailered vessels and RVs, as-recommended by staff in the items above. Funding for any initial improvements would be in the FY 18/19 annual budgeting.

In addition, staff recommend moving for-profit activities in the Tidelands from a PAUP process and into a fee-based one, including Council authorization for staff to pursue such a license/permit program as-proposed. Should the Council concur and approve of such a program, staff intend to develop policy and process based on the HAB and Council input and direction, and begin transitioning applicable existing businesses currently under the PAUP process to this license/permit program, while advertising and making the program more known to the general and business public. Participating businesses would, of course, still be required to obtain a City business license, and any necessary other permitting as determined by the Community Development Department.

Finally, to ensure businesses providing services on the bay are operating with a minimal degree of oversight to determine they are appropriately licensed, certified or qualified in their line of work, where applicable, staff recommend adoption of an oversight mechanism to the existing business license permit process whereby the Harbor Department reviews and approves subject harbor/bay-based service business licenses for appropriate and necessary requirements. If the Council concurs and approves such a program, then staff intend to develop policies and processes based on the HAB and Council input and direction.

## **ATTACHMENT**

1. Overhead view of the "Triangle Lot" and proposed general boat/RV storage area being proposed.

