

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING – SEPTEMBER 14, 2009

**CLOSED SESSION – SEPTEMBER 14, 2009
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS: Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Negotiating Parties: City Tidelands Trust Leaseholders and the City of Morro Bay.
Negotiations: Lease Terms and Conditions.

**IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS
ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.**

**PUBLIC SESSION – SEPTEMBER 14, 2009
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
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so at this time.

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

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

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

A. CONSENT CALENDAR

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 REGULAR CITY COUNCIL MEETING OF AUGUST 24, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR MORRO BAY BOULEVARD AND QUINTANA ROAD INTERSECTION IMPROVEMENT PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Authorize staff to file the Notice of Completion for the Morro Bay Boulevard/Quintana Road Intersection Improvement Project.

A-3 ADOPTION OF ORDINANCE NO. 552 REQUIRING THE FIRE CHIEF TO DESIGNATE VERY HIGH FIRE HAZARD SEVERITY ZONES AND THE BUILDING OFFICIAL TO ENFORCE THE REQUIREMENTS OF CHAPTER 7A AND CHAPTER 47, TITLE 24 CALIFORNIA CODE OF REGULATIONS; (FIRE)

RECOMMENDATION: Adopt Ordinance No. 552.

A-4 PROCLAMATION DECLARING SEPTEMBER 27-OCTOBER 3, 2009 AS SEA OTTER AWARENESS WEEK; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPROVAL OF RESOLUTION DETAILING STRATEGIES TO PREVENT AND REDUCE VACANCIES ON THE EMBARCADERO AND STIMULATE BUSINESS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 47-09 authorizing strategies for reducing vacancies on Tidelands properties.

B-2 DISCUSSION ON STATE WATER RESOURCES CONTROL BOARD ONCE-THROUGH COOLING STATEWIDE POLICY; (CITY ATTORNEY)

RECOMMENDATION: Discuss and direct staff accordingly.

C. UNFINISHED BUSINESS

C-1 DESIGNATION OF PREFERRED PROPOSAL FOR LEASE SITE 96/96W LOCATED AT 945 EMBARCADERO - WHALE'S TAIL RESTAURANT; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 48-09 authorizing Stan Van Beurden to apply for development permits on City Lease Site 96/96W located at 945 Embarcadero.

C-2 CONSIDERATION TO SURPLUS 1985 TROLLEY; (PUBLIC SERVICES)

RECOMMENDATION: Authorize staff to surplus and sell the 1985 trolley.

D. NEW BUSINESS

D-1 DISCUSSION ON MAYOR AND COUNCIL TERM LIMITS; (COUNCIL)

RECOMMENDATION: Place an initiative on the General Election ballot in November 2010 that places a limit on elected terms.

D-2 CONSIDERATION OF PLACING A MEASURE ON THE BALLOT TO CHANGE THE MAYORAL TERM FROM TWO YEARS TO FOUR YEARS; (CITY ATTORNEY)

RECOMMENDATION: Discuss and direct staff accordingly.

D-3 DISCUSSION ON PLACING THE PRIMARY ELECTION PROCESS ON THE BALLOT; (COUNCIL)

RECOMMENDATION: Place an initiative on the General Election ballot in November 2010 that calls for a repeal of Measure S-06.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6200 FOR FURTHER INFORMATION.

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

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

AGENDA NO: A-1

MEETING DATE: 9/14/09

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – AUGUST 24, 2009
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:08 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Winholtz and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY

TRANSACTIONS: Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Negotiating Parties: City Tidelands Trust Leaseholders and the City of Morro Bay.
Negotiations: Lease Terms and Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5: p.m.

MOTION: Councilmember Borchard moved the meeting be adjourned. The motion was seconded by Councilmember Grantham and unanimously carried. (5-0)

The meeting adjourned at 6:00 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 24, 2009
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:13 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	Mike Pond	Fire Chief
	Christine Rogers	Housing Programs Coordinator
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Robert Davis, representative of the San Luis Obispo Bike Club, announced the 38th Annual Lighthouse Bike Ride for Charities would be held on September 26th, which route is mostly on Highway One between Cuesta College and Piedras Blancas, and would raise money to fund high school and college programs.

Mike Schaffer, FunRide Car Sharing Service, stated car sharing is an alternative to the high cost of owning a vehicle. He said FunRide vehicles will also be available at the San Luis Obispo Airport, Amtrak and hotel clusters to provide low cost transportation for visitors to San Luis Obispo County. Mr. Schaffer stated he looks forward to bringing FunRide to Morro Bay.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 24, 2009

Mary Golden, Executive Director of the Central Coast Natural History Association, announced an event at Morro Rock on Saturday, August 28th called I “Heart” State Parks to sign green hearts in support of our local State Parks. She also announced a One-Eyed Skunk Golf Tournament would be held on October 31, 2009 at Morro Bay State Park Golf Course to support educational projects for State Parks and keeping the parks open.

John Barta remembered Chuck Meissner. He also stated the FunRide Car Sharing Service is a good idea.

Jack McCurdy addressed Item D-1 (Discussion on State Water Resources Control Board Once Through Cooling Statewide Policy) stating this might be the first time in 35 years that the Clean Water Act would be enforced as it was written. He said the regulations are deficient in once-through cooling systems.

David Nelson requested information on the Cypress tree that was cut down at the North Point subdivision. He said the existing power plant should be shut down when the permit expires in 2011; the City will be better off without it and it will benefit the estuary.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

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 REGULAR CITY COUNCIL MEETINGS OF JULY 13, 2009 AND AUGUST 10, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 46-09 ADOPTING AMENDMENTS TO THE 2009/10 MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 46-09.

A-3 CREATION OF THE WATER SYSTEM OPERATOR II AND WATER SYSTEM OPERATOR III POSITIONS AND AUTHORIZATION TO FILL THE WATER SYSTEM OPERATOR II POSITION; (ADMINISTRATIVE SERVICES)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 24, 2009

RECOMMENDATION: Authorize the creation of the Water System Operator II and Water System Operator III positions, authorize hiring to fill the Water System Operator II position, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process.

A-4 AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO GRANT AGREEMENT #08-101-102 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA DREDGING STUDIES, PERMITS AND MONITORING AND AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH ANCHOR ENVIRONMENTAL TO ACQUIRE STATE PARK MARINA DREDGING PERMITS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 45-09.

A-5 ADOPTION OF ORDINANCE NO. 551 TO AMEND THE MORRO BAY MUNICIPAL CODE CHAPTER 10.54 TO INCLUDE A NEW SECTION 10.54.065 REQUIRING ANY PERSON RIDING A PERMITTED COASTING DEVICE AT THE MORRO BAY SKATE PARK TO WEAR A HELMET, ELBOW PADS, AND KNEE PADS; (RECREATION & PARKS)

RECOMMENDATION: Adopt Ordinance No. 551.

Mayor Peters pulled Item A-1 from the Consent Calendar; Councilmember Winholtz pulled Items A-2, A-3 and A-4.

MOTION: Councilmember Winholtz moved the City Council approve Item A-5 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR REGULAR CITY COUNCIL MEETINGS OF JULY 13, 2009 AND AUGUST 10, 2009; (ADMINISTRATION)

Mayor Peters requested the following amendment to page 5, 3rd paragraph, 1st sentence to the minutes of August 10, 2009: “Mayor Peters stated the Power Plant and fishing industry are not bringing in as much revenue as in the past, and tourism has dropped due to the economy.”

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Councilmember Winholtz requested the following amendment to page 4, last paragraph, 2nd sentence to the minutes of August 10, 2009: “She said if the City Council moves forward with the RDA, they ~~should~~ **would** commit to increasing assessed property values in the project areas.”

MOTION: Mayor Peters moved the City Council approve Item A-1 of the Consent Calendar as amended. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-2 RESOLUTION NO. 46-09 ADOPTING AMENDMENTS TO THE 2009/10
MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

Councilmember Winholtz recommended the biennial fee of \$170 be amended to \$172.

MOTION: Councilmember Winholtz moved the City Council approve Item A-2 of the Consent Calendar as amended. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-3 CREATION OF THE WATER SYSTEM OPERATOR II AND WATER
SYSTEM OPERATOR III POSITIONS AND AUTHORIZATION TO FILL THE
WATER SYSTEM OPERATOR II POSITION; (ADMINISTRATIVE
SERVICES)

Councilmember Winholtz stated she would like to vote on these issues separately.

MOTION: Councilmember Winholtz moved the City Council authorize the creation of the Water System Operator II and Water System Operator III positions, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MOTION: Councilmember Grantham moved the City Council authorize hiring to fill the Water System Operator II position. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

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A-4 AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO GRANT AGREEMENT #08-101-102 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA DREDGING STUDIES, PERMITS AND MONITORING AND AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH ANCHOR ENVIRONMENTAL TO ACQUIRE STATE PARK MARINA DREDGING PERMITS; (HARBOR)

Councilmember Winholtz requested clarification from staff regarding the letter from Anchor Qea dated August 14, 2009. She also referred to the State's comment that it would not fulfill its payments if the State budget is not approved, and how would that affect the City. Harbor Director Rick Algert responded the City could terminate the contract at any time.

MOTION: Councilmember Winholtz moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 7:08 p.m.; the meeting resumed at 7:16 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 PUBLIC HEARING ON CLOSE-OUT OF COMMUNITY DEVELOPMENT BLOCK GRANT PLANNING AND TECHNICAL ASSISTANCE ECONOMIC DEVELOPMENT GRANT 08-PTAE-5411; (PUBLIC SERVICES)

Housing Programs Coordinator Christine Rogers stated the City has completed work on the Planning and Technical Assistance Grant from the Community Development Block Grant (CDBG). Ms. Rogers recommended the City Council hold a public hearing to take input on the Redevelopment Feasibility Study prepared for the City of Morro Bay, which is the CDBG Planning and Technical Assistance Economic Development Grant (08-PTAE-5411) final product, and authorize staff to submit the study with a final closeout letter to CDBG to close out the grant.

Mayor Peters opened the hearing for public comment.

Steve Griffith showed a diagram referring to the blight area in the Redevelopment Feasibility Study prepared by Urban Futures, Inc. whom he said the City should not have paid.

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Mike Barrios stated a Redevelopment Agency (RDA) is the wrong way to make money in Morro Bay.

Nancy Bast stated the staff report does not give much information on block grant funding.

Jack McCurdy stated there would be a citizen-enacted analysis prepared on the RDA. He referenced a no bid or sole-source contract that the City signed with Urban Futures, Inc.

David Nelson stated an RDA would take money from our local school system. He said he did not believe Morro Bay needed an RDA, and it was another example of misuse of City funds.

Dorothy Cutter stated the RDA study was flawed and the City should not have paid for it. She said she found 25 cities that have RDA's that are in lawsuits mostly because of blight. Ms. Cutter turned in "List of Clients of Urban Futures Incorporated and Coalition for Redevelopment Reform" as part of the record.

Alise Griffith stated according to California Redevelopment Law, the Urban Futures' report is in violation of what the State defines as blight. She said had the City not voted to table this issue, the City could have lost its incorporation through a lawsuit.

Mayor Peters closed the public comment hearing.

MOTION: Councilmember Grantham moved the City Council authorize staff to submit the Redevelopment Feasibility Study with a final closeout letter to Community Development Block Grant to close out the grant. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

B-2 ORDINANCE NO. 552 REQUIRING THE FIRE CHIEF TO DESIGNATE VERY HIGH HAZARD SEVERITY ZONES AND THE BUILDING OFFICIAL TO ENFORCE THE REQUIREMENTS OF CHAPTER 7A AND CHAPTER 47, TITLE 24 CALIFORNIA CODE OF REGULATIONS; (FIRST READING/INTRODUCTION)

Fire Chief Mike Pond stated the California Department of Forestry and Fire Protection (CAL FIRE) Director is recommending the area designated as very high fire hazard severity zones in Morro Bay be reduced. The previous map produced in 1985, identified as Cerro Cabrillo, Black Hill, and residential and business districts bordering Black Hill as being Very High Fire Hazard Severity Zones. The new proposed map eliminates most of these zones from the City of Morro Bay. Only the portion of Cerro Cabrillo within the city limits, located on the southeast side of South Bay Boulevard in the State Park, is

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 24, 2009

recommended as a Very High Fire Hazard Severity Zone. Acceptance of the new map and approval of the proposed ordinance allows the Fire Chief to designate other fire hazard properties with findings supported by substantial evidence and allow enforcement of wild land-urban interface codes found in Chapter 7A and Chapter 47 of Title 24, California Code of Regulations. Chief Pond recommended the City Council approve the first reading and introduction of Ordinance No. 552 requiring the Fire Chief to designate Very High Hazard Severity Zones and the Building Official to enforce the requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations.

Mayor Peters opened the hearing for public comment; there were no comments, and Mayor Peters closed the public comment hearing.

Councilmember Winholtz proposed the following amendment to Ordinance No. 552:

Section 14.65.050 – “Supported by substantial evidence in the record” shall require the City Council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the Fire Chief’s designation as Fire Hazard Areas.

MOTION: Councilmember Grantham moved the City Council approve the first reading and introduction of Ordinance No. 552 requiring the Fire Chief to designate Very High Hazard Severity Zones and the Building Official to enforce the requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations; and, added Section 14.65.050 approved by Council. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 552 by number and title only.

C. UNFINISHED BUSINESS

C-1 CONSIDERATION OF THE COUNCIL’S POSITION REGARDING THE TWO PROPOSED RESOLUTIONS SUBMITTED FOR CONSIDERATION AT THE LEAGUE OF CALIFORNIA CITIES’ ANNUAL CONFERENCE; (CITY ATTORNEY)

City Attorney Robert Schultz stated each League Member City has the right to cast its vote at the League of California Cities Annual Conference Business Meeting resolutions. There are two resolutions under consideration for adoption at this year’s Annual Business Meeting. The first resolution titled “Resolution Relating to Social Host Liability” is to consider the League’s support of a policy that holds social hosts responsible for underage

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drinking, and opposition to policies that make it easy for those who are underage to access alcohol through adults and on private property. The second resolution titled “Resolution Urging City Governments and others to Divest from Banks that Fail to Cooperate with Foreclosure Prevention Efforts” is to consider the League’s support of the City of Los Angeles and other member cities in exploring the potential divestiture of all deposits in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts; the support of City retirement programs and other similar organizations which adopt a similar divestiture policy; and, the request to the National League of Cities to consider adoption of a similar resolution. Mr. Schultz recommended the City Council discuss and give direction to the voting delegates on Council’s position regarding the two proposed resolutions submitted for consideration at the League of California Cities Annual Conference Business Meeting.

Council decided to not attend the Annual Business Meeting to vote on the two resolutions noted above. The voting delegate or alternate would attend if a later item were placed on the agenda that would require the City’s vote.

No further action was taken on this item.

D. NEW BUSINESS

D-1 DISCUSSION ON STATE WATER RESOURCES CONTROL BOARD ONCE THROUGH COOLING STATEWIDE POLICY; (PUBLIC SERVICES)

City Attorney Robert Schultz stated the State Water Board has issued a notice of public hearing to receive comments on the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. The hearing has been scheduled for September 16, 2009 in Sacramento. The proposed Policy establishes technology-based standards to implement the Federal Clean Water Act Section 316(b) and reduce the harmful effects associated with cooling water intake structures on marine and estuarine life. The proposed policy would apply to the 19 existing power plants (including Morro Bay) that currently have the ability to withdraw over 15 billion gallons per day from the State’s coastal and estuarine waters using a single-pass system, also known as once-through cooling. According to the State Water Board staff, the intent of the proposed Policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the State’s electrical generation and transmission system. This latest Board draft continues to require the phase-out of once-through cooling systems in existing plants, despite a recent U.S. Supreme Court decision permitting regulators to compare the costs of replacing the systems against the environmental and other benefits resulting from such replacements. The new draft, however, does permit a

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very limited cost-benefit analysis for operators of nuclear plants and small fossil-fueled plants. Staff has also learned that there will be a special stakeholder meeting on September 8, 2009. The purpose of this meeting is to provide an informal question and answer session for interested parties in advance of the Board's planned public hearing on September 16, 2009. The September 8, 2009 meeting will be a Staff-level meeting, Board members will not be present, and comments made at this meeting will not be part of the administrative record for the Policy. Mr. Shultz stated he is looking for direction from Council on whether he should attend and participate in both the September 8th and 16th meetings in Sacramento, and if Council would want staff to bring back a draft written response to the September 28, 2009 City Council meeting.

MOTION: Mayor Peters moved the City Council direct the City Attorney to attend the September 8, 2009 Special Stakeholder meeting in Sacramento, and report back to Council at their September 14, 2009 regular meeting for direction regarding attendance at the September 16, 2009 public hearing. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS - None.

ADJOURNMENT

The meeting adjourned at 8:21 p.m.

Recorded by:

Bridgett Bauer
City Clerk



AGENDA NO: A-2

MEETING DATE: September 14, 2009

Staff Report

TO: Honorable Mayor and City Council
FROM: Rob Livick, PE/PLS – City Engineer

DATE: September 7, 2009

SUBJECT: Authorization to File Notice of Completion for Morro Bay Boulevard and Quintana Road Intersection Improvement Project.

RECOMMENDATION:

Authorization for staff to File Notice of Completion for Morro Bay Boulevard and Quintana Road Intersection Improvement Project.

MOTION: I move that the City Council direct the City Clerk to file a Notice of Completion for Morro Bay Boulevard and Quintana Road Intersection Improvement Project and authorize the transfer of funds from the various accounts listed in the staff report to the subject Capital Project.

FISCAL IMPACT:

The Project is funded by \$1,278,000 in State grant funds, contributions from the affected utilities, local developer fees paid to the City for improvements to this intersection and the general fund. The projected fiscal impact of the project is summarized in the table below:

Funding Component	Amount
State Grant Funds	\$1,278,000.00
Developer Funds	\$121,770.59
Wastewater Fund*	\$156,706.53
Water Fund*	\$255,098.38
Storm Water (Measure Q)*	\$257,429.70
Street Fund (ADA Improvements)	\$26,069.14
Street Fund (Measure Q)	\$100,000.00
Traffic Congestion Relief Fund (TCRF)	\$80,000.00
Street Maintenance (Overlay 8111)	\$88,610.56
Street Maintenance (Prop 1B)	\$400,000.00
Total	\$2,763,684.90

* - Based on actual construction costs.

SUMMARY:

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

Filing of a Notice of Completion is a routine task for public works projects.

DISCUSSION:

At the June 11, 2007 meeting, the City Council awarded the construction contract for this project to V. Lopez, Jr. & Sons, Inc. of Santa Maria in the base bid amount of \$907,482.00. Construction work commenced in June 2007 and was suspended shortly thereafter. The suspension was due to a late requirement from Caltrans for Peer Review. The engineering firm of Reed-Middleton completed a Peer Review. The Peer Review resulted in substantial changes to the design shifting the roundabout to the Northwest. The shift in horizontal alignment required addition right of way and the removal of a substantial eucalyptus ficifolia. Construction was restarted in October 2008 and was substantially completed in time for its February 20, 2009 ribbon cutting. The estimated final construction contract is approximately \$2,488,057 and a total estimated project cost of \$2,750,000 including design, construction, admin and right of way costs. There were a number of items that arose during the course of work, creating significant extra costs. These items included the delay due to redesign, right of way and tree removal, substantial underground utility conflicts and a significant change order (\$437,943) for the rehabilitation of Morro Bay Boulevard. In conjunction with filing this Notice of Completion, final project Change Orders have been executed, all liens and retained funds will be released, and the 1-year warranty period will commence.

Staff will now be working with the CalTrans Local Assistance staff to finalize reimbursements and complete the financial reconciliation. At that point, we will know the precise amount of the required and available funds.

CONCLUSION:

The Project has been completed by V. Lopez, Jr. & Sons, Inc. and staff recommends the City Council accept the Project and authorize the filing of a Notice of Completion.



AGENDA NO: A-3

MEETING DATE: September 14, 2009

Staff Report

TO: Honorable Mayor and Council

DATE: September 8, 2009

FROM: Michael Pond, Fire Chief

SUBJECT: Second reading and adoption of Ordinance No. 552 Requiring the Fire Chief to Designate Very High Fire Hazard Severity Zones and the Building Official to Enforce the Requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations.

RECOMMENDATION:

Adopt Ordinance No. 552 requiring the Fire Chief to designate Very High Fire Hazard Severity Zones and the Building Official to enforce the requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations.

MOTION: I move that the City Council adopt Ordinance 552.

FISCAL IMPACT:

There is no fiscal impact to the city with the adoption of Ordinance No. 552.

BACKGROUND:

The City Council held a public hearing and first reading of Ordinance No. 552 on August 24, 2009. The August 24, 2009 staff report is available for reference and Ordinance No.552 containing the new Morro Bay Municipal Code Chapter 14.65 is attached. Council approved the first reading of the ordinance with the addition of the following section:

14.65.050 – Supported by substantial evidence in the record” shall require the City Council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the Fire Chief’s designation as Fire Hazard Areas.

No objections were received prior to or following the first reading and public hearing process.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

ORDINANCE NO. 552

AN ORDINANCE OF THE CITY OF MORRO BAY ADDING CHAPTER 14.65 TO THE MORRO BAY MUNICIPAL CODE AND THEREBY REQUIRING THE FIRE CHIEF TO DESIGNATE VERY HIGH FIRE HAZARD SEVERITY ZONES AND THE BUILDING OFFICIAL TO ENFORCE THE REQUIREMENTS OF CHAPTER 7A AND CHAPTER 47, TITLE 24 CALIFORNIA CODE OF REGULATIONS.

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

WHEREAS, wildland properties bordering urban areas of the City of Morro Bay present a fire threat: and

WHEREAS, the City of Morro Bay must limit the threat of fire moving into the community from wildland urban interface areas and provide authority for identifying fire hazard zones and enforcement in order to reduce the threat of property and life loss due to fire; and

WHEREAS, Government Code Sections 51178 and 51181 define the CAL FIRE Director's responsibility to identify very high fire hazard severity zones, transmit this information to local agencies, and to periodically review the recommendations; and

WHEREAS, Government Code Section 51178.5 and 51179 defines the local agency's responsibility to make the recommendations available for public review and to designate, by ordinance, authority for identifying very high fire hazard severity zones in its jurisdiction; and

WHEREAS, CAL FIRE has provided an updated Very High Fire Hazard Zone In LRA map indicating that only Cerro Cabrillo should receive the very high fire hazard severity zone designation; and

WHEREAS, the City of Morro Bay has constitutional authority to adopt local fire hazard severity zones and identify other wildland urban interface areas within the local jurisdiction with support of substantial evidence; and

NOW, THEREFORE, the City Council of the City of Morro Bay amends the City of Morro Bay Municipal Code and ordains a new chapter as follows:

Chapter 14.65 Fire Hazard Severity Zones

14.65.010 Purpose and Intent

The purpose of this chapter is to provide authority for the identification of local fire hazard severity zones and provide authority for enforcement of state and local codes in these zones. The intent of this chapter is to reduce the potential for fire losses by providing minimum requirements for the protection of properties constructed in Very High Hazard Severity Zones and other wildland/urban interface areas designated by the Fire Chief and supported by substantial evidence.

14.65.020 The Fire Chief is hereby authorized to designate Very High Fire Hazard Severity Zones within 120 days of receiving recommendations from the California Department of Forestry and Fire Protection.

14.65.030 The Fire Chief may designate areas not identified as Very High Fire Hazard Severity Zones by the California Department of Forestry and Fire Protection following a finding supported by substantial evidence in the record that the requirements for Very High Fire Hazard Severity Zones are necessary for effective fire protection within the area(s).

14.65.040 The Fire Chief may decline to designate areas identified by the California Department of Forestry and Fire Protection as Very High Fire Hazard Severity Zones following a finding supported by substantial evidence in the record that the requirements for Very High Fire Hazard Severity Zones are not necessary for effective fire protection with the area(s).

14.65.050 “Supported by substantial evidence in the record” shall require the City Council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the Fire Chief’s designation as Fire Hazard Areas.

14.65.060 The Building Official shall enforce the provisions of Chapter 7A and Chapter 47, Title 24 California Code of Regulations, in all Very High Fire Hazard Severity Zones and other areas designated by the Fire Chief and supported by substantial evidence in the record.

14.65.070 All submittals for subdivision, entitlement, or building permits shall demonstrate that the proposed project allows for compliance with the provisions of Government Code Section 51182 and Public Resource Code Section 4291, except where otherwise allowed by law, to the satisfaction of the Fire Chief and the Building Official.

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, with the names of the City Council members

Ordinance No. 552

Page Three

voting for and against the same, in a newspaper of general circulation published in the City of Morro Bay.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 24th day of August, 2009 by motion of Councilmember Grantham, seconded by Councilmember Winholtz.

PASSED AND ADOPTED on the 14th day of September 2009, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT BAUER, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney



**PROCLAMATION DECLARING
SEPTEMBER 27 - OCTOBER 3, 2009
AS THE 7th SEA OTTER AWARENESS WEEK**

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

WHEREAS, the sea otter is a symbol of wilderness, an integral part of California's natural ecosystem, and serves as an indicator for the overall health of California's near shore marine ecosystem; and

WHEREAS, a growing awareness of the benefits of maintaining the health of the near shore marine ecosystem has raised public interest in the sea otter; and

WHEREAS, disease from a variety of sources, including land-based biological pathogens, accounts for approximately 40% of the mortality for California sea otters in a given year; and

WHEREAS, the survival of the sea otter in California remains dependent upon continued public support and increased understanding of the essential role sea otters play in nature.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby declare the last week of September 2009 to be "Sea Otter Awareness Week".

IN WITNESS WHEREOF I have
hereunto set my hand and caused the
Seal of the City of Morro Bay to be
affixed this 14th day of September
2009.

JANICE PETERS, Mayor
City of Morro Bay, California

In 2001 the City adopted a more comprehensive Tidelands lease management policy that established an updated standard format lease and schedule of percentage rents for various types of uses. Percentage of gross sales rent leases are standard in public agency leases of Tidelands and in general in commercial ground leases to ensure that a Landlord participates in an improved business environment or does not lose market rate rents in a high inflation economy in these long term contracts. Percentage of gross sales rent leases also mean that the City collects less rents in the bad economic times, such as right now. City leases are fairly liberal in allowing minimum rents to be adjusted downward for either Consumer Price Index drops or decreases in appraisal amounts every five years. The purpose of this agenda item is to explain for the public and City subtenants exactly what our rental structures and rents collected in the Tidelands leases are, and to provide the City Council with some strategies for vacancy reduction for.

The Harbor Lease Management Policy is available on the City's website. Attached hereto are two schedules A) the summary of basic rent information for FY09-10 minimum rent and FY08-09 percentage of gross sales rent on all lease sties, and B) a schedule generated for this report which shows actual rents paid, both minimum rent and percentage of gross sales, in the last two years on those lease agreements which are paying (or have in recent history paid) percentage of gross sales rent above their minimum rent.

DISCUSSION:

The City Master Lease format has sophisticated language regarding rental terms as is appropriate with such long term leases. There is a minimum annual rent which is set at 8% of the value of the underlying (City) property vs. a percentage of gross sales rent. Minimum annual rent is paid in advance every six months; percentage rents are computed at the end of the fiscal years, in arrears and if they exceed the minimum rent the percentage rents are due 30 days after June 30th every fiscal year. Generally, percentage rents are 3% for dining room food service; 5% for fast food, retail and motel uses; 10% for alcohol sales and slip rentals. Minimum annual rentals are adjusted each year, up or down based on CPI changes, and we anticipate that this year's CPI will be the first significant downward adjustment we have seen in recent history. This downward adjustment in minimum rent is currently running between 1-2% and will be computed at the end of the year and take effect on minimum rents on July 1, 2010. Minimum rents are also adjusted every five years based on reappraisal or 75% of the total rent paid over the previous five years, whichever is higher. This clause has resulted in some significant rent changes already in this year as three sites were reappraised and adjusted per the lease.

◆71-74/71W-74W Marina Square minimum annual rent went from \$63,640 to \$54,512 based on the 75% of total rent paid in the last five years, an effective \$9000 or approximately 15% rent reduction.

◆82-85/82W-85W Rose's Landing minimum annual rent went from \$45,371 to \$55,262 based on 75% of total rent paid over the last five years. This increase has been a subject of strong objection by the tenant but it is a direct and predictable result of very high (although declining in recent years) percentage of gross sales rent paid over the last five years and an artificially low minimum rent negotiated in the original lease in 2002 that had its first major readjustment in 2009.

◆89/89W Boatyard Development minimum annual rent went from \$68,985 to \$59,360 based on reappraisal. In this case the tenants gross sales rent has never exceeded the minimum annual rent, and therefore the 8% of the appraised amount was higher than 75% of total rent paid, resulting in an effective 15% rent reduction.

Overall Tidelands Lease Site rents in FY07-08 were approximately \$1.45 million, and approximately \$1.4 million in FY08-09. Please review the second attachment for trends in percentage rental payments from FY07-08 to FY08-09. In spite of seeing some growth in percentage rent from specific Lease Sites such as the first full year of operations at the Anderson's Inn and Tognazzini's the overall drop in percentage rents for FY08-09 was \$50,000 annually. We expect to have the Sylvester's Landing site in operation very soon, and begin paying percentage rent in FY09-10 but overall it will most likely be another year of flat or slightly lower rents in the City leases for FY09-10.

To date the City Council has authorized Staff to negotiate payment plans without penalties and interests (as set out in the lease agreements) and we have been doing that on a case-by-case basis at Harbor Hut on the recent assignment, and at Marina Square and Rose's Landing leases. Some tenants have already received reduction in minimum annual rent as outlined above, per the lease agreements. Staff feels our leases are working the way they should, adjusting downward as appraisals and even CPI decreases occur, but the City Council may want to consider some escalated actions to reduce vacancies at the City Lease Sites.

Some concepts for consideration:

- 1) Allow all master tenants to pay minimum annual rent on a monthly or quarterly basis instead of six months in advance. QUARTERLY PAYMENTS ARE INCLUDED IN THE PROPOSED RESOLUTION.
- 2) Allow office type uses (provided they meet planning and zoning requirements) to fill vacancies for two years. Could cost some long term percentage of gross sales rent. INCLUDED IN THE PROPOSED RESOLUTION.
- 3) Freeze all modern city lease minimum rents (this should not apply to old Pipkin or County leases) due on January 1, 2010 to the rate of FY08-09,

effectively removing the 3 % upward adjustment in CPI called for by the lease agreements this year. Many sites who continue to pay percentage rent at the end of the year would see no net decrease in their rents, but this would be a small cash flow advantage for them. If we did not include the outfall lease, this is expected to be a net loss to the City of less than \$20,000 annually. A variation on this strategy would be to freeze the minimum annual rents for only those tenants who paid percentage of gross sales rent in FY08-09. This would effectively mean only cash flow advantage to some tenants and should have minimal effect on total rents collected by the City. It would be administratively difficult to adjust half way through the year and lead to some confusion in making future CPI increase or decreases to minimum annual rent. NOT INCLUDED IN THE PROPOSED RESOLUTION.

- 4) Provide a \$6-10,000 rent credit to any master tenants who submit a “vacancy reduction” plan for City approval; such a plan should have evidence of new or existing subtenants receiving a rent reduction for staying in an existing business or opening a new business in a vacant space. It is difficult to estimate the actual impact of this in prospective, but perhaps 5-8 master tenants might avail themselves of such a rent credit opportunity. Due to cost to City, NOT INCLUDED IN THE PROPOSED RESOLUTION.
- 5) Waive percentage rents on retail for one year. Estimated cost \$70,000 annually. Administratively difficult, not fair to all tenants and due to cost to City NOT INCLUDED IN THE PROPOSED RESOLUTION.
- 6) Adjust specific tenants whose minimum annual rent increased in FY09-10 due to the five year reappraisals or 75% of total annual rent paid clause down to their minimum annual rent of FY08-09. This would apply to one tenant at this time, Rose’s Landing, and would result in a minimum rent decrease of approximately \$9,000 annually. This is an unfortunate circumstance given the recession, but this would most likely be viewed by other tenants as preferential treatment and lead to call for like adjustments; so this is NOT INCLUDED IN THE PROPOSED RESOLUTION.
- 7) Reduce minimum rents to 6% of appraised value for one year. This would result in an estimated net loss of rental revenues to the City in excess of \$100,000 for each year of implementation. This should only be considered if we continue in a deflationary environment for a prolonged period, and with associated cuts to the Harbor Fund expenses; this is NOT INCLUDED IN THE PROPOSED RESOLUTION.

CONCLUSION:

Mid-Embarcadero City Lease Site businesses and tenants are suffering through a major recession and down business cycle with current significant vacancies and the potential of increasing vacancies. Prolonged vacancies on City properties would harm the overall City business environment and further reduce City Tidelands lease rents. Staff will provide City Council with a review of our Tidelands lease rental structures, and recommends a proposed Resolution to the City Council to formally authorize payment plans without penalties and interest to allow tenants to pay minimum rents quarterly in advance instead of the current six-months in advance, and allow office uses on City Lease Sites for up to two years if in compliance with all planning and zoning requirements for the sites.

RESOLUTION NO. 47-09

**APPROVAL OF RESOLUTION DETAILING STRATEGIES TO PREVENT
AND REDUCE VACANCIES ON THE EMBARCADERO
AND STIMULATE BUSINESS**

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

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

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

WHEREAS, the local, California and national economies are experiencing the worst economic recession in at least 30 years, which has impacted many local businesses and resulted in vacancies on the city tidelands lease properties; and,

WHEREAS, vacancies on tidelands lease properties harm the City wide business environment and reduce direct rents received by the City in the form of percentage of gross sales rent collections; and

WHEREAS, the City Council of the City of Morro Bay desires to outline policies that can be established to support City tidelands tenants and reduce vacancies for overall City business enhancement and the public good; and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that City staff is authorized to negotiate payment plans for past due rents and charges under the City tidelands Lease Sites and to waive penalties and interests that would otherwise required by the existing tidelands lease agreements; and,

BE IT FURTHER RESOLVED that City staff is authorized to offer to all City tidelands Lease Site Tenants that they can pay any minimum annual rent payments which are normally due six months in advance the option of making those payments quarterly in advance; and,

BE IT FURTHER RESOLVED that for a period of two years the City Council will support office type uses on the City tidelands Lease Site properties for the purpose of reducing vacancies, provided those uses conform with any and all planning and zoning regulations or requirements

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 14th day of September, 2009 on the following vote:

AYES:
NOES:
ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Bauer, City Clerk

SCHEDULE B
OVERVIEW OF TOTAL RENTS ON LEASE SITES PAYING PERCENTAGE RENT

LEASE SITE	LESSEE/ DOING BUSINESS AS	MINIMUM RENT FY07-08	% GROSS RENT FY 07-08	TOTAL RENT FY07-08	MINIMUM RENT FY 08-09	% GROSS RENT FY 08-09
CITY LEASES						
37W	Meyer	\$11,427.32	\$2,381.68	\$13,809.00	\$11,802.07	\$0.00
62-62W	Kayak Horizons	\$9,097.14	\$131.86	\$9,229.00	\$9,395.47	\$485.73
65-66W	Abba & Kristin Imani	\$11,186.86	\$1,869.14	\$13,056.00	\$11,553.73	\$2,356.27
71-74W	Morro Bay Marina Inc.	\$61,618.79	\$10,524.48	\$72,143.27	\$63,639.56	\$0.00
75-77W	Morro Bay Marina Inc.	\$76,400.00	N/A	\$76,400.00	\$78,905.51	N/A
A1-4	M.B. Marina Moorings	\$17,791.43	N/A	\$17,791.43	\$18,374.90	N/A
78-81W	Van Beurden Investments	\$65,498.81	\$11,879.80	\$77,378.61	\$69,120.00	\$0.00
82-85W	Rose's Landing, Inc.	\$44,868.82	\$39,778.48	\$84,647.30	\$45,371.19	\$30,150.29
87-88W	Violet Leage	\$22,421.98	\$29,200.29	\$51,622.27	\$23,157.31	\$11,247.57
89-89W	Branch & Smith - Boatyard	\$66,794.69	\$0.00	\$66,794.69	\$68,985.20	\$0.00
90-90W	Josef Steinmann	\$39,830.00	\$12,095.87	\$51,925.87	\$37,908.75	\$12,323.70
91-92W	Anderson Family Partnersh.	\$31,560.00	\$0.00	\$31,560.00	\$32,595.00	\$33,664.59
93-95W	Held Family Trust	\$58,943.54	\$17,932.00	\$76,875.54	\$58,781.24	\$16,849.00
96-96W	Danielle Mandella	\$14,000.00	\$983.66	\$14,983.66	\$14,445.39	\$237.12
110-112W	Great Amercian Fish Co.	\$42,674.05	\$29,674.21	\$72,348.26	\$44,073.53	\$20,977.44
122-123W	Harbor Hut, Inc.	\$46,479.37	\$31,118.19	\$77,597.56	\$56,286.40	\$9,715.80
132W-133W	Dockside Too	\$18,000.00	\$0.00	\$18,000.00	\$18,000.00	\$8,806.55
134-136	Tognazzini's Dockside	\$4,497.30	\$24,862.47	\$29,359.77	\$16,000.00	\$18,538.22
137	H., S., & D. Williams	\$1,499.10	\$13,004.75	\$14,503.85	\$8,000.00	\$6,717.13
144-144W	Charles & Sandra Marciel	\$6,054.18	\$250.36	\$6,304.54	\$6,252.72	\$0.00
TOTAL Percentage of Gross Sales Rent Paid FY07-08 and FY08-09			\$225,687.24		\$172,069.41	

**SCHEDULE B
OVERVIEW OF TOTAL RENTS ON LEASE SITES PAYING PERCENTAGE RENT**

LEASE SITE	LESSEE/ DOING BUSINESS AS	BASE APPRAISAL DATE	CURRENT APPRAISED VALUE	NEXT APPRAISAL DUE	BASE CPI	CURRENT CPI	BASE RENT	FISCAL YEAR 2009/2010	% GROSS RENT FY 08-09	Ex Date EXP. DATE	notes NOTES
CITY LEASES											
27W	Inn @ Morro Bay - Pkg. Lot								N/A		Vacant
34W	Crizer	7/07	\$ 98,000.00	7/12	210.40	225.01	\$3,703.00	\$3,960.13	\$0.00	12/18	
35-36W		1/86	\$50,500.00	----	35.90	225.01	\$1,624.50			2/02	Vacant
37W	Meyer Family	7/01	116,500		171.60	225.01	\$9,320.00	\$12,220.82	\$0.00	6/16	
49-49W	VACANT									3/93	
50-51W	Whibley	7/07	\$134,000.00	7/12	210.40	225.01	\$10,720.00	\$11,464.39	\$0.00	9/21	
52-52W	Associated Pacific Const.	7/08	\$195,000.00	7/13	217.30	225.01	\$15,600.00	\$16,153.50	\$0.00	6/25	
53W-56W	Estero Landing			7/13	220.90	225.01	\$17,983.00	\$18,317.59	\$0.00	6/48	New Lease 7/08
57-61W	Morro Bay Yacht Club	7/08	\$552,000.00	7/13	217.30	225.01	\$44,160.00	\$23,777.96	N/A	12/32	52% CREDIT FOR HOST SERVICES
A1-3	Yacht Club Mooring Zone			7/08	185.20	225.01	\$14,446.00	\$17,551.27	N/A	6/13	
62-62W	Kayak Horizons	7/05	\$108,850.00	7/10	201.40	225.01	\$8,708.00	\$9,728.83	\$485.73	9/18	
65-66W	Abba & Kristin Imani	1/96	\$137,000.00	N/A	154.60	225.01	\$8,220.00	\$11,963.66	\$2,356.27	1/11	% of rental income received from site
67-67W	Inez Viole-O'Neill	1/93	\$145,500.00	N/A	220.90	225.01	\$12,000.00	\$12,223.27	\$0.00	12/48	Redevelopment due fall 2009
68-68W	Held Family Trust	1/98	\$138,000.00	N/A	220.90	225.01	\$12,000.00	\$12,223.27	\$0.00	12/48	Redevelopment due fall 2009
71-74W	Morro Bay Marina Inc.	6/09	\$607,000.00	7/14	225.01	225.01	\$54,512.00	\$54,512.00	\$0.00	7/41	
75-77W	Morro Bay Marina Inc.	7/07	\$995,000.00	7/12	210.40	225.01	\$76,400.00	\$81,705.15	N/A	7/41	NO % GROSS UNTIL 2018
A1-4	M.B. Marina Moorings	12/85	\$166,400.00	----	193.20	225.01	\$16,337.00	\$19,026.85	N/A	6/16	
78-81W	Van Beurden Investments	7/08	\$864,000.00	7/13	217.30	225.01	\$69,120.00	\$71,572.44	\$0.00	12/32	\$7200 fish buyer credit on % Gross
87-88W	Violet Leage	1/93	\$265,000.00	N/A	149.20	225.01	\$15,900.00	\$23,978.95	\$11,247.57	3/10	
89-89W	Branch & Smith - Boatyard	12/08	\$742,000.00	7/14	225.01	225.01	\$59,360.00	\$59,360.00	\$0.00	11/41	Retail % Gross from 3 to 5% in 2012
90-90W	Josef Steinmann	7/08	\$359,000.00	7/13	217.30	225.01	\$37,908.75	\$39,253.79	\$12,323.70	6/28	
91-92W	Anderson Family Partnersh.	11/08	\$422,000.00	7/14	225.01	225.01	\$33,760.00	\$33,760.00	\$33,664.59	12/55	
93-95W	Held Family Trust	4/07	\$475,000.00	4/12	217.90	225.01	\$58,943.54	\$60,866.85	\$16,849.00	6/17	
96-96W	Danielle Mandella	12/06	\$175,000.00	12/11	210.60	225.01	\$14,000.00	\$14,957.93	\$237.12	1/10	
110-112W	Great Amercian Fish Co.	1/05	\$75,000.00	1/10	195.40	225.01	\$39,631.70	\$45,637.30	\$20,977.44	6/25	
113W	Sharon Moore	10/90	\$14,076.00	----	140.00	225.01	\$10,650.00	\$17,116.83	N/A	6/12	
122-123W	Harbor Hut, Inc.	7/08	\$200,000.00	7/13	217.30	225.01	\$56,286.40	\$58,283.49	\$9,715.80	6/18	
128-128W	Virgil & Leta Moores	1/93	\$86,000.00	N/A	149.20	225.01	\$5,160.00		\$0.00		cominbed with LS 124-127
129W-131W	MB Fish Company	1/08		N/A	220.90	225.01	\$6,000.00	\$6,111.63		9/14	
132W-133W	Dockside Too	10/08		N/A	212.60	225.01	\$18,000.00	\$19,050.71	\$8,806.55	6/28	
134-136	Tognazzini's Dockside	N/A		6/28	212.60	225.01	\$16,000.00	\$16,933.96	\$18,538.22	6/28	
137	H., S., & D. Williams	N/A		6/28	212.60	225.01	\$8,000.00	\$8,466.98	\$6,717.13	6/28	
141	Coast Guard - Office, Tower							\$1.00	N/A	4/39	
144-144W	Charles & Sandra Marciel	1/93	\$72,000.00	N/A	161.00	225.01	\$4,632.71	\$6,474.57	\$0.00	12/12	
NEW CITY LEASES					2007 CPI	2008 CPI					
82-85W	Rose's Landing, Inc.	7/09	\$521,000.00	7/14	225.01	225.01	\$55,262.00	\$55,262.00	\$30,150.29	2/45	Retail % Gross from 3 to 5% in 2012
OUTFALL	LS Power	N/A	N/A	N/A	N/A	N/A	\$250,000.00	\$250,000.00	N/A	11/12	First CPI Adjustment 1/08
Sub-totals								\$1,091,917.12	\$172,069.41	Term extended if plant construction commenced by 11/2012	

SCHEDULE A

LEASE SITE	LESSEE/ DOING BUSINESS AS	Base Date	CURRENT	NEXT	BASE CPI	CURRENT CPI	BASE RENT	FISCAL YEAR 2009/2010	% GROSS	EXP. DATE	NOTES	
		APPRAISAL DATE	APPRAISED VALUE	APPRAISAL DUE					RENT FY 08-09			
PIPKIN LEASES												
63-64W	Robert & Josephine Gray	3/93	\$169,000.00	N/A	149.80	224.81	\$10,140.00	\$15,217.45	N/A	9/18		
69-70W	Dean & Bertha Tyler	3/93	\$181,000.00	N/A	149.80	224.81	\$10,860.00	\$16,297.97	N/A	9/18		
86-86W	Embarcadero 801 LLC	3/93	\$220,000.00	N/A	149.80	224.81	\$13,200.00	\$19,809.69	N/A	9/18		
102-102W	Central Coast Seafoods	3/93	\$298,000.00	N/A	149.80	224.81	\$17,880.00	\$26,833.13	N/A	9/18		
COUNTY LEASES												
30-33W	Morro Bay Fuel Dock, Inc.	1/06	\$330,000.00	N/A	N/A			\$19,800.00	N/A	12/13		
105.1-.2W	Central Coast Seafoods	4/01	\$164,500.00	4/06	N/A			\$4,000.00	N/A	5/12	Amend. #3: \$4000 minimum rent	
124-128W	Darby Neil	4/07	\$438,000.00	N/A	N/A			\$26,280.00	N/A	7/12		
								*RENT DUE FY 09-10	\$1,220,155.37	\$172,069.41		



AGENDA NO: _____

Meeting Date: 09/14/09 Action: _____

Staff Report

TO: Mayor and City Council **DATE:** September 11, 2009
FROM: Rob Schultz, City Attorney
SUBJECT: Discussion on State Water Resources Control Board Draft Once Through Cooling Statewide Policy for Power Plants

RECOMMENDATION:

Staff recommends that the City Council discuss and give direction to Staff to attend the September 16 hearings and to bring back a written report and draft comments at the September 28, City Council meeting.

FISCAL IMPACT:

The attendant time and cost to attend hearings in Sacramento and formulate written comments to the State Water Resources Control Board. Such costs are within the current budget.

BACKGROUND:

The State Water Board has issued a notice of public hearing to receive comments on the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. The hearing has been scheduled for September 16, 2009 in Sacramento. Final comments must be submitted by September 30, 2009.

The proposed Policy establishes technology-based standards to implement the Federal Clean Water Act section 316(b) and reduce the harmful effects associated with cooling water intake structures on marine and estuarine life. The proposed policy would apply to the 19 existing power plants (including Morro Bay) that currently have the ability to withdraw over 15 billion gallons per day from the State's coastal and estuarine waters using a single-pass system, also known as once-through cooling. According to the State Water Board Staff, the intent of the proposed Policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the State's electrical generation and transmission system. This latest Board draft continues to require the phaseout of once-through cooling systems in existing plants, despite a recent U.S. Supreme Court decision permitting regulators to compare the costs of replacing the systems against the environmental and other benefits resulting from such replacements. The new draft, however,

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

does permit a very limited cost-benefit analysis for operators of nuclear plants and small fossil-fueled plants.

Staff attended a special stakeholder meeting on September 8, 2009. The purpose of the stakeholder meeting was to provide an informal question and answer session for interested parties in advance of the Board's planned public hearing on September 16, 2009. The September 8, 2009 meeting consisted of about 40-50 stakeholders. The stakeholders consisted of power plant representatives, (Dynergy had 3 representatives at the meeting) public entity representatives and environmental representatives. The meeting was very informative and provide insight from Water Board staff on how they felt the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling would work if adopted.

Basically, according to the draft policy, existing coastal/estuarine plants can follow one of two “tracks”: Track 1—Install either wet or dry closed-cycle cooling; or Track 2—If Track 1 is not “feasible” install controls or operational measures that will achieve a level of performance within 90 percent of wet closed-cycle cooling. Track 2 controls and operational measures could include approaches such as installing screening on intakes and controlling flow rates during certain periods. The Morro Bay Power Plant would have until 2016 to be in compliance with either Track 1 or Track 2. In regard to Track 1, both the City Council and California Energy Commission made findings that installing wet or dry closed-cycle cooling was infeasible, prohibitively expensive and impractical. At the same time, it is Staff understanding that the Track 2 alternative may not be feasible for the Morro Bay Power Plant because of problems that are associated with such control systems. While grid reliability is a major concern for the State Water Board and exemptions do exist within the policy, since the Morro Bay Power Plant is not critical to the grid the exemptions would not apply. As such, it appears that the Morro Bay Power Plant would not be able to comply with the proposed policy by 2016 and be considered out of compliance with the proposed policy.

Staff is looking for direction on whether it should attend the September 16 meetings in Sacramento. Being present at the meeting would allow for a better opportunity and better understanding of the Policy. Since staff will already be in Northern California from September 16-18 for League Conference, attending the Water Board meeting would only include going up on the September 15 instead of September 16. Regardless of whether staff attends the September 16 meeting, staff will be bringing back a draft written response to your Council meeting on September 28, 2009.

CONCLUSION:

Staff recommends that the City Council discuss and give direction to Staff to attend the September 16 hearings and to bring back a written report and draft comments at the September 28, City Council meeting.



AGENDA NO: C-1

MEETING DATE: 9/14/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 14, 2009

FROM: Harbor Director

SUBJECT: Designation of Preferred Proposal for Lease Site 96/96W Located at 945 Embarcadero; (Whale's Tail Restaurant)

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution #48-09 authorizing Stan Van Beurden to apply for development permits on City Lease Site 96/96W, located at 945 Embarcadero.

Motion: I move that the City Council adopt Resolution #48-09 to designate a primary and secondary proposer for Lease Site 96/96W and to authorize the primary proposer, Stan Van Beurden to apply for development permits for lease 96/96W, located at 945 Embarcadero.

FISCAL IMPACT:

None at this time.

BACKGROUND:

On April 27, 2009 the City Council authorized release of a Request for Proposals for Redevelopment of Lease Site 96/96W, located at 945 Embarcadero. The RFP was released May 22, 2009 with a submittal deadline of July 21, 2009.

We received three qualified responses from the Held Family, the Ngo Family, and Stan Van Beurden.

On August 20, 2009 a Selection Panel made up of the Harbor Department Business Coordinator, the City Engineer and the Police Commander, interviewed the proposers and rated the proposals as follows:

1. Van Beurden Proposal
2. The Held Family
3. The Ngo Family

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The proposals were evaluated based on:

1. maximization of public benefits in the proposed project,
2. the proposing party's potential to bring the project to completion,
3. proposed operations for the interim period as permits are obtained, to successfully operate on the lease sites,
4. experience and ability to operate on the lease site and on financial capability.

Attached is a copy of Mr. Van Beurden's proposal.

DISCUSSION:

The City adopted a Harbor Lease Management Policy in 2001 that allows for putting lease sites out to bid to consolidate sites or pursue other extenuating public benefits. Tenants in the mid-Embarcadero area are strongly encouraged to redevelop and re-negotiate their leases prior to the last 5 years of the term or generally the sites should be put out to bid. City staff has completed the bid process on Lease Site 96/96W and determined that the primary proposal for further consideration is the proposal from Stan Van Beurden and the secondary proposal is the proposal from the Held Family.

The process now is that Mr. Van Beurden will have 12 months to obtain Planning Commission and City Council concept level approval of the redevelopment plan. To start the process at the City Planning Department, Harbor staff needs to sign the property owners consent which we normally only provide to existing Tenants. Resolution #48-09 will authorize the landlord's consent for Mr. Van Beurden to begin the development/use permitting process. The following is taken directly from the City's Request for Proposals, which the proposers have acknowledged and agreed to:

“After interviewing each qualified proposing party, the (selection) panel will recommend a primary and secondary proposal for the City Council. Upon selection by the City Council the primary proposing party will be given 12 months to complete plans and permits to concept level. If the primary proposal does not meet the specified milestones as outlined, the secondary proposal may ascend to primary consideration.”

Any and all design, engineering, or plan submittal costs for the proposal will be the sole responsibility of the proposing party. The City shall incur no cost or liability for any costs should the proposing party prove unable to complete the project approval and/or permitting processes.

As the lease agreement for Lease Site 96/96W expires January 31, 2010, almost 9 months prior to the deadline for obtaining concept level approval, the City will have the ability to enter into an interim lease agreement with Mr. Van Beurden so he can operate on the site until construction begins.

Mr. Van Beurden plans to open a new restaurant in the Whale's Tail space for the interim period while he is obtaining permits and approval for remodeling of the building as outlined in his proposal. If the City Council accepts staff's recommendation, we will negotiate and present to the Council in the near future an interim lease as Mr. Van Beurden begins work on obtaining his permits per the proposal.

RESOLUTION NO. 48-09

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

**DESIGNATION OF PRIMARY AND SECONDARY PROPOSERS FOR
LEASE SITE 96/96W AND AUTHORIZATION FOR THE PRIMARY PROPOSER,
STAN VAN BEURDEN TO APPLY FOR DEVELOPMENT PERMITS FOR LEASE
96/96W LOCATED AT 945 EMBARCADERO**

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

WHEREAS, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as Lease Site 96/96W; located at 945 Embarcadero; and,

WHEREAS, the Morro Bay City Council directed staff to put out a request for proposals for development of said Lease Site; and,

WHEREAS, City staff prepared a request for proposals with a submittal deadline of July 21, 2009, advertised said request in local papers; and,

WHEREAS, on July 21, 2009 three qualified proposals were received at City Hall, and,

WHEREAS, City staff set up a three person panel to review the proposals; and, on August 20, 2009 the panel heard presentations from all the proposers and recommended that the City Council designate Stan Van Beurden as the primary proposer and the Held Family as the secondary proposer for Lease Site 96/96W.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that Stan Van Beurden is hereby designated as the primary proposer for Lease Site 96/96W and that the proposal submitted by the Held Family is hereby designated as secondary proposer for Lease Site 96/96W.

BE IT FURTHER RESOLVED, that as primary proposer Van Beurden must obtain concept level approval of the development plans for Lease Site 96/96W by September 14, 2010. City staff is hereby authorized to complete any necessary paperwork, such as the landlord's consent, to enable Van Beurden to apply for said development permits.

BE IT FURTHER RESOLVED, that should Van Beurden fail to meet the September 14, 2010 deadline for concept level approval of development plans, the secondary proposer, the Held Family, will ascend to the primary proposer position.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 14th day of September, 2009 on the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Janice Peters, Mayor

Bridgett Bauer, City Clerk



AGENDA NO: C-2

MEETING DATE: September 14, 2009

Staff Report

TO: Honorable Mayor and Council **DATE:** September 9, 2009
FROM: Janeen Burlingame, Management Analyst
SUBJECT: Consideration to Surplus 1985 Trolley

RECOMMENDATION:

Authorize surplus and sale of the 1985 trolley.

MOTION: I move that the City Council authorize staff to surplus and sell the 1985 trolley.

FISCAL IMPACT:

Declaring the 1985 trolley as surplus property and selling it would result in new one time revenue received once the sale is completed. It is unknown at this time what the sale price would be; however, there are similar age and condition trolleys for sale through Trolley Brokers with prices ranging from \$25,000 to \$38,000.

There would be a reduction in operating costs as there would be one less vehicle to repair and maintain in accordance with Federal and State mandates. In addition, there would be a loss of charter revenue due to the Federal Transit Administration's (FTA) charter regulations as outlined below as the remaining trolleys would not be able to be chartered. This revenue has varied over the years from \$500 to \$5,000 and is not guaranteed from year to year.

DISCUSSION:

The City's Parking Management Plan was adopted in October 2007 and included a recommendation to add a third route dedicated to the Waterfront. The Council adopted the parking management plan and directed staff to purchase a new trolley for the third route while using the 1985 trolley for the 2008 season until the new trolley procurement was completed at which time the new trolley would replace the 1985 trolley to operate the third route.

The City received a Proposition 1B State grant to purchase a new trolley as directed by Council. The City piggy-backed on a San Luis Obispo City trolley purchase contract to acquire the new trolley. In April 2009, the new trolley was delivered to the City and placed into service for the 2009 season.

The 1985 trolley has over 238,423 miles, is not ADA compliant and is beyond the FTA's criteria for useful life. The vehicle was intended to become surplus property and be sold when the replacement trolley went into service; however, the City Council in May 2009 requested staff bring back an item at a later date to discuss disposition.

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

With the addition of the third trolley route per the approved Parking Management Plan and Council direction to acquire a new trolley to replace the 1985 trolley to operate the third route, the City now has four trolleys. Currently, there is not enough space at the Corporation Yard to store all four trolleys under cover as is needed, particularly in the case of the 1985 trolley since the vehicle is not fully enclosed. The result is that one of the newer fully enclosed trolleys has to be parked out in the open and subject to harsher environmental conditions.

Prior to its use for the new third route last season until the replacement trolley was manufactured and delivered, the 1985 trolley was the only vehicle available for chartering. The FTA has regulations prohibiting chartering of federally funded vehicles and equipment unless the agency qualifies for one of the eligible exemptions or has determined that there are no private companies willing and able to provide the requested service. The 1985 trolley was purchased with general funds and the City's position has been that since the 1985 trolley was not purchased with federal funds, it did not fall under the FTA chartering rules. The other three trolleys have been purchased with federal and/or state funds and are subject to the FTA chartering rules. This City's position has not been tested by the FTA and any review and determination from the FTA that the City is not in compliance with charter regulations could result in the loss of federal grant monies that are used to purchase replacement vehicles.

The City is not eligible for exemptions listed in the FTA chartering rules and could only charter the trolleys if it has been determined that there are no private companies willing and able to provide the requested charter service. This determination is on a per request basis so each time an inquiry is made to the City regarding use of a trolley, the City would have to go through the process to determine whether or not there are companies willing and able to provide the charter service. The FTA has set up a registration site to aid public agencies in that determination and there is currently one company in San Luis Obispo County that is registered.

CONCLUSION:

The 1985 trolley has over 238,423 miles, is not ADA compliant, is beyond the FTA's criteria for useful life and there is currently not enough space at the Corporation Yard to adequately provide for the proper storage conditions all four trolleys need. As such, staff recommends the 1985 trolley be declared surplus property and sold.



AGENDA NO: D-1

MEETING DATE: 9/14/09

Staff Report

TO: Mayor and City Council **DATE:** September 9, 2009
FROM: Betty Winholtz, Council Member
SUBJECT: Discussion on Mayor and Council Term Limits

RECOMMENDATION:

Place an initiative on the General Election ballot in November 2010 that puts a limit on elected terms.

FISCAL IMPACT:

To place an initiative on the ballot depends on how many ballot measures are being placed on the ballot Countywide.

SUMMARY:

I propose the following ordinance:

"Limitation of Terms. Neither the Mayor nor any member of the Council shall serve in the same office for more than two (2) consecutive terms in succession; provided, however, that any time in office resulting from a partial term which is less than one-half (1/2) the length of a full term for that office, shall not be considered."

DISCUSSION:

The language for this ordinance is modified from the Charter of the City of San Luis Obispo. It is clear, concise, and flexible. It allows the possibility of an elected official to hold non-consecutive terms, and also addresses partial terms.

The following are benefits of this ordinance:

1. The natural turnover created by term limits allows for a quicker reflection of community values;
2. Like procrastination, a known time limit spurs one to action;
3. Holding power for an extended period of time alters a person. This is not a judgment; it is a phenomenon;
4. Maintaining staggered terms maintains the overlap of the experienced and the novice.

CONCLUSION:

Placing this initiative on the November 2010 General Election ballot would allow voters to express if they want term limits for their elected officials.



AGENDA NO: D-2

MEETING DATE: 9/14/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 6, 2009
FROM: Rob Schultz, City Attorney
SUBJECT: Consideration of Placing a Measure on the Ballot to Change the Mayoral Term
from Two Years to Four Years

RECOMMENDATION:

Review report and provide direction to staff.

FISCAL IMPACT:

The cost to the City to place a measure on the June/November ballot would be the extra printing cost.

DISCUSSION:

On November 5, 1974, the required number of qualified voters in the City of Morro Bay voted in favor of Measure "Q". Measure "Q", codified as Morro Bay Municipal Code Section 2.06.020, states:

2.06.020 Mayor—Term.

The term of office of the mayor shall be for two years.

Attached hereto as Exhibit A are Resolution 78-74 and Morro Bay Municipal Code Section 2.06.020.

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



AGENDA NO: D-3

MEETING DATE: 9/14/09

Staff Report

TO: Mayor and City Council

DATE: September 9, 2009

FROM: Betty Winholtz, Council Member

SUBJECT: Discussion on Placing the Primary Election Process on the Ballot

RECOMMENDATION:

Place an initiative on the General Election ballot in November 2010 that calls for a repeal of Measure S-06.

FISCAL IMPACT:

Approximate savings to the City's Elections budget of \$10,000.

SUMMARY:

In November 2006, Measure S-06 was placed on the General Election ballot and won with 58.8% of the votes. This caused the City of Morro Bay to have a Primary Election for Council and Mayor seats. Measure S-06 can only be repealed by a vote of the people.

DISCUSSION:

The previous City Council discussed whether to put an initiative on the ballot to ask the voters whether or not they want to rescind the use of a primary election in selecting council members and mayor. It was concluded that voters should experience the impact of having a full cycle election--primary and general--before voting on whether to continue with utilizing a primary or return to the original method--general only.

Three reasons generated by the previous City Council for placing the initiative on the ballot:

1. The primary process costs the City approximately \$10,000 to hold a second election in the same year as a General Election. The City cannot afford this cost with the constraints of the budget in the current financial situation;
2. The primary doubles the costs for candidates. Candidates have a difficulty generating funds needed for printing, mailing, signs, advertising, etc. that are necessary for running a campaign once, let alone a second time three months later. This intense kind of primary process may keep many candidates from running for office;
3. Having a primary politicizes the process of Council business for a long time, eight months of every other year, should incumbents be among those running for office. Returning to only a General Election would reduce that number of months to only four.

CONCLUSION:

Placing an initiative on the November 2010 General Election ballot would allow people to express if they wish for the primary process to continue. They would have participated in two primaries and seen the impacts by then.