



AGENDA NO: Public Comment

MEETING DATE: April 14, 2020

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA IS ATTACHED
FOR PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: Aaron Ochs [REDACTED]
Sent: Friday, April 10, 2020 8:48 PM
To: CityClerk
Subject: Agenda Correspondence for 4/14/20 Meeting - Public Comment

Council and staff,

I hope everyone is staying healthy and safe!

Before I begin my remarks, I want to thank Mayor Headding for his leadership and using his expertise as a medical professional to help underscore the importance of maintaining social distancing and adhering to the shelter-at-home order. I also want to thank Councilmembers Addis and Davis for participating in weekly Zoom calls that provide a lot of important information to the community. I appreciate our City Council stepping up and interacting with residents on a personal level to keep them informed on what's happening.

I believe we should enact an emergency ordinance that further emphasizes the need for residents and businesses to follow the guidelines. On Friday, my family visited a local business where measures were not properly followed. While the business did allow one customer at a time to enter their small store, one of those customers coughed, touched their face and touched several of their products for approximately ten minutes, The resident was neither wearing gloves nor a mask pursuant to CDC guidance on cloth masks. The employees appeared oblivious about the circumstances, despite wearing masks and disinfecting inventory prior to the customer entering.

I'm not mentioning the business nor the customer on the record. The goal is not to shame them, but to offer one anecdote that's become a popular one nationwide. While we have only six positive cases as of April 10, we need to act as if we have a lot more positive cases. It's a good and healthy assumption to have since we still don't have enough testing for people experiencing mild symptoms of COVID-19. We also need to act as if we have the virus and protect others in addition to ourselves. We will only be able to maintain a flattened curve if we're responsible, but to ensure that responsibility, it might be beneficial to enact a temporary emergency ordinance to further emphasize the importance.

I understand that it might be draconian with enforcement, but to combat that draconian measure, I propose the ordinance include signage on all essential businesses that strongly encourage customers and employees to practice CDC guidelines. This would be no different in enforcement to the city advocating that restaurants conserve water and asking restaurants to serve water only when it's requested.

Probably said more than three minutes worth of words. Just remind me to speak a minute less if and when it's safe enough to deliver public comment at a future meeting!

Best regards,

Aaron Ochs

Dana Swanson

From: John Weiss [REDACTED]
Sent: Monday, April 13, 2020 9:23 PM
To: CityClerk
Subject: General Public comment April 14th, 2020 Council Meeting
Attachments: 2019_20 Budget Brochure.pdf

Honorable Mayor and Council, citizens and viewers:

John Weiss , resident and business owner.

I hope you are all well.

I understand from a recent survey of businesses that most businesses revenue are down about 75% or closed with zero revenue altogether. Our pre COVID-19 budget showed a \$900K General Fund deficit which was augmented by our reserve and transfers, see attached from our City website. From our City's 10 year forecast, we were scheduled to run out of our reserve in 2021 approximately, sooner or later.

I'm glad to hear that budget adjustments are being made with future budget plans by Council and Staff being considered.

I hope you make commensurate cuts due to the even more drastic reductions in revenue due to the Pandemic effecting all of us without compromising Public Safety. Assistance for our PERS account from either the State or Federal Government as that expense is tied to the stock market and comes out of our General Fund.

1) Has consideration been given to our legal expenses as it would appear we could save \$2-4 million over 10 years by hiring a local attorney (firm)?

2) When will the Staff be able to share the new budget on the city website with the adjustments with the expected reduced revenues and costs?

Thank YOU!

Have a good meeting!

Capital Program Budget Financial Summary

The FY 2019/20 Capital budget includes funding for \$36,987,526 in capital improvements through the City as outlined below:

WRF*	\$	33,647,976
Street Improvements		985,036
Harbor Projects		682,052
Transit		486,840
Water Projects		382,000
Parks and Creek Program		369,922
Sewer Projects		312,500
Public Facilities		148,200
Total Capital Projects	\$	36,987,526

*Water Reclamation Facility

Significant FY 2019/20 Projects

- Water Reclamation Facility
- Pavement Management Plan
- City Park Play Equipment
- OneWater System Improv—Nutmeg Pressure Zone
- OneWater Project—WasteWater Collections Main st. & Atascadero Rd
- OneWater Project—WasteWater Collections Upstream LSI/Beachcomber
- Audio Visual and Facility upgrades for Council Chambers
- Beach Street Slips—South
- Replacement Trolleys
- Replacement Bus

FY 2019/20—2020/21 Council Goals

1. Fiscal & Economic Sustainability
2. Updates to Land Use Plans & Address Affordable Housing Issues
3. Improve Communication and Engagement
4. Improve Public Infrastructure

GLOSSARY

Balanced Budget: A budget with operating revenues equal to operating expenditures. Generally, it refers to a budget with no deficit, but possibly with surplus.

Capital Projects Funds: Funds that account for financial resources to be used for the acquisition or construction of capital facilities.

Enterprise Fund: Fund-type established to account for the financing of self-supporting activities of governmental units, which render services on a user charge basis to the general public. Enterprise funds are **Water, Sewer, Harbor and Transit Funds.**

Fund: A set of inter-related accounts to record revenues and expenditures associated with a specific purpose.

General Fund: Primary fund used by the City for which revenues and expenditures are not legally restricted for use.

Government Funds: Funds used to account for all assets and liabilities of a government agency, except those particularly assigned for other purposes in another more specialized fund. There are five different types of governmental funds: the **general fund** (primary operating fund), **special revenue funds, debt service funds, capital project funds, and permanent funds.**

Special Revenue Funds: Revenues received that have specific purposes for which they are earmarked

Internal Service Funds: A fund that collects money from departments/funds to pay for the established purpose of the fund (i.e. Risk Management Fund).

Transfers: Authorized exchanges of money, positions, or other resources between organizational units or funds.

Utility Discount Program: A discount program offered on the City's Water and Sewer utility bills (10% of bill) for eligible customers who are currently enrolled in the Pacific Gas and Electric Company (PG&E) Care Program.

CITY OF MORRO BAY Summary of FY 2019/20 Adopted Budget



PUT LIFE ON COAST

Mayor
John Heading

City Manager
Scott Collins

Mayor Pro-Tem
Red Davis

City Clerk:
Dana Swanson

Council Members
Dawn Addis
Jeff Heller
Marlys McPherson

Department Heads:
Jody Cox, Police
Steve Knuckles, Fire
Rob Livick, PW
Scot Graham, CDD
Eric Endersby, Harbor
Jen Callaway, Finance

**595 Harbor St.
Morro Bay, CA
805-772-6222**

BUDGET SUMMARY

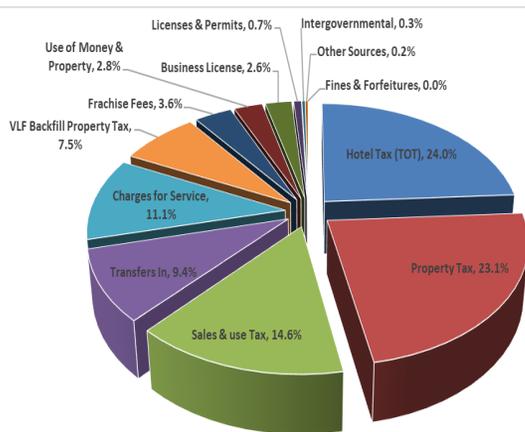
GENERAL FUND

Revenues: (By Category)

Property Tax (total)*	\$	4,536,513
Hotel Tax (TOT)		3,566,811
Sales & use Tax		2,165,680
Charges for Service		1,648,395
Franchise Fees		536,136
Use of Money & Property		410,341
Business License		380,265
Licenses & Permits		109,859
Intergovernmental		44,540
Other Sources		36,237
Fines & Forfeitures		5,000
Total Revenues	\$	13,439,777
Transfers In		1,400,447
Total Revs & Transfers	\$	14,840,224

*Property Tax includes property tax and VLF backfill property tax

FY 2019/20 Revenues by Category



Hotel Tax (TOT): Tax that is levied on occupants of hotel and motel rooms in the city for

VLF back-fill property Tax: A state fee charged for the privilege of operating a vehicle on public streets. A VLF is levied annually against the market value of a motor vehicle and is imposed by the state "in lieu" of local property taxes

Licenses & Permits: Revenues earned by the issuance of licenses or permits levied in accordance with the benefits conferred by the license or permit.

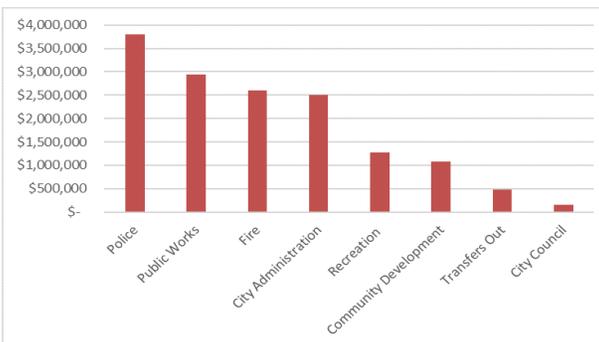


GENERAL FUND

Expenditures (By Department):

	Total	% of Bud
Police	\$ 3,803,428	25.6%
Public Works	2,937,601	19.8%
Fire	2,606,994	17.6%
City Administration*	2,505,288	16.9%
Recreation	1,276,559	8.6%
Community Development	1,077,289	7.3%
City Council	147,607	1.0%
Total	\$ 14,354,766	
Transfers Out	480,970	3.2%
Total Exp & Transfers	\$ 14,835,736	100%

*City Manager, Legal Services, Finance, Human Resources, Clerk, Contract Services



FY 2019/20 Expenditures by Department

Expenditures (By Category):

	Total	% of Bud
Salary & Benefits	\$ 11,049,983	74.5%
Services	2,663,648	18.0%
Supplies	518,353	3.5%
Other Uses	40,250	0.3%
Debt Service	35,189	0.2%
Capital Outlay	31,343	0.2%
Equipment Replacement	16,000	0.1%
Total	\$ 14,354,766	
Transfers Out	480,970	3.2%
Total Exp & Transfers	\$ 14,835,736	100%

City Services are highly dependent on labor—the City's General Fund budget primarily supports personnel costs

Personnel

Authorized Funded Positions	97.1
Elected Officials	5.0

ENTERPRISE FUNDS

Water Fund

Source of Funds

Charges for Service	7,975,900
Transfer from Reserves	6,793,850
Proceeds from Loans	-

Total 14,769,750

Use of Funds

Operation Expenses	4,165,749
Capital Expenses	6,793,850
Debt Service	-

Total 10,959,599

Sewer Fund

Source of Funds

Charges for Service	9,487,000
Transfer from Reserves	6,157,661
Proceeds from Loans	-

Total 15,644,661

Use of Funds

Operation Expenses	3,329,339
Capital Expenses	7,223,926
Debt Service	-

Total 10,553,265

Harbor Fund

Source of Funds

Charges for Service	2,011,000
Transfer from Reserves	423,000
Proceeds from Loans	-

Total 2,443,000

Use of Funds

Operation Expenses	1,849,387
Capital Expenses	439,052
Debt Service	134,859

Total 2,423,298

	6/30/2019	6/30/2020
Funds Cash Balances (Reserves)	17,788,176	12,981,322

Decrease in available cash is primarily due to the budgeted expenditures for the City's new Water Reclamation Facility. The City budgeted use of available cash to reduce overall debt service and interest costs.



AGENDA NO: Presentation

MEETING DATE: April 14, 2020

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State of the Bay 2020

Lexie Bell, *Executive Director*

April 14, 2020

Morro Bay City Council



MORRO BAY
NATIONAL ESTUARY PROGRAM

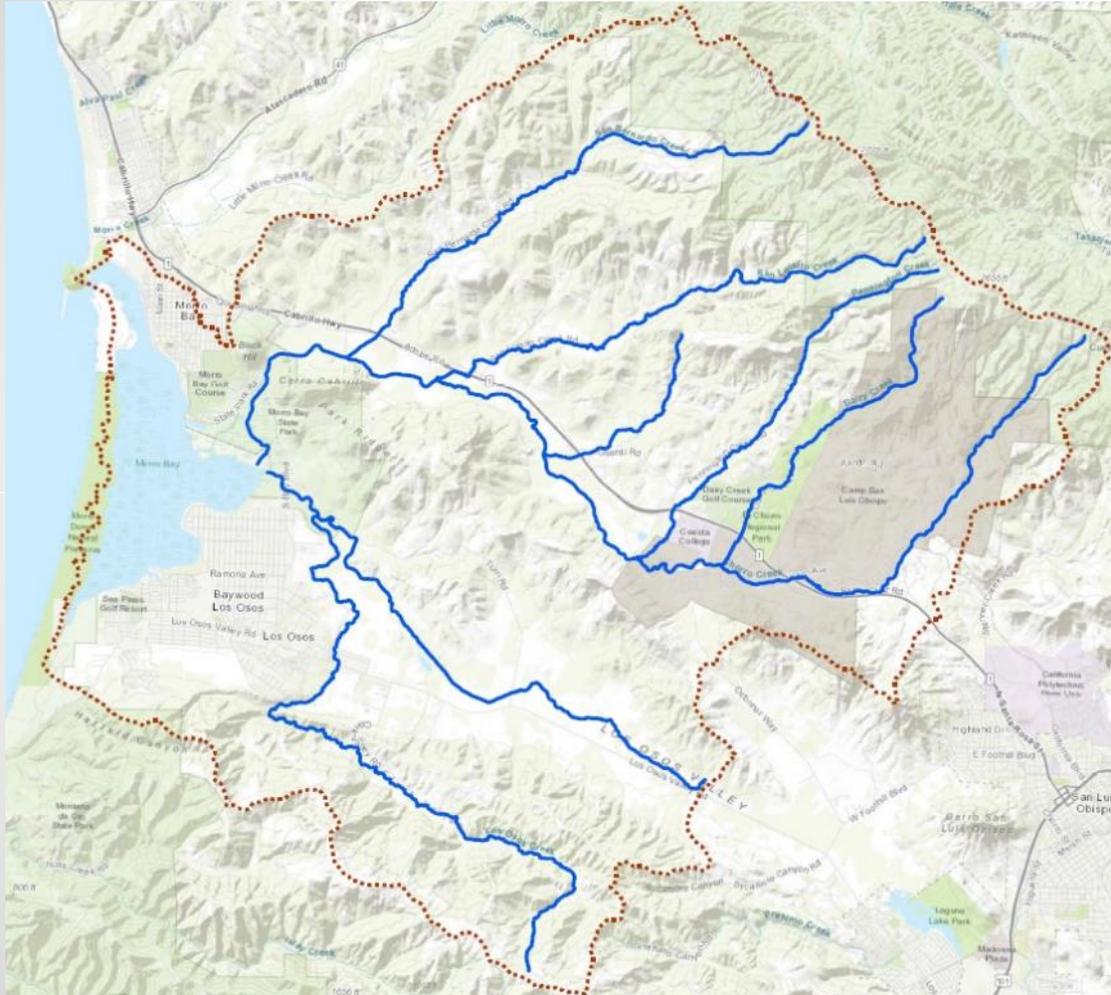
Who we are.

Nonprofit, not a regulatory agency

Part of a network of 28 national estuary programs, designated by the EPA

We bring together citizens, government, nonprofits, and landowners to protect and restore Morro Bay.





Where we work.

Morro Bay estuary

- 2,300 acres

Morro Bay watershed

- 48,000 acres (75 sq. miles)

What we do.



Restoration & Conservation

Reduce pollution and
protect natural areas



Outreach & Education

Educate residents
and visitors about
how to keep Morro
Bay clean and healthy



Monitoring & Research

Assess how the bay and
watershed change over
time



Triennial report on the health of the bay

Available online with interactive content:

[MBNEP.org/state-of-the-bay](https://mbnep.org/state-of-the-bay)



Bay Health: Safe Swimming

Pathogens Cause Illness

Bacteria, viruses, protozoa

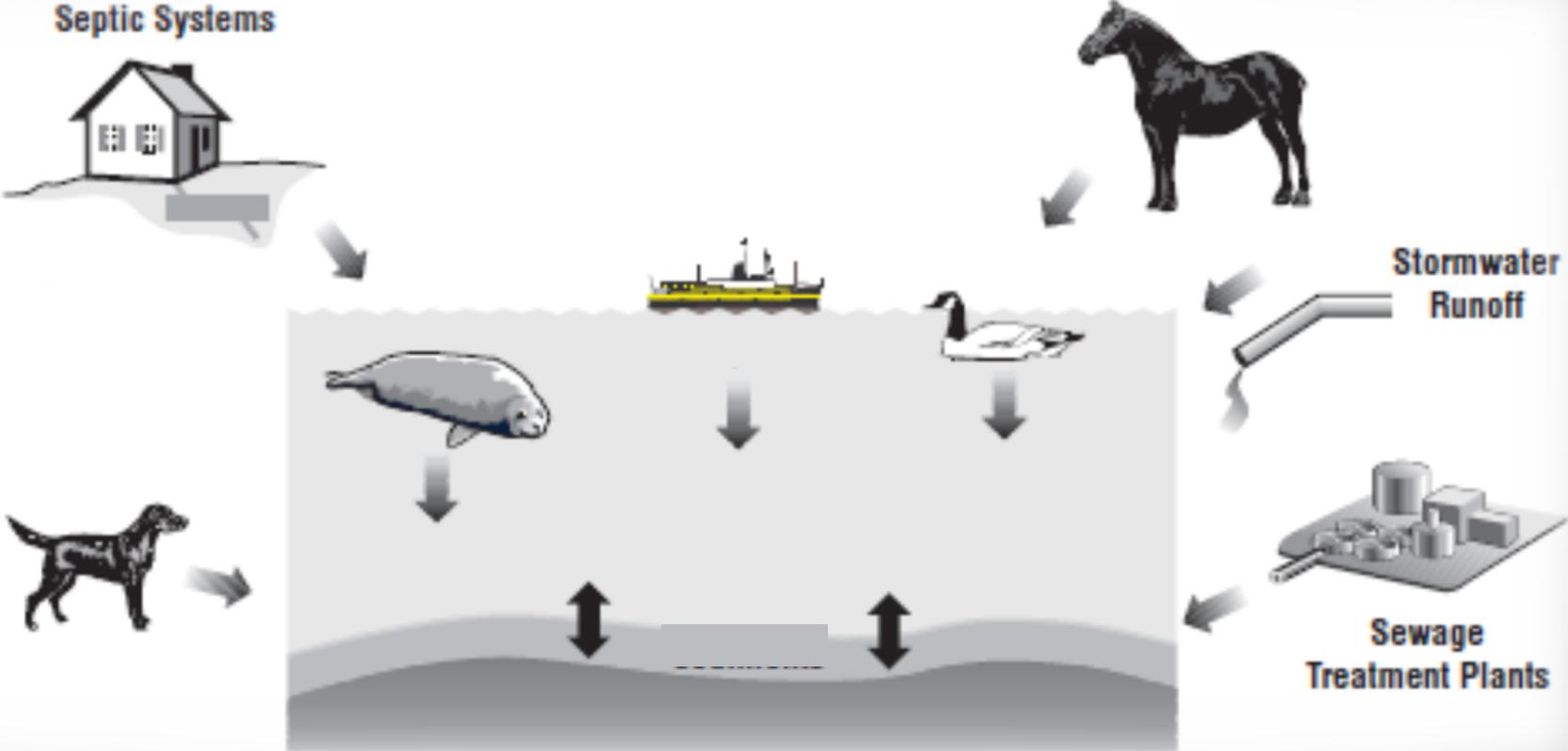
Test for Indicator Bacteria

Enterococcus

Timeframe of data

2005 to 2018

Bay Health: Bacteria Sources



Bay Health: Bacteria

Bay Bacteria Status

-  Very Good/Good
-  Fair
-  Poor
-  Very Poor



Making a Difference: Mutts for the Bay

- *33 dispensers*
- *Funds from private donors, businesses, and organizations*
- *360,000 bags given out in 2019*





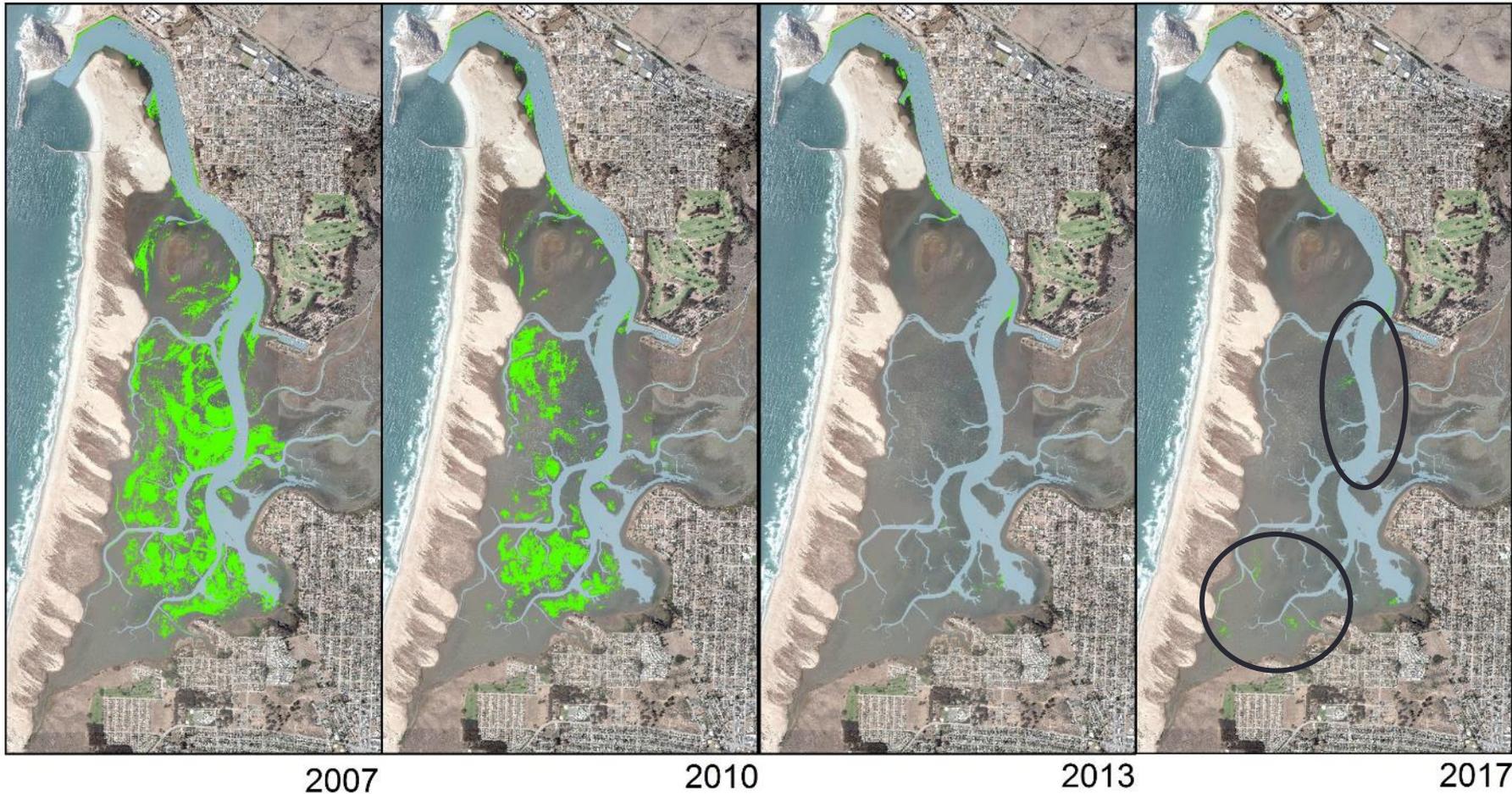
Bay Health: Eelgrass

Valuable Habitat

Serves many important ecosystem functions

Catastrophic loss

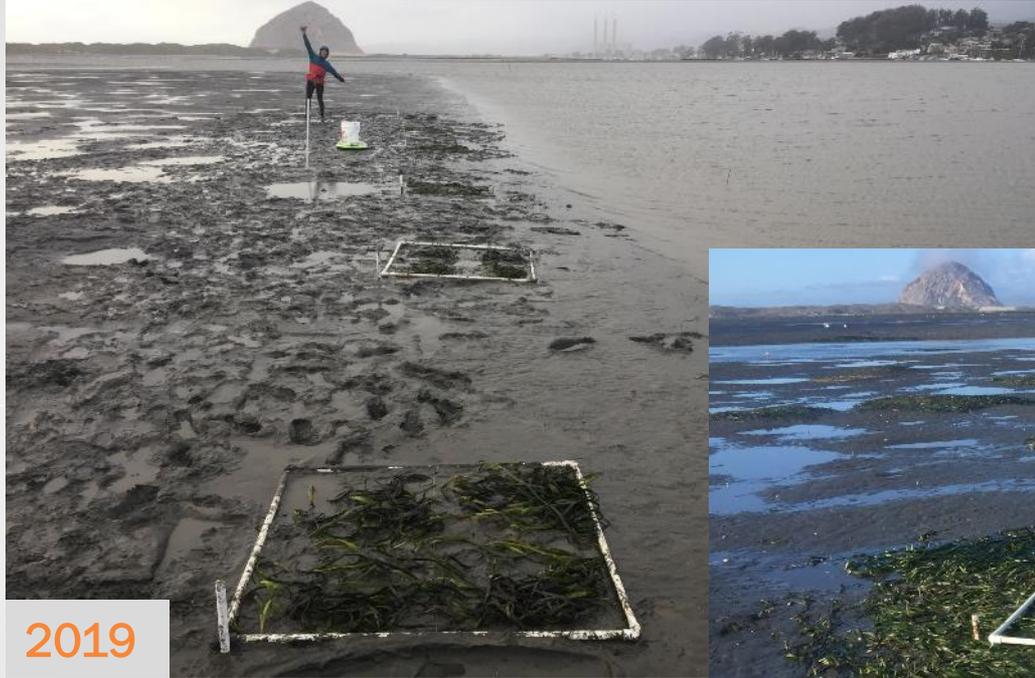
96% loss in acreage since 2007



Making a Difference: Eelgrass Restoration



Making a Difference: Eelgrass Restoration



Protecting and Restoring Habitat

Conservation

Protecting lands

Enhancement

Active management to improve habitat

Restoration

Returning to a natural state



Help keep our bay and creeks clean

- ✓ Pick up after your pet.
- ✓ Watch what goes down the storm drain.
- ✓ Turn off the tap.





Upcoming Events State of the Bay 2020

April 29: Trivia Night Online!

May 7: Science Explorations on Creek Health Online!

*May 8: Hike Morro Bay State Park from Home
[MBNEP.org/blog](https://www.mbnep.org/blog)*

Month of May: Paddle for a Cause

Subscribe to our weekly blog ([MBNEP.org/blog](https://www.mbnep.org/blog)), follow us on social media or visit:

*[MBNEP.org/state-of-the-bay](https://www.mbnep.org/state-of-the-bay)
to learn more*



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AGENDA NO: C-1

MEETING DATE: April 14, 2020

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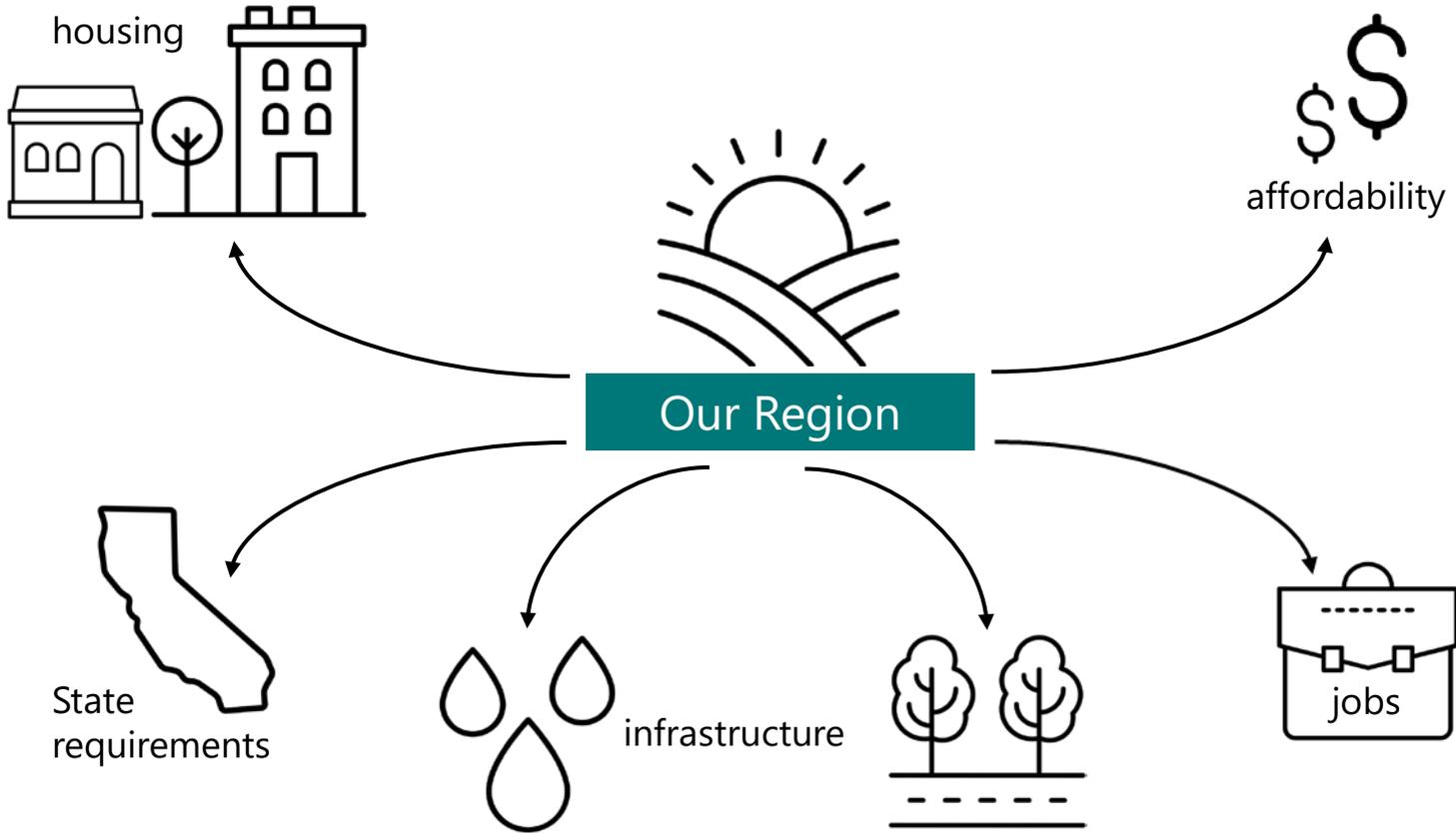
*Regional Infrastructure &
Affordable Housing Strategic Action Plan*

**San Luis Obispo Countywide
Regional Compact**

April 14, 2020

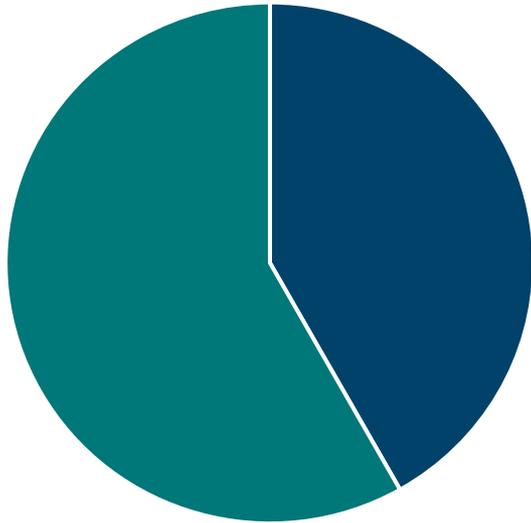
Morro Bay City Council

Regional Needs and Pressures



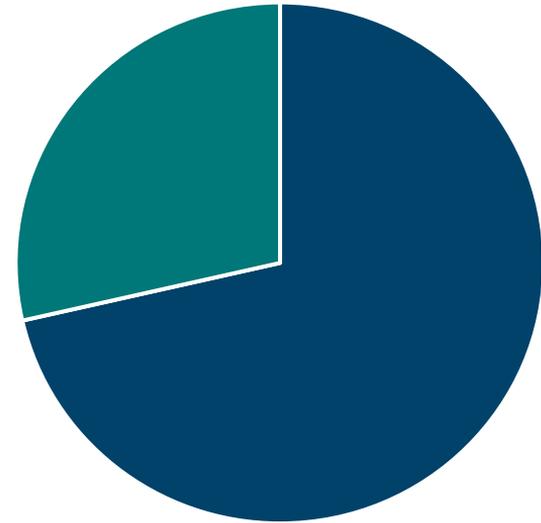
5th Cycle RHNA: 2014-2019

Target (4,090)

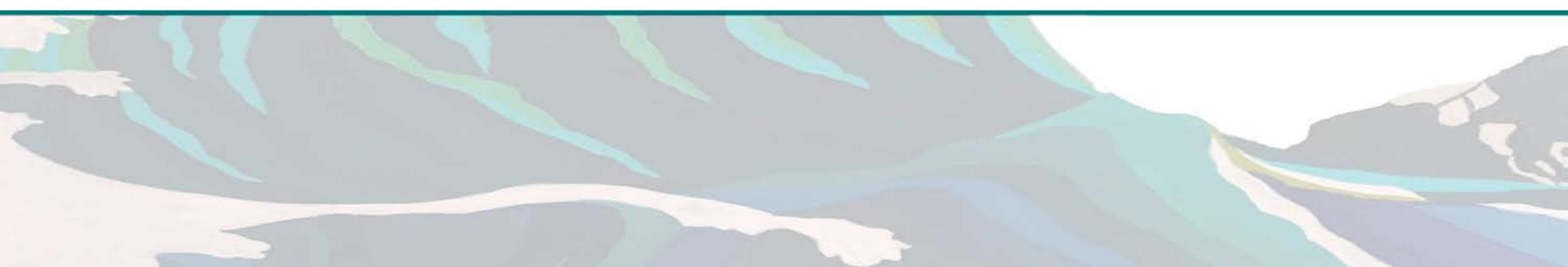


■ AM ■ VL/L/M

Actual (4,563)

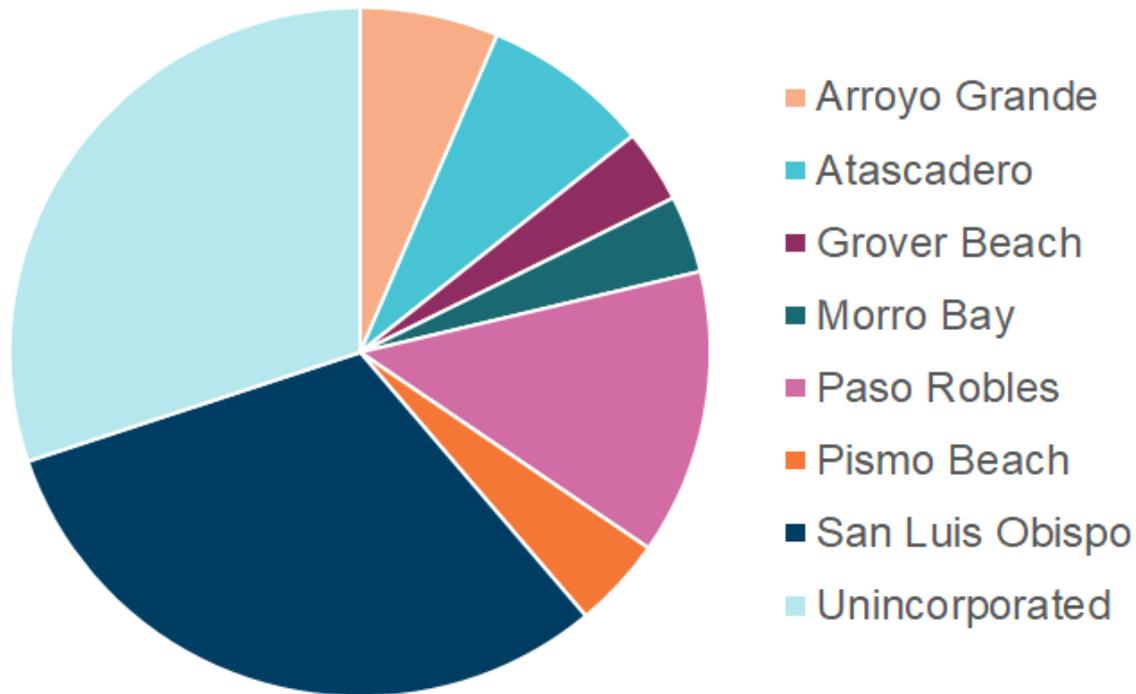


■ AM ■ VL/L/M



6th Cycle RHNA: 2020-2028

Regional Housing Need Allocation (RHNA)
2019-2028 Total = 10,810



Regional Infrastructure and Affordable Housing Strategic Action Plan

Plan Development

Mission: Build a strong collaboration by coordinating a strategic action plan that integrates local agencies' efforts, identifies and prioritizes critical regional infrastructure needs, creates a focused strategic regional infrastructure and implementation plan to address the housing and infrastructure shortage countywide.

Goal 1

Regional
Collaboration



Goal 2

Strategic
Action Plan

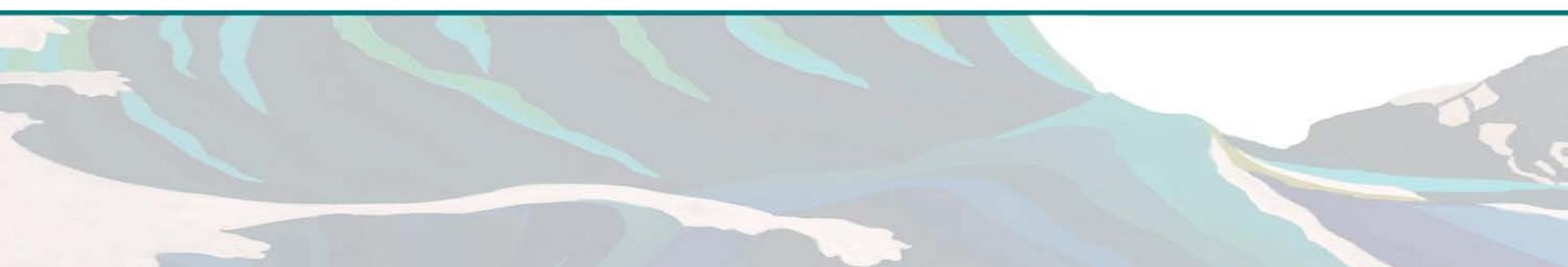


Goal 3

Align Land
Use Planning
Documents



**San Luis Obispo Countywide
Regional Compact**



Countywide Regional Compact

Goal 1

Regional
Collaboration



A united regional framework to unlock our potential to develop an adequate supply of housing and resilient infrastructure that support our economic prosperity.

Strengthen
community
quality of life

Share regional
prosperity

Create
balanced
communities

Value
agricultural &
natural
resources

Support
equitable &
diverse
opportunities

Foster
accelerated
housing
production



Regional Compact Approval Schedule

February 25 th	County Board of Supervisors
March 2 nd	City of Grover Beach Council
March 3 rd	City of Paso Robles Council
March 3 rd	City of Pismo Beach Council
March 10 th	City of Arroyo Grande Council
March 10 th	City of Atascadero Council
March 17 th	City of San Luis Obispo Council
April 1 st	SLOCOG Board of Directors
April 14 th	City of Morro Bay Council
TBD	Signing Event



Building on our Regional Compact

Goal 1

Regional
Collaboration



A united regional framework to unlock our potential to develop an adequate supply of housing and resilient infrastructure that support our economic prosperity.

Goal 2

Strategic
Action Plan



*Inventory and prioritize infrastructure needs
Identify funding and implementation strategies
All agencies adopt Regional Strategic Action Plan*

Goal 3

Align Land
Use Planning
Documents



*Collaborate in developing Housing Elements
Develop new Regional Section: Goals & strategies
Each agency adopts its Housing Element*



Recommended Actions

Adopt a resolution approving and authorizing the Mayor or designee to sign the San Luis Obispo Countywide Regional Compact



Questions?

For more information visit:

<https://slocounty.ca.gov/slohousinghub>



AGENDA NO: C-3

MEETING DATE: April 14, 2020

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA IS ATTACHED
FOR PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: Meredith Bates [REDACTED]
Sent: Monday, April 13, 2020 10:10 AM
To: Robert Davis; Scott Collins; Dawn Addis; Marlys McPherson; Jeffrey Heller; John Headding; Dana Swanson
Subject: Item C-#3

Item C-3

My concern is for the small businesses and individuals in Morro Bay who are suffering significant financial hardship. The relief offered by the feds and the State is not immediately accessible and our small businesses and residents are in serious need of financial help.

I applaud Erica Crawford for her efforts as she keeps us abreast of valuable information and shares it readily. Most people and small businesses cannot wait several weeks for the relief from the SBA and other government sources.

I understand that staff has recommended the award of \$896,761 to Cannon Corporation for the One Water Project. I realize that the budget for the project will come from the water and wastewater enterprise funds and not the City's General Fund, where there is more discretion in spending. Can we renegotiate terms during this unprecedented emergency so we can keep city services afloat?

Other cities have been cancelling consultant projects in order to preserve critical city services, like fire and law enforcement.

My question is: Is it possible to use some of the funds in the Enterprise Fund to help our small businesses and employees directly? Can we renegotiate the Cannon contract to employ local folks who are losing their jobs?

We have other projects with contracts to consultants and can we bring some of these in house to avoid more lay offs of our city employees [\[MB1\]](#) ?

[\[MB1\]](#)

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Thoughtfully,

Meredith Bates



AGENDA NO: C-4

MEETING DATE: April 14, 2020

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA IS ATTACHED
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April 14, 2020

The Honorable John Headding
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

RE: Ordinance No. 632

Dear Mayor Headding and Councilmembers:

The American Cancer Society Cancer Action Network's mission is to end suffering and death from cancer, and we are committed to advancing that mission in Morro Bay. We are writing today to express our support of your efforts to protect the health of Morro Bay residents through a smoke-free multi-unit housing policy, prohibiting the sale of tobacco products in pharmacies, and reducing youth access to tobacco through tobacco retail licensing. However, **We strongly oppose the staff's recommendation to exempt menthol and smokeless products, and we ask this council to remove these exemptions as an effective way to reduce the sale of tobacco products to youth.**

While life in California has paused to help mitigate the spread of COVID-19, chronic diseases like cancer are not taking a break. During this public health crisis, we are reminded to be vigilant about our health, and the health of our kids and young adults. Studies have definitively shown that smoking and vaping have negative impacts on both lung function and overall immune function. The most important thing we can do to reduce tobacco use, particularly amongst youth, is to prohibit the sale of all flavored tobacco products.

Both opponents of smoking and purveyors of cigarettes have long recognized the significance of adolescence as the period during which smoking behaviors are typically developed. Adolescents are still going through critical periods of brain growth and development and are especially vulnerable to the toxic effects of nicotine. A study published in the journal, *Pediatrics*, found that the earlier youth are exposed to nicotine, the less likely they will be able to quit. Tobacco companies have a long history of marketing to vulnerable populations, including youth, and target youth with imagery and flavors preferred by young people.

For decades, the tobacco industry has worked to devise ways to get youth to start smoking, and they are well aware that a keyway to lure youth is to mask the taste of tobacco with sweet flavors. Tobacco industry internal documents uncovered during litigation show that

manufacturers have long regarded flavored tobacco as a starter product, from which teen experimenters will graduate to adult brands. Additionally, communities of color have been specifically targeted with menthol marketing.

While cigarette smoking has declined in the U.S., in recent years, sales of menthol cigarettes have steadily increased, especially among young people and new smokers. Menthol's cool flavor and anesthetizing effects help to mask the harshness of tobacco, making it more appealing to beginning smokers. Prohibiting the sale of flavored tobacco products can help to keep kids from ever starting to smoke and can encourage those who do smoke to quit.

Prohibiting the sale of flavored products, including menthol, is not only a health issue; it is also a social justice issue. Targeted marketing to communities of color, low income communities and LGBTQ communities adds to the health disparities in populations already impacted by social inequities. In African American communities, the tobacco industry has aggressively marketed menthol flavored tobacco products to youth. Approximately 85% of African American smokers now smoke menthol cigarettes, and consequently, African American men have the highest death rates from lung cancer, when compared to other demographic groups. In addition to menthol being more appealing to beginning smokers, those who use menthol products demonstrate greater dependence, and are less likely to quit.

We appreciate the Smoke-Free protections council has proposed, and tobacco retail licensing is an important step to help reduce youth access to tobacco products. However, ending the sale of all flavored tobacco products is essential to stemming the youth use of tobacco. We support the intent of this ordinance to reduce youth access to these deadly products and we urge you to remove the exemptions in order to achieve this objective.

Sincerely,

Primo J. Castro

Primo J. Castro
Director, Government Relations
American Cancer Society Cancer Action Network

Dana Swanson

From: James Allison <james@cfca.energy>
Sent: Monday, April 13, 2020 12:04 PM
To: Council
Subject: April 14 Council Meeting - Agenda Item C-4
Attachments: Morro Bay TRL Letter.pdf

Morro Beach City Council Members,

In response to a proposal on tomorrow's agenda, the California Fuels & Convenience Alliance would like to take this opportunity to provide a written statement regarding the impacts of this proposal.

CFCA represents California's fuel retailers and over half of all gas stations and convenience stores. These businesses are largely small, family-owned stores. Our members would be disproportionately affected as a result of this proposal. The products named in your proposed ordinance make up a substantial revenue category for these stores, and their loss would be significantly impactful, even during normal circumstances. That said, they present markedly greater detriment under the current circumstances facing all businesses during the COVID-19 crisis.

These stores serve as essential businesses, as classified by Governor Newsom's Executive Order N-33-20. These businesses are doing everything they can during these turbulent times to help their communities and making available the goods families need, providing groceries, fuel, and other necessities that larger, overwhelmed grocers simply cannot. Moreover, especially during this critical situation, store owners and employees are disadvantaged from participating in the virtual civic process.

We implore you to dedicate this time to focusing on COVID-19 crisis relief and not enacting harmful policy towards small businesses.

Attached is a formal letter opposing the proposed ordinance. We greatly appreciate your consideration, and if you have any questions or concerns at all, please do not hesitate to reach out.

Thank you,

James Allison

Public Affairs

California Fuels & Convenience Alliance

2520 Venture Oaks Way, Suite 100 | Sacramento, CA 95833

Main: (916) 646-5999 ext 990 | Fax: (916) 646-5985 | www.cfca.energy



Statement of Confidentiality: The information in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify James Allison immediately at james@cfca.energy and destroy all copies of this message and any attachments. Thank you for your cooperation.



California Fuels and Convenience Alliance

2520 Venture Oaks Way, Suite 100

Sacramento, CA 95833

916.646.5999

April 13, 2020

Morro Bay City Council
Veteran's Memorial Building
209 Surf Street
Morro Bay, CA 93442

Re: Proposed Ordinance to Implement a Tobacco Retail License and Ban the Sale of Flavored Products

To:

Mayor John Headding
Councilmember Marlys McPherson
Councilmember Dawn Addis
Councilmember Jeff Heller
Councilmember Robert Davis

The California Fuels and Convenience Alliance (CFCA) represents about 300 members, including nearly 90% of all the independent petroleum marketers in the state and more than one half of the state's 12,000 convenience retailers. Our members are small, family- and minority-owned businesses that provide services to nearly every family in California. Additionally, CFCA members fuel local governments, law enforcement, city and county fire departments, ambulances/emergency vehicles, school district bus fleets, construction firms, marinas, public and private transit companies, hospital emergency generators, trucking fleets, independent fuel retailers (small chains and mom-and-pop gas stations) and California agriculture, among many others. CFCA appreciates the opportunity to provide comment on this proposed ordinance.

The retailers represented by CFCA are mostly small, family, and/or immigrant owned businesses that would be crippled by regulations banning legally sold and manufactured products. They have been heavily involved in keeping age restricted products out of the hands of youth, including the recent change to California's age of sale from 18 to 21 years of age. Not only does our industry comply with federal and rapidly changing state and local laws, but they also conduct internal sting operations and build their own successful prevention policies, such as the WeCard Program. The ability to sell age restricted products, including tobacco, is part of the financial stability of these community convenience stores. Through the support of CFCA, the State of California recently passed a resolution declaring September "WeCard Awareness Month", in order to promote the safe and legal sale of age restricted products.

Implementation of a Tobacco Retail License

CFCA is a dedicated advocate for safe and responsible retail of age-restricted products. That stated, we ask that you please consider the increasing burden of cost of doing business in California and set the TRL price fairly as to not impact small businesses. For many of these stores, even what may be perceived as slight setbacks can be crippling to family operation that depends on store revenues for groceries and school supplies. We ask that you consider these elements and not unfairly burden these small businesses.

Sale of Current Stock

If this ordinance passes, it is imperative to allow enough time for retailers to sell their current stock, as most purchase products in bulk from distributors. **The Morro Bay City Council should include a provision allowing retailers to sell the rest of the products they currently own or purchase prior to commencement of any ban ordinance in order to ease**

the burden of this ordinance. San Francisco allowed for this in an ordinance placing similar restrictions on flavored products to assist the small business owners that will be affected.

Youth Sales

The illegal sale of tobacco and nicotine products is not a common occurrence at convenience stores. **In 2005, the California Tobacco Survey found that 82% of adolescent smokers obtained the products from “social sources”, mainly older friends and family members.**¹

Furthermore, 2016 research from the California Department of Public Health showing they are the number one retail source of youth tobacco. **Convenience stores were found to be much less likely to be a source of illegal sales, below the state average.**²

Identification Requirement and Online Sales

Given the rise of online purchases of all goods, and the government’s complicity in encouraging this - including age restricted products, the City should be more focused on the modern ways youth are obtaining these otherwise legal products. A short exploration of the ordering process for major manufacturers shows the ease with which youth can obtain these products. **Many companies do not require adult signatures for these products and they can be delivered to the user’s door with no identification verifying their legal age.**

Convenience stores and other brick-and-mortar locations are perfectly situated to adhere to federal, state, and local laws by checking a physical identification card and following the guidelines created and followed by the industry, such as the WeCard program. WeCard is a non-profit organization that provides training and materials such as age-of-purchase calendars that make it simple for an employee to ensure the purchaser is of legal age. They also have an e-cigarette specific webpage and materials.³ WeCard ensures the correct materials and standards are being used in those locations and provides an invaluable service to small businesses that sell age restricted products.

Harm Reduction through Vapes/ENDS

ENDS offer an option to adult consumers that can serve as a tool for smoking cessation and harm reduction that adds to the small list of methods available. Nicotine gum and patches are listed as smoking cessation methods, but they are not intended to get a user to zero nicotine. They are a way to alleviate the withdrawal symptoms that are commonly experienced by nicotine users moving away from nicotine products. ENDS are often used the same way, but also allow a wider variety of flavors and nicotine percentages, *including zero nicotine*. Allowing smokers to work their way to nicotine free solutions means they can reduce their risk of harm from nicotine. More flavor options and styles of ENDS increase the amount of consumer freedom and may lead to more traditional cigarette users to switch to a less harmful method.

In 2016, the Royal College of Physicians released a report concluding that e-cigarettes and ENDS are beneficial to public health as they decrease the rate of traditional cigarette use. **The study found that long term use of ENDS is unlikely to exceed 5% of the harm from traditional cigarettes. Furthermore, they found ENDS to not be a “gateway to smoking”, do not result in a “normalization of smoking”, and provide a first step to smoking cessation for many users.**⁴ Professor John Britton, chair of the Royal College of Physicians Tobacco Advisory Group, stated their report “lays to rest almost all of the concerns over these products, and concludes that, with sensible regulation, electronic cigarettes have the potential to make a major contribution towards preventing the premature death, disease, and social inequalities in health that smoking currently causes in the UK.” **Morro Bay will not be able to take advantage of these benefits if it continues down this path of overregulation that curtails healthier choices for adult users.**

¹ <https://www.tobaccofreekids.org/assets/factsheets/0073.pdf>

²

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/YouthTobaccoPurchaseSurveyYTPSHistoricalSalesChart2016.pdf>

³ <http://www.wecard.org/e-cig-and-vapor-central>

⁴ <https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report>

Often overlooked in these studies and rulemakings is the importance of reducing the harm from second-hand and third-hand smoke. ENDS reduce the possibly harmful smoke that can be breathed in or contaminate surfaces indoors, reducing incidental risk to children, the elderly, the infirm, and those who do not use nicotine products. By promoting the use of ENDS over traditional cigarettes, we can protect the most vulnerable populations from the environmental hazards associated with second-hand and third-hand smoke. **Research shows the biomarkers for second hand smoke are 5.7 times higher in homes using traditional cigarettes than those of ENDS users.**⁵

Furthermore, smoking amongst adults and youth is at an all-time low. Fourteen percent of adults smoke, down from 16% the year prior and teen smoking has sunk to 9%, a record low.⁶ The level of smoking in the United States continues to decline while health concerns such as obesity and heart disease continue to climb at an alarming rate. **Morro Bay should focus on effective implementation of existing policies, supporting the businesses that work hard to keep age restricted products out of the wrong hands, and address the online sales that allow these products to be delivered directly to those under the legal age.**

Another study published by the New England Journal of Medicine in January 2019 shows e-cigarettes are more effective at helping smokers quit than other nicotine-replacement therapy. **Smokers in the study were twice as likely to quit using e-cigarettes than those using nicotine patches or gum.**⁷

Conclusion

CFCA urges the Morro Bay City Council to examine the methods by which youth are obtaining these age restricted products, including cigarettes and vapes or ENDS. We encourage the City to work with the California Department of Public Health, the FDA, and others to do the necessary research in order to effectively limit youth access to tobacco while acknowledging the hard work by convenience stores and others to achieve the same goal. The fuels and convenience industry is willing to do its part to prevent youth access to age-restricted products, especially to find a manner to do it without the harm and negative impacts that ordinances such as this will bring onto small, family- and minority-owned businesses.

Please contact James Allison at james@cfca.energy or (916) 646-5999 with any further questions or comments.

⁷ <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁵ <https://www.ncbi.nlm.nih.gov/pubmed/25262078>

⁶ <https://apnews.com/f24650f675704019b0093e3cce23d020>



Honorable John Headding, Mayor
City of Morro Bay
595 Harbor Street
Morro bay, CA 93442

April 13, 2020

Re: Flavor Tobacco Ban/ E-Cigarettes/Vaping Products

Dear Mayor and Council Members:

I write on behalf of the American Petroleum and Convenience Store Association (APCA) representing licensed tobacco retailers in Davis. Our members include convenience stores, gas stations and liquor stores located throughout the City.

APCA oppose a ban on the sale of flavored tobacco products. The sale of flavored tobacco products are an important part of a retailer's business model. Tobacco sales drive ancillary sales of gas, food, snacks and other items sold at our stores and gas stations. If we lose the ability to sell flavored tobacco products, our customers will go elsewhere. If this ban is adopted, customers will simply turn to ordering flavored tobacco products over the Internet or traveling a short distance to another city that allows the sale of all tobacco products.

We oppose this sweeping sales ban as it eliminates an entire category of products from our stores despite the fact that flavored traditional tobacco products (cigarettes, chewing tobacco and cigars) are not attractive to youth.

Banning legal products at licensed retail locations would undermine the city's and the state's tobacco retail licensing program which has successfully limited youth access to tobacco, protected consumers from adulterated products, and given government enforcement tools.

During the current national emergency caused by the Coronavirus pandemic, we believe that it is very inappropriate for a local government to move forward on significant legislation that would severely restrict the sale of legal products at one kind of business establishment.

We appreciate your consideration of our comments on this important issue and urge you to oppose the ban on the sale of flavored tobacco products

Should you have questions or require additional information, please do not hesitate to contact us at 916.627.1170.

Sincerely

A handwritten signature in black ink, appearing to read "Jivtesh Gill", is written over a faint, light-colored background.

Jivtesh Gill
Chairman, APCA

cc: City Clerk cityclerk@morrobayca.gov



NATO

April 14, 2020

VIA EMAIL: council@morrobayca.gov

Mayor John Heading

Council Member Marlys McPherson

Council Member Dawn Addis

Council Member Jeff Heller

Council Member Robert Davis

City of Morro Bay

595 Harbor Street

Morro Bay, CA 93442

RE: Proposed Ban on Electronic Cigarettes, Vapor Products, and Flavored Tobacco Products and Restrictions on Cigar Packages and Pricing

Dear Mayor Heading and Council Members McPherson, Addis, Heller and Davis:

As the Executive Director of the National Association of Tobacco Outlets (NATO), a national retail trade association that represents more than 60,000 retail stores throughout the country including several Morro Bay retail store members, I am writing to submit our comments and concerns as we understand the city council may be considering an ordinance to prohibit the sale of all electronic cigarettes, vapor products, and most flavored tobacco products in Morro Bay and to restrict the pricing and packaging of cigar products, with a first reading of such an ordinance expected April 14, 2020.

During the current national emergency caused by the Coronavirus pandemic, we believe that it would be very inappropriate for a local government to move forward on significant legislation that would severely restrict the sale of legal products. This is especially true when employees of retail stores that sell food, groceries and beverages have been designated by the U.S. Department of Homeland Security as “essential workers for critical infrastructure” and should remain working to provide basic necessities to the public and that both the State of California and San Luis Obispo County have designated such stores as “essential businesses” and the County recently extended its Stay at Home order to April 16. How can retailers attend a city council meeting with a Stay at Home order in place, especially at a time when they have been tasked with ensuring the needs of the public are met?

An ordinance prohibiting the sale of numerous tobacco products is not an essential action item for the City Council to consider at this time. We respectfully ask that this matter be postponed until the county and state Stay at Home restrictions have been lifted, so that affected retail stakeholders may meaningfully participate in a hearing on an ordinance that may very well cause some retail stores to close. With the average convenience store relying on tobacco product sales, including electronic cigarettes and vapor products, for approximately 36% of in-store sales, banning electronic cigarettes, vapor products, and many flavored tobacco products will force stores out of business and leave a further void in the public’s need for

stores that sell food and beverages. This is particularly ironic given that these stores have been deemed essential by federal, state and county governments. What purpose is served to the general public of adopting policies that will likely drive many of these essential outlets for food, beverages and sundry items out of business?

NATO and its retail members with stores in Morro Bay share everyone's interest in keeping tobacco products, including electronic smoking devices, out of the hands of persons under 21 years old. Youth vaping needs to be addressed, but the need to address that issue is no reason to ban products that Morro Bay adults who are 21 or older decide to purchase.

We would suggest you also consider the following:

1. According to the most recent California Healthy Kids Survey (2017), youth usage rates of tobacco products are at historic lows. Cigarette smoking by 11th graders has declined to a low of 4.3% and only 1.7% of underage youth use smokeless tobacco products like moist snuff or chewing tobacco. In October 2019, the Food and Drug Administration issued orders allowing eight different General Snus smokeless tobacco products to be marketed with the claim that these products have a lower risk of cancer and disease than cigarettes. If the exception in the flavor ban does not exempt snus as a smokeless tobacco product, most or all of these eight products would need to be removed from retail stores even though the FDA's science-based determination found that these products present lower health risks. Moreover, certain flavored tobacco products, such as pipe tobacco, are simply not products used by youth. Banning their sale to adults will not change youth usage rates at all.
2. Retailers are the first line of defense when it comes to preventing anyone under the age of 21 from purchasing tobacco products. Retailers are the gatekeepers of the products they sell and make sure that customer IDs are properly checked to prevent the sale of tobacco products to underage persons. Taking away all electronic cigarettes and vapor products and many flavored tobacco products from legitimate retailers encourages an illicit market where anyone can buy smuggled products. Law enforcement will need to dedicate scarce resources to respond to the growing threat of criminal activity in neighborhoods across Morro Bay. Elected officials should not enact a law that would promote more crime in a community.
3. Both the Center for Disease Control and the Food and Drug Administration have determined that the vast majority of the 2019 outbreak of lung illnesses did not come from electronic nicotine products but rather vaping of THC and unregulated black-market vaping products. On January 17, 2020, the U.S Centers for Disease Control and Prevention moved away from its initial broad recommendation that people consider refraining from vaping altogether as a result of the investigation into the outbreak of lung illnesses. The CDC's recommendation now focuses on urging people not to use THC-containing electronic cigarette/vaping products since the vast majority of lung illnesses resulted from the use of products containing THC and particularly those products containing vitamin E acetate. The CDC recommendation went on to state that youth, young adults and women who are pregnant should not use any kind of vaping product: <https://www.cdc.gov/media/releases/2020/p0117-evali-cases-decline.html> Importantly, the electronic nicotine products sold in our member stores are FDA-regulated nicotine-based products that do not contain THC or vitamin E acetate.
4. If Morro Bay retailers are forced to stop selling all electronic cigarette, vapor products, and many flavored tobacco products, customers would simply seek out illicit sellers, drive to another store in

a neighboring city, or purchase their preferred tobacco products on-line. While a ban in Morro Bay may seem like a simple attempt to limit underage use, the totality of the unintended consequences could actually mean that neighborhood retail stores that rely on tobacco product sales as an important part of their business may no longer exist and the good that they do for the community will be lost.

5. Controlling the packaging and purchase price of cigar products is simply not a matter for the Morro Bay City Council. When the City decides to make these decisions for consumers, those consumers, Morro Bay retailers' customers, will go to other outlets for those products. If they go to a store in another city, they will buy the other sundry products they purchase when they make their cigar purchases, such as snacks or beverages. Morro Bay retailers will lose this business, and Morro Bay residents will be inconvenienced, but there will be no actual impact on the sale or use of cigars.

We also note that bans such as these have largely been overtaken by events that occurred at the federal level recently. On December 20, 2019, it became illegal on a nationwide basis to sell any tobacco products, including electronic cigarettes and vaping products, to anyone 21 or under. Although California has had Age 21 for several years now, it has an exception for military persons. The federal law has no such exception, so the Age 21 restriction has effectively been expanded in California.

Most importantly, effective February 6, 2020, the U.S. Food and Drug Administration banned those vaping products used most often by underage youth, flavored cartridge-type electronic nicotine devices (except tobacco and menthol flavors). This ban applies a uniform standard nationwide, making it easier for retailers to comply. It also attempts to balance the concerns everyone shares over youth electronic nicotine use with the legitimate choice by adults 21 and over of vaping products in lieu of traditional tobacco products in an effort to reduce harm. A total ban on electronic cigarette and vaping products would deprive these adults of this choice, leaving them to either return to more traditional products, as suggested by recent research, or obtain products on the underground market, the very place where the products are found that are implicated in the recent outbreak of lung-related illnesses. A flavor ban would not serve your adult constituents well, and would negatively impact your community's legitimate retailers.

We urge the Morro Bay City Council not to move forward with any attempt to impose a ban on all electronic cigarettes and vapor products, and to certainly not even consider one under the existing state of emergency we find ourselves.

Sincerely,

Thomas A. Briant

NATO Executive Director