

# City of Morro Bay

## City Council Agenda

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### *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.*

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**REGULAR MEETING – JANUARY 12, 2009**

**CLOSED SESSION – JANUARY 12, 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 as to 3 parcels.

- Property: 625 Harbor Street; Library.  
Negotiating Parties: SLO County and City of Morro Bay.  
Negotiations: Lease Terms and Conditions.
- Property: Whale's Tail - Lease Site 96/96W  
Negotiating Parties: Mandella and City of Morro Bay.  
Negotiations: Lease Terms and Conditions.
- Property: Salt Building - Lease Site 65-66/65W-66W  
Negotiating Parties: Imani and 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 – JANUARY 12, 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.

COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

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 SPECIAL CITY COUNCIL MEETING AND REGULAR CITY COUNCIL MEETING ON DECEMBER 8, 2008; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 01-09 ADOPTING THE CITY OF MORRO BAY INVESTMENT POLICY AND DELEGATING AUTHORITY TO THE CITY TREASURER TO INVEST IDLE FUNDS; (FINANCE)

**RECOMMENDATION: Adopt Resolution No. 01-09.**

A-3 RESOLUTION NO. 02-09 DESIGNATING AND AUTHORIZING INVESTMENT TRANSACTION OFFICERS; (FINANCE)

**RECOMMENDATION: Adopt Resolution No. 02-09.**

A-4 CONTINUATION OF EMERGENCY PER PUBLIC CONTRACT CODE SECTION 22050 FOR THE INSTALLATION OF ENERGY RECOVERY EQUIPMENT; (PUBLIC SERVICES)

**RECOMMENDATION: Determine the necessity to continue the emergency per Public Contract Code 22050 for the installation of desalination plant energy recovery equipment.**

B. PUBLIC HEARINGS, REPORTS & APPEARANCES – NONE.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 PRESENTATION FROM SAN LUIS OBISPO COUNTY AND CALIFORNIA STATE PARKS IN REGARD TO THEIR OPERATING AGREEMENT FOR USE OF VARIOUS STATE PROPERTY

**RECOMMENDATION: Receive presentation for San Luis Obispo County and California State Parks in regard to their Operating Agreement for use of various State property.**

D-2 APPROVAL OF FUNDING FOR A REDEVELOPMENT FEASIBILITY STUDY; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize the Public Services Director to execute the contract with Urban Futures Inc. to conduct a Redevelopment Feasibility Study with additional funding from the CDBG Loan Repayment Fund.**

D-3 DISCUSSION ON PLACING THE DYNEGY FUNDS IN THE ACCUMULATION FUND; (FINANCE)

**RECOMMENDATION:** Direct staff to place the Dynergy Funds into the General Accumulation Fund, and transfer needed amounts of that money to the General Fund at the end of each fiscal year.

D-4 REVIEW OF PERMIT FEE FOR WATERFRONT PROJECTS; (PUBLIC SERVICES)

**RECOMMENDATION:** Provide direction to staff on the permit fee on waterfront projects.

D-5 REVIEW OF CHANGES TO CHAPTER 10 OF THE MORRO BAY MUNICIPAL CODE - VEHICLES AND TRAFFIC; (CITY ATTORNEY)

**RECOMMENDATION:** Review changes made to “draft” Chapter 10, and direct staff to return with any changes for introduction and first reading at a public hearing.

D-6 DISCUSSION ON REVENUE BALLOT MEASURES INCLUDING A PUBLIC UTILITIES USER TAX, TRANSIENT OCCUPANCY TAX AND 911 FEE; (CITY ATTORNEY)

**RECOMMENDATION:** Review report and the available options for revenue ballot measures, and direct staff to begin preparing a draft Emergency Communications (or 911) Tax Ordinance, a Utility User Tax Ordinance, and a Transient Occupancy Tax Ordinance, and to bring back the draft Ordinances for consideration at a City workshop.

E. 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.

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING ó DECEMBER 8, 2008  
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:00 p.m.

|          |                 |                                  |
|----------|-----------------|----------------------------------|
| PRESENT: | Janice Peters   | Mayor                            |
|          | Melody DeMeritt | Councilmember                    |
|          | Rick Grantham   | Councilmember                    |
|          | Bill Peirce     | 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                       |
|          | Susan Slayton   | Administrative Services Director |
|          | Joe Woods       | Recreation & Parks Director      |

- I. ESTABLISH QUORUM AND CALL TO ORDER
- II. MOMENT OF SILENCE
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC COMMENT

John Barta stated this is the end of the first election season that included a primary election, which resulted in the highest voter turnout of all cities in the County of San Luis Obispo. Morro Bay had an 85.4% voter turnout.

Steve Mathieu thanked the outgoing members and the incoming members of the City Council, and especially thanked Bill Peirce for his support of AGP Video and the SLOSPAN concept.

Lynda Merrill thanked Councilmember DeMeritt and Councilmember Peirce for their efforts on the City Council.

Garry Johnson stated the City should implement a business plan to survive this economy.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING 6 DECEMBER 8, 2008

V. APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING  
OF NOVEMBER 10, 2008

MOTION: Councilmember Winholtz moved the City Council approve the minutes for the Regular City Council Meeting of November 10, 2008. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

VI. ADOPTION OF RESOLUTION RECITING THE FACT OF THE GENERAL  
MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2008, AND  
DECLARING THE RESULTS THEREOF

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 79-08 reciting the fact of the General Municipal Election held on November 4, 2008, and declaring the results thereof. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

VII. COMMENTS BY CURRENT MAYOR AND COUNCILMEMBERS

VIII. PRESENTATION OF PLAQUES TO COUNCILMEMBER MELODY  
DEMERITT AND COUNCILMEMBER BILL PEIRCE

IX. OATH OF OFFICE AND PRESENTATION OF CERTIFICATES OF  
ELECTION TO MAYOR JANICE PETERS AND COUNCILMEMBER  
CARLA BORCHARD AND COUNCILMEMBER NOAH SMUKLER

X. COMMENTS BY NEW MAYOR AND COUNCILMEMBERS

XI. ADJOURNMENT TO THE REGULAR CITY COUNCIL MEETING

Recorded by:

Bridgett Bauer  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008  
VETERANS MEMORIAL HALL

Mayor Peters called the meeting to order at 7:00 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           |
|          | Janeen Burlingame | Management Analyst                 |
|          | John DeRohan      | Police Chief                       |
|          | Mike Pond         | Fire Chief                         |
|          | Dylan Wade        | Utilities/Capital Projects Manager |
|          | Joe Woods         | Recreation & Parks Director        |

ESTABLISH QUORUM AND CALL TO ORDER  
MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

CLOSED SESSION REPORT ó There was no Closed Session meeting.

PUBLIC COMMENT

Peter Candela reviewed the monthly statistics for the Visitors Center. He also announced the Chamber is sponsoring a New Years Eve Party filled with fun events.

Keith Taylor stated the Grand Opening of the Fire Station Apparatus Bay was a successful event.

John Barta welcomed the new Councilmembers and thanked Councilmember Peirce for his efforts.

George Leage congratulated the voters in Morro Bay who participated in the largest voter turnout in the County. He also thanked those who supported him during the campaign season. Mr. Leage stated the City Council should take a serious look at the economics of the City.

Erica Murphy invited the community to the Morro Heights 4<sup>th</sup> Annual Luminaries display on Saturday, December 13<sup>th</sup>.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

Claire Grantham thanked those who assisted with the Annual Thanksgiving Dinner. She also recognized Officer Richard Hannibal who delivered dinners to the homeless in Morro Bay.

Geri Walsh announced the 3<sup>rd</sup> Annual Needs and Wishes Holiday Fundraiser in support of the Maxine Lewis Memorial Shelter for the Homeless would be held on Saturday, December 13<sup>th</sup>.

Richard Morgeson reviewed the number of people who use the Prado Day Center and homeless shelters in the County. He encouraged participation in the Needs and Wishes Holiday Fundraiser.

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 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 67/67W LOCATED AT 575 EMBARCADERO - VIOLE FAMILY LLC; (HARBOR)

**RECOMMENDATION: Adopt Resolution 80-08 authorizing the Mayor to execute a new lease agreement for Lease Site 67/67W.**

A-2 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 68/68W LOCATED AT 591 EMBARCADERO ó HELD FAMILY TRUST; (HARBOR)

**RECOMMENDATION: Adopt Resolution 81-08 authorizing the Mayor to execute a new leave agreement for Lease Site 68/68W.**

A-3 AUTHORIZATION TO FILL RECREATION & PARKS DEPARTMENT MAINTENANCE II POSITION; (RECREATION & PARKS)

**RECOMMENDATION: Authorize staff to fill the Recreation & Parks Department Maintenance II vacancy.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

A-4 AUTHORIZATION TO FILL RECREATION AND PARKS DEPARTMENT MAINTENANCE SUPERINTENDENT POSITION; (RECREATION & PARKS)

**RECOMMENDATION: Authorize staff to fill the Recreation & Parks Department Maintenance Superintendent vacancy.**

A-5 APPROVAL OF LETTER TO SAN LUIS OBISPO COUNCIL OF GOVERNMENTS SUPPORTING CITY REQUEST TO AMEND RURAL TRANSIT FUND GRANT PROJECT FROM CAPITAL TO OPERATING ASSISTANCE FOR MORRO BAY DIAL-A-RIDE; (PUBLIC SERVICES)

**RECOMMENDATION: Approve letter of support and direct Mayor to deliver the letter to the members of the SLOCOG Board at their December 17, 2008 meeting.**

A-6 CONTINUATION OF EMERGENCY PER PUBLIC CONTRACT CODE SECTION 22050 FOR THE INSTALLATION OF ENERGY RECOVERY EQUIPMENT; (PUBLIC SERVICES)

**RECOMMENDATION: Determine the necessity to continue the emergency per Public Contract Code 22050 for the installation of desalination plant energy recovery equipment.**

A-7 PROCLAMATION DECLARING FRIDAY, DECEMBER 26, 2008 AS A CITY HOLIDAY; (ADMINISTRATION)

**RECOMMENDATION: Adopt Proclamation.**

Councilmember Winholtz pulled Items A-1 and A-2 of the Consent Calendar.

**MOTION:** Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-1 and A-2. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-1 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 67/67W LOCATED AT 575 EMBARCADERO - VIOLE FAMILY LLC; (HARBOR)

A-2 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 68/68W LOCATED AT 591 EMBARCADERO ó HELD FAMILY TRUST; (HARBOR)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

Councilmember Winholtz stated she would like the rent to be reduced during construction and then readjust the base rate at the new Consumer Price Index.

MOTION: Mayor Peters moved the City Council approve Items A-1 and A-2 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CITY OF MORRO BAY WATER MANAGEMENT PLAN STATUS REPORT  
2008; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the Water Management Plan is the policy document that guides the allocation of the City's water resources. The Water Management Plan was originally adopted by the City Council on February 28, 1994 by adoption of Resolution No. 07-94, and certified as an amendment to the City's Local Coastal Plan by the California Coastal Commission. Periodic review of this portion of the City's Local Coastal Plan is required, and Mr. Wade recommended the City Council review the Water Management Plan and adopts the 2008 Water Management Plan Status Report.

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

Councilmember Winholtz stated she would like the categories listed in the status report to be reordered, noting conservation should be a high priority. She said she would like to add the term "peaking" in Measures 7 and 9. Councilmember Winholtz stated it should be noted the City relies primarily on State Water, and conservation should be placed before reclamation.

Councilmember Grantham addressed the cost of reclamation and tertiary treatment stating it is important to utilize purple pipe in the future. He said he is encouraged that mitigation is going to be pursued with the City's groundwater source because the desalination plant is a high-energy process which should not be used unless necessary.

Noah Smukler expressed concern that the water portfolio is dependent on State Water. He said it is important to continue frequent reviews of the City's water supply portfolio and the Water Management Plan. Councilmember Smukler stated an update to the conservation element should include new water efficiency opportunities and low impact development techniques. He said the City should utilize its relationship with SLO Green Build and the National Estuary Program to enhance public education. Councilmember Smukler stated the groundwater supply should be a priority and the City should work

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

aggressively to develop water reclamation element to the Wastewater Treatment Plant upgrade that includes a short-term access point for reclaimed water to load water delivery trucks. He said the City should also consider biological treatment and reuse of reclaimed water through a constructed wetland system.

Councilmember Borchard stated all of her questions have been answered.

MOTION: Councilmember Winholtz moved the City Council adopt the 2008 Water Management Plan Status Report with changes to the priorities listed as follows: 1) State Water; 2) conservation; 3) groundwater; 4) desalination; and 5) reclamation. The motion was seconded by Noah Smukler.

Noah Smukler stated he would rather place groundwater as a priority over State Water.

VOTE: The motion failed with Councilmember Borchard, Councilmember Grantham, Councilmember Smukler and Mayor Peters voting no. (1-4)

MOTION: Councilmember Grantham moved the City Council adopt the 2008 Water Management Plan Status Report. The motion was seconded by Mayor Peters and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

C. UNFINISHED BUSINESS

C-1 BUDGET AMENDMENT TO APPROPRIATE HARBOR FUNDS FOR COMPLETION OF HARBOR DEPARTMENT MODULAR OFFICE PROJECT; (HARBOR)

This item was pulled from the agenda.

C-2 STATUS OF URGENCY INTERIM ORDINANCE PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES; (CITY ATTORNEY)

City Attorney Robert Schultz stated in 1996 California voters enacted Proposition 215, the Compassionate Use Act, which protects qualified patients and their primary caregivers from prosecution under California laws for possession or cultivation of marijuana to treat serious illness pursuant to a doctor's recommendation. In 2003, the state legislature enacted implementing legislation to allow qualified patients and caregivers to obtain identification cards that insulate them from arrest for cultivation and/or use of marijuana for authorized medical purposes. Although not expressly

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

authorized under these laws, some people used this legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use. Under federal law, marijuana has no currently accepted medical use and the cultivation, possession, or distribution of marijuana is prohibited. Congress has not changed this prohibition despite the passage of medical marijuana laws in a number of states. The ongoing conflict between federal and state law on this subject has created a dilemma for local governments and their law enforcement agencies, particularly with regard to medical marijuana dispensaries. The City's moratorium will expire January 1, 2009, and under state law, it may not be continued beyond that date. It is the recommendation of the City Attorney's office that the City Council ban medical marijuana dispensaries until such time as the tension between state and federal law is resolved.

MOTION: Mayor Peters moved the City Council instruct the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

D. NEW BUSINESS

D-1 APPOINTMENT OF VICE-MAYOR TO SERVE A ONE-YEAR TERM;  
(ADMINISTRATION)

MOTION: Mayor Peters moved the City Council appoint Councilmember Winholtz as Vice-Mayor to serve a one-year term. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

D-2 APPROVAL OF THE CITY COUNCIL ANNUAL MEETING SCHEDULE -  
2009; (ADMINISTRATION)

City Manager Andrea Lueker suggested the following meeting schedule for 2009:

- 1) The regular meeting dates are the second and fourth Monday of each month with the exception of July 27<sup>th</sup>, November 23<sup>rd</sup>, and December 28<sup>th</sup>, which are traditionally cancelled.
- 2) In the event the 2<sup>nd</sup> and 4<sup>th</sup> Monday falls on a recognized City holiday (May 25<sup>th</sup>), the meeting will be held on the following Tuesday.
- 3) Approve March 30<sup>th</sup> and November 30<sup>th</sup> (fifth Mondays) as the dates for joint City Council/Planning Commission meetings. Due to the proximity of the November 30<sup>th</sup> date to Thanksgiving and the lack of other 5<sup>th</sup> Mondays, the Council may want to consider the 3<sup>rd</sup> Monday for this meeting.
- 4) Review potential dates for Joint Wastewater Treatment Plant meetings.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

Councilmember Winholtz suggested not canceling the July 27, 2009 City Council meeting. She also asked if the second joint meeting with the Planning Commission should be held in August instead of November 30<sup>th</sup>, which is close to Thanksgiving.

**MOTION:** Councilmember Grantham moved the City Council approve the meeting schedule for 2009 as proposed by the City Manager. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

**D-3 APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS;  
(ADMINISTRATION)**

Based on City Council Policies and Procedures, annually the Mayor shall make appointments to a variety of Council and/or regional committees and boards. One member of the council shall serve as a voting representative and one member shall serve as alternate. To the best of their ability, voting delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions. Mayor Peters suggested the following appointments:

**COUNCIL SUBCOMMITTEE ON EMPLOYEE GRIEVANCES**

|                |        |
|----------------|--------|
| Janice Peters  | Member |
| Carla Borchard | Member |

**INTEGRATED WASTE MANAGEMENT AUTHORITY**

|                |           |
|----------------|-----------|
| Carla Borchard | Designee  |
| Noah Smuckler  | Alternate |

**COUNTY WATER RESOURCES ADVISORY COMMITTEE**

|                                |           |
|--------------------------------|-----------|
| Betty Winholtz                 | Delegate  |
| City Manager (or her designee) | Alternate |

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY &  
SAN LUIS OBISPO AREA COORDINATING COUNCIL (SLOCOG)**

|                |           |
|----------------|-----------|
| Janice Peters  | Delegate  |
| Betty Winholtz | Alternate |

**CMC CITIZENS' ADVISORY COMMITTEE (2-year term)**

|               |        |
|---------------|--------|
| Rick Grantham | Member |
|---------------|--------|

**AIR POLLUTION CONTROL DISTRICT**

|               |        |
|---------------|--------|
| Noah Smuckler | Member |
|---------------|--------|

**ECONOMIC OPPORTUNITY COMMISSION (3-year term)**

|               |        |
|---------------|--------|
| Rick Grantham | Member |
|---------------|--------|

**ECONOMIC VITALITY CORPORATION**

|                |           |
|----------------|-----------|
| Carla Borchard | Member    |
| Noah Smuckler  | Alternate |

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

**NATIONAL ESTUARY PROGRAM**

|                |           |
|----------------|-----------|
| Noah Smuckler  | Member    |
| Carla Borchard | Alternate |

**CITY SELECTION COMMITTEE**

|                             |           |
|-----------------------------|-----------|
| Janice Peters (Mayor)       | Member    |
| Betty Winholtz (Vice Mayor) | Alternate |

**LEGISLATIVE DELEGATE**

|                             |           |
|-----------------------------|-----------|
| Janice Peters (Mayor)       | Member    |
| Betty Winholtz (Vice-Mayor) | Alternate |

**SAN LUIS OBISPO COUNTY HOUSING TRUST FUND**

|                |        |
|----------------|--------|
| Betty Winholtz | Member |
|----------------|--------|

**JPA SUB-COMMITTEE**

|               |        |
|---------------|--------|
| Janice Peters | Member |
| Rick Grantham | Member |

**MOBILEHOME CONVERSION SUB-COMMITTEE**

|                |        |
|----------------|--------|
| Betty Winholtz | Member |
| Rick Grantham  | Member |

No further action was taken on this item.

**D-4 SET DATE FOR INTERVIEWS OF COMMISSIONER/ADVISORY BOARD VACANCIES AND DISCUSSION REGARDING FREQUENCY OF MEETINGS, NUMBER OF MEMBERS AND POTENTIAL NEW REPRESENTATION CATEGORIES; (ADMINISTRATION)**

The City Council concurred that the number of members on the Advisory Boards should remain the same; Commission and Advisory Boards would review their by-laws as well as including youth representation; and interviews would be scheduled for January 21, 2009.

No further action was taken on this item.

**DECLARATION OF FUTURE AGENDA ITEMS**

Councilmember Grantham requested to agendize a discussion on placing a public utility user tax, and other user tax fees on the next ballot; Mayor Peters and Noah Smukler concurred.

Noah Smukler requested to agendize an update on the Collection Systems Master Plan; Council concurred.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó DECEMBER 8, 2008

ADJOURNMENT

The meeting adjourned at 9:24 p.m.

Recorded by:

Bridgett Bauer  
City Clerk



# Staff Report

AGENDA NO: \_\_\_\_\_

MEETING DATE: 1/12/09

**TO:** Honorable Mayor and City Council      **DATE:** December 15, 2008

**FROM:** Susan Slayton, Administrative Services Director

**SUBJECT:** Resolution No. 01-09 Adopting the City of Morro Bay Investment Policy and Delegating Authority to the City Treasurer to Invest Idle Funds

**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 01-09.

**FISCAL IMPACT:**

None.

**SUMMARY:**

Presented for Council's review is City of Morro Bay Investment Policy. Changes have been highlighted, so that Council can easily see the revisions made to the policy adopted in January 2008. Staff recommends that Council review the policy and adopt Resolution No. 01-09 with any changes.

**DISCUSSION:**

Since 1985, the City of Morro Bay City Council has been annually presented with the City's Investment Policy to review and adopt. Each year, the Treasurer (Finance Director) reviews the existing policy for recommended changes from the State of California or other governmental agencies, and implements them. This year, the attached policy is presented with changes highlighted, so that the revisions from the January 2008 policy are readily apparent. The most notable change is the addition of Repurchase Agreements, which are authorized by the State of California Government Code Section 53601 (j). A repurchase agreement is a form of short-term borrowing for dealers in government securities, which are highly valued and thus considered a good source of collateral. The dealer sells the government securities to investors, usually on an overnight basis, and buys them back the following day. Money market accounts, such as the City's sweep investment account with Rabobank, utilize this method of investing.

Staff recommends that Council review the policy, suggest and approve changes, and adopt Resolution No. 01-09. Any changes will be implemented to the policy, and the final version will be forwarded to Council.

Prepared By: \_\_\_\_\_

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

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

City Attorney Review: \_\_\_\_\_

Page 1 of 2

**RESOLUTION NO. 01-09**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
ADOPTING THE CITY OF MORRO BAY INVESTMENT POLICY AND  
DELEGATING AUTHORITY TO THE CITY TREASURER TO INVEST IDLE FUNDS**

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

**WHEREAS**, the City Council of the City of Morro Bay desires to prudently invest idle funds of the City to maximize use of taxpayer funds; and

**WHEREAS**, the California Government Code Section 53600.3 states that "all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees, and therefore, fiduciaries subject to the prudent investor standard"; and

**WHEREAS**, per California Government Code Section 53646(a)(2), all local agency governing boards may render to the legislative body of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting and shall also consider any change in the policy; and

**WHEREAS**, per California Government Code Section 53607, the legislative body may delegate investment authority and responsibility to the Treasurer, and/or designated staff member, for a period of one year, subject to annual review and monthly review of transactions initiated by the designee.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay that the Investment Policy, attached hereto, is adopted, and that the City Treasurer, and/or designated staff member, is hereby authorized to carry out this policy on behalf of the City Council.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 12<sup>th</sup> day of January 2009, on the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
Janice Peters, Mayor

\_\_\_\_\_  
Bridgett Bauer, City Clerk



# Staff Report

AGENDA NO: \_\_\_\_\_

MEETING DATE: 01/12/09

**TO:** Honorable Mayor and City Council      **DATE:** December 15, 2008

**FROM:** Susan Slayton, Administrative Services Director

**SUBJECT:** RESOLUTION NO. 02-09 DESIGNATING AND AUTHORIZING  
INVESTMENT TRANSACTION OFFICERS

## RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 02-09.

## FISCAL IMPACT

None

## SUMMARY

In order to invest money with financial institutions, a corporate resolution, identifying authorized transaction officers, is required. The City will meet this requirement by adopting this Resolution, which formalizes the officers and their ability to invest the City's money based on the annually-adopted Investment Policy.

## DISCUSSION

In the past, the City of Morro Bay had limited its use of investments to Treasury notes, such as Federal Home Loan Bank debentures. The 2006 change in Finance Directors brought a new investment style, one that believes in portfolio diversity within in the confines of the Investment Policy. One of those approved investment instruments is a Certificate of Deposit (CD). A CD is a restricted account whereby the bank agrees to pay a higher level of interest for a commitment from the investor to leave the money in the account for a stated period of time. CDs can be purchased at various amounts and for varying lengths of time. Deposits in any one banking institution of less than \$250,001 are insured by the Federal Deposit Insurance Corporation (FDIC). Larger amounts are collateralized by the banking institution with other cash deposit accounts. Early withdrawal from a CD results in stiff penalties based on the length of the time commitment and amount deposited.

Since September 11, 2001, banking regulations have become increasingly stringent. More forms of identification are required prior to opening accounts, especially when the account is opened for an

Prepared By: \_\_\_\_\_

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

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

City Attorney Review: \_\_\_\_\_

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entity. Since 2003, the Corporate Authorization Resolution has been a prerequisite for opening an account with a financial institution, but has not been consistently required. More and more banks are insisting on this information, some to the point of requesting a certification from the entity's attorney that the names on the Resolutions are valid.

This Resolution will designate investment transaction officers and empower them to invest money with any sound financial institution. The same transaction officers are listed in the Investment Policy. This Resolution will be renewed annually as part of the Investment Policy.

**RESOLUTION NO. 02-09**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MORRO BAY, CALIFORNIA  
DESIGNATING AND AUTHORIZING TRANSACTION OFFICERS  
TO INVEST PUBLIC FUNDS**

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

**WHEREAS**, the City of Morro Bay has cash in its possession that exceeds the amount needed for day-to-day transactions; and

**WHEREAS**, the City of Morro Bay has an obligation to its citizens to effectively and safely manage that money while optimizing its earning potential; and

**WHEREAS**, it is necessary to designate, via Resolution, the transaction officers who have the authority to invest the City's funds.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the City staff members listed below are designated as transaction officers who are authorized to open and close investment accounts within the scope of the City's Investment Policy:

|                |                                  |
|----------------|----------------------------------|
| Janice Peters  | Mayor                            |
| Andrea Lueker  | City Manager                     |
| Susan Slayton  | Administrative Services Director |
| Joyce Bunting  | Accountant                       |
| Laurie Goforth | Lead Account Technician          |
| Cris Brazzi    | Account Clerk III Confidential   |

**PASSED AND ADOPTED**, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 12<sup>th</sup> day of January 2009, on the following vote:

AYES:

NOES:

ABSENT:

---

Janice Peters, Mayor

---

Bridgett Bauer, City Clerk



AGENDA NO: A-4  
MEETING DATE: 01/12/09

# Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** January 5, 2009  
**FROM:** Dylan Wade Utilities/ Capital Projects Manager  
**SUBJECT:** Continuation of Emergency per Public Contract Code Section 22050 for  
the Installation of Desalination Plant Energy Recovery Equipment

**RECOMMENDATION:**

Staff recommends the City Council determine the necessity to continue the emergency per Public Contract Code Section 22050 for the installation of desalination plant energy recovery equipment.

**BACKGROUND:**

At your October 13, 2008 Council meeting, The City Council adopted resolution 64-08 declaring that an emergency condition exists regarding immediate improvements to its Desal plant.

With the equipment design of the brackish membrane trains now complete, and a shipping date set in early December, it would take a minimum of several months to get the bid specifications completed, advertise, accept bids and bring a contract award to the Council. The delivery projections for State Water during the next calendar year are currently at 15%. There is insufficient time to go through the normal bidding procedures and complete the upgrade in between the end of this year's State Water shutdown and the beginning of next year's reduced State Water deliveries. Given the reduction in State Water deliveries and the increasing nitrate pollution we are experiencing in both the Morro and Chorro groundwater basins it is critical that we get the brackish water system operational as quickly as possible, and as such we need to continue the emergency per Public Contract Code (PC) Section 22050 for the installation of energy recovery equipment.

Pursuant to PC 22050(c)(1) the City Council must review that action and reaffirm by 4/5<sup>th</sup> vote at every regularly scheduled meeting until that action is terminated. Accordingly staff will place this item on each subsequent agenda until the project is complete.

**STATUS REPORT:**

During the week of December 9<sup>th</sup> an independent electrical engineer reviewed our electrical system and made recommendations on upgrading our electrical system on handling the new electrical loads. The City of Morro Bay staff will be coordinating this and the control system efforts, but may need additional assistance from consultants

On Monday December 15<sup>th</sup>, 2008 the City took delivery of two GE 450 gpm brackish water

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

reverse osmosis membranes. The city contracted with Specialty construction to assist in the installation of the membrane units and the associated piping. The units were placed into the building with out incident. Specialty construction has continued to work on the layout and installation of the system and the associated piping systems.

**CONCLUSION:**

Staff recommends the City Council determine the necessity to continue the emergency per Public Contract Code Section 22050 for the installation of desalination plant energy recovery equipment.



**AGENDA NO.: D-1**

**Meeting Date: 1/12/09**

**THIS IS AN ORAL  
PRESENTATION -  
THERE IS NO WRITTEN  
INFORMATION PROVIDED.**



AGENDA NO: D-2

MEETING DATE: January 12, 2009

## Staff Report

**TO:** Mayor and Councilmembers **DATE:** December 29, 2008  
**FROM:** Bruce Ambo, Public Services Director  
**SUBJECT:** Approval of Funding for a Redevelopment Feasibility Study

### **RECOMMENDATION:**

It is recommended that the City Council authorize the Public Services Director to execute the contract with Urban Futures Incorporated to conduct a Redevelopment Feasibility Study with additional funding from the CDBG Loan Repayment Fund. This recommendation specifically meets Recommendation No. 37 from the study done by Management partners, which states "Develop and Implement a Redevelopment Agency" as well as one of the six priority goals "Form a Redevelopment Agency" set by the City Council at the Goal Setting Workshop in August 2008.

### **FISCAL IMPACT:**

The total estimated cost of the Redevelopment Feasibility Study is approximately \$87,750. Funding in the amount of \$35,000 in Community Development Block Grant (CDBG) funds has been awarded to the City through the Planning and Technical Assistance (P/TA) grant program for Economic Development to conduct a Redevelopment Feasibility Study. You may recall that the City also applied for an additional \$35,000 in CDBG grant funding through the P/TA General Allocation, but we were not awarded the grant. However, funding in an amount sufficient to fund the \$50,750 balance of this project is available from the CDBG Loan Repayment Fund.

In fact, even with this expenditure of \$50,750 (of which a certain amount is the required local match for the \$35,000 in CDBG & P/TA funds), there is a remaining balance of approximately \$125,000 that may be applied to the formal formation process to establish a Redevelopment Project Area and the associated blight documentation and related plans. Depending upon the results of the feasibility study, the Council may want to go forward with the formal formation process.

Formal formation of the Redevelopment Project Area and activation of a Redevelopment Agency is expected to cost approximately \$204,175, and requires a significant amount of time and effort. Urban Futures has offered to credit approximately \$44,500 towards the formal formation if the City decides to move forward in the process. Consequently the net cost to the City is approximately \$159,650. Staff is also assuming that the Council will authorize subsequent CDBG funding application requests (expected to be at least \$35,000) to secure any grant funds to offset these expenses.

Prepared By: \_\_\_\_\_

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

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

City Attorney Review: \_\_\_\_\_

## **BACKGROUND:**

The City has preliminarily discussed the option of forming a Redevelopment Agency for some time now dating back to a presentation on the basics of redevelopment in July 2005. Following up on that discussion, the City commissioned a "Revenue Enhancement Opportunities and Development Fee Options for the City of Morro Bay" study in April 2007, where redevelopment was identified as a prime revenue enhancing strategy, along with raising development impact fees. On August 4, 2008, the City Council authorized the application of CDGB "P/TA grant funding under the General Allocation and Economic Development programs. More recently in the "Management Partners Report & Assessment of City Organization and Financial Options" the City Council reaffirmed the need and priority to "Develop and Implement a Redevelopment Agency" following the authorization to submit for CDBG grant funding in August 2008.

## **DISCUSSION:**

### Time Table

If the City were to begin the formation process of establishing a Redevelopment Project Area and activating the Redevelopment Agency, timing is critical due to the length of time it requires to conduct the Redevelopment Feasibility Study (5 to 6 months) and complete the formal formation process (13 months). If the City were to capture the 2009-10 base year the adopting ordinance would need to be effective on or before August 20, 2010. Urban Futures Inc. notes that there are now 90-day referendums and legal challenge periods in effect for tax increment collection purposes.

### Redevelopment Feasibility Study

This Redevelopment Feasibility Study (please see Attachment 1) would identify and analyze the economic factors involved in the formation of a Redevelopment Project Area, Redevelopment Plan and associated organizational adjustments that would be necessary to activate a Redevelopment Agency, which is normally comprised of the Mayor and Council acting as the Chair and Board Members of the agency. This Redevelopment Feasibility Study would provide an expert opinion on whether "physical and/or economic blight" exists in portions of the community to the legitimate extent defined in California Redevelopment Law. Preliminary fiscal consultations would also occur with key taxing entities including the San Luis Coastal Unified School District (SLCUSD) and the County of San Luis Obispo. SLCUSD is a non-basic aid school district which means that the district would not be "made whole" by the State due to tax increment diversions.

### Formal Redevelopment Project Area and Agency Formation Process

Urban Futures Inc. (UFI) has provided a proposal to activate a Redevelopment Agency and complete the Redevelopment Plan adoption process. This process also includes the preparation of a Program Environmental Impact Report (EIR) for the adoption of the Redevelopment Plan. The planning services provided by UFI include a "turn-key" approach for providing nearly all deliverables and services required in accordance with California Redevelopment Law including all required notifications and consultations with taxing entities. For additional detail on the Proposed Work Program please refer to Page 5 of Attachment 2, which includes a brief description of the 25 Tasks necessary to complete the formation process.

**SUMMARY:**

In order to complete the formal formation of the Redevelopment Agency and adoption of a Redevelopment Plan by the 2010 base tax year, it is necessary to begin the process as soon as possible.

For better or worse, property values may be at their lowest in years, which leads to the opportunity to take advantage of increases in tax increment over a low base year. Conducting the Redevelopment Feasibility Study would be the first step in getting an expert opinion before committing significant resources to the formal formation process. Establishing a Redevelopment Agency has been an established goal and high priority of the City Council.



# Staff Report

AGENDA NO: \_\_\_\_\_

MEETING DATE: 01/12/09

**TO:** Honorable Mayor and City Council      **DATE:** January 2, 2009  
**FROM:** Susan Slayton, Administrative Services Director  
**SUBJECT:** Discussion of Placing the Dynergy Funds in the Accumulation Fund

## **RECOMMENDATION**

Staff recommends that the City Council agree to place the Dynergy Funds into the General Accumulation Fund, and transfer needed amounts of that money to the General Fund at the end of each fiscal year.

## **FISCAL IMPACT**

Potential to increase the General Accumulation Fund, if the amount required to balance revenues to expenditures in the General Fund at fiscal year end is less than \$500,000.

## **SUMMARY**

General Fund expenditures should be balanced against ongoing revenues, not one-time or limited duration funds. The \$500,000, which is annually received from Dynergy, is anticipated to end in 2012. This money should be removed from the General Fund revenue mix, and included as a budgeted transfer in. At the end of each fiscal year, only that portion of the \$500,000, needed to balance the fund, will be transferred.

## **DISCUSSION**

Ongoing expenditures should be budgeted based on an ongoing revenue stream. Revenues that are one-time, short duration, or have a sunset date should not be relied upon to cover day-to-day operations because when they cease to exist, they leave a serious gap in expenditure coverage. The safe plan for those funds is to separate them for use on one-time purchases or projects. Currently, Morro Bay includes the \$500,000 payment from the Dynergy power plant to balance its General Fund revenues to expenditures. The agreement to pay this money ends in November 2012.

Council Member Grantham expressed concern with our current method of budgeting the \$500,000 we receive from the agreement with Dynergy. He felt it was inappropriate because our ongoing expenditures are balanced with money that has an identified sunset date, Grantham felt that we should

Prepared By: \_\_\_\_\_

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

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

City Attorney Review: \_\_\_\_\_

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isolate this money in order to clearly portray our General Fund revenue stream shortfall.

To correct this situation, Staff recommends moving the \$500,000 into the General Accumulation Fund. At each fiscal year end, only that portion of the \$500,000 that is needed to balance General Fund expenditures to revenues will be transferred.



AGENDA NO: D-4

MEETING DATE: January 12, 2009

# Staff Report

**TO:** Mayor and Councilmembers **DATE:** December 29, 2008  
**FROM:** Bruce Ambo, Public Services Director  
**SUBJECT:** Review of Permit Fee for Waterfront Projects

## **RECOMMENDATION:**

It is recommended that the City Council provide further direction to staff on the permit fee on waterfront projects.

## **FISCAL IMPACT:**

The waterfront project fees collected since 2006 total \$28,960. In 2006 three projects paid the fees, in 2007 there were no projects that paid the fee, and only one project in 2008. At this time there is no fiscal impact associated with the discussion of this item.

## **BACKGROUND:**

In October 2007 the City Council asked to have a discussion on permit fees for waterfront projects. The subject fee (please see Attachment 1) is applied to all projects in the Planned Development (PD) Zone, and the ðpermit fee for waterfront projectsö is 200% of the fee for a Conditional Use Permit (CUP). The fee for a CUP for ðnew constructionö is \$3,620, which means that waterfront fee portion would be \$7,240, for a total of \$10,860. Please note that this fee does not include any environmental documentation fees or variance fees, which may add to this cost.

## **DISCUSSION:**

In the short time (5 hours) staff spent researching this item we were unable to find any backup information on the financial basis of the fee. A review of the ðPublic Services Cost Study for the City of Morro Bayö that was prepared by Revenue and Cost Specialists, LLC in April 2004 did not identify this fee in their evaluation. However, the fee was on the 2004 Master Fee Schedule prior to that fee study and was probably just maintained without any additional fee justification analysis. Review of projects in the PD zone almost always triggers a three-step City review process that involves a Concept Review by the Planning Commission, Concept Review by the City Council, and Precise Plan Review by the Planning Commission. Following the City Council Concept Review, these waterfront projects are submitted to the California Coastal Commission for review and approval, and returned to the City for Precise Plan Review at the Planning Commission. Staff recalls that at time around 2004 there was a considerable amount of concern about the PD Zone

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

and the Zoning Ordinance was being rewritten and updated. In fact, there is still an item on the Planning Commission Tracking Sheet under Long Term Planning to reevaluate the PD Zone, and there were even members of the community that wanted the PD Zone eliminated altogether.

In the Waterfront Zone a consistency analysis is also required for conformance with the Waterfront Master Plan and Design Guidelines. Furthermore, an architectural photo-simulation of all proposed projects is required for the context compatibility and view corridor analysis. This higher level of review associated with the PD Zone and Waterfront Master Plan consistency analysis may have added to the justification for the review fee. From this cursory review, in staff's opinion the fee does seem high, since its added to the base fee of the other review fees (CUP, environmental documentation, variance, etc.).



AGENDA NO: D-5

Meeting Date: 1/12/09 Action: \_\_\_\_\_

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** January 6, 2009  
**FROM:** Rob Schultz, City Attorney  
**SUBJECT:** Review of Changes to Chapter 10 of the Morro Bay Municipal Code (Vehicles and Traffic)

## **RECOMMENDATION**

Review the Staff Report and attached draft Chapter 10, Vehicles and Traffic, and direct staff to return with this item with any changes for Introduction and First Reading at a public hearing.

## **FISCAL IMPACT**

None.

## **BACKGROUND**

Chapter 10 provides for regulations for the placement and enforcement of Traffic Control Devices within the City of Morro Bay. Certain parts of the current Chapter 10 date back to 1964 and therefore are outdated, cumbersome and unenforceable. Staff has prepared the attached rewrite of Chapter 10 to elevate these concerns. The current Chapter 10 of our Morro Bay Municipal Code is also attached as Staff could not provide a redline version of the draft because it is a complete rewrite of this Chapter.

This is only a draft and is still under review by Staff. Since it is still in draft form, Staff is seeking comments from Council that are substantive in nature and not grammatical or spelling corrections as they will be corrected before it comes back for a public hearing.

Prepared By: \_\_\_\_\_  
City Manager Review: \_\_\_\_\_  
City Attorney Review: \_\_\_\_\_



## **BACKGROUND:**

At the December 8, 2008, City Council meeting, Council Member Grantham requested a future agenda item concerning potential new revenue sources. The City Council supported his request, and specifically mentioned, as potential new revenue sources, a Public Utilities User Tax, a Transient Occupancy Tax, and a 911 Tax.

The primary purpose of Council Member Grantham's future agenda item request was in response to the Management Partners Report done in April 2008. That report states:

“City is in an extremely difficult financial situation. Expenses have risen and have not been outpaced by revenues. The City has already taken extreme measures in the form of “belt tightening,” to the point that City services are being starved. The level of financial support for public safety, in particular, has been trimmed so low that the City is at the point of providing inadequate service.”

Attached to this Staff Report are various graphs from the Management Partners Report on future projections of revenues and expenditures that Council should review carefully.

In the face of difficult financial times ahead and in response to the Management Partners Report, the Staff and Council took further steps necessary last year to retain a balanced budget and end the fiscal year “in the black.” Through various cost cutting measures, total City expenditures were reduced and revenues slightly exceeded predictions, resulting in a year-end balance just over \$100,000.

However, it is very important to realize that the Status Quo is not an option. As stated in the Management Partners Report, “the City of Morro Bay must make fundamental changes in the way it does business. To maintain current service levels, the community will be asked to pay more to keep them.”

## **DISCUSSION:**

Based upon the Management Partners fundamental finding that the Status Quo is not an option, the Report made the following recommendations:

***Implement a Utilities Users Tax (UUT).*** Government Code Section 37100.5 authorizes cities to collect a utility user's tax on electric, gas, cable television, water, and telephone services. The tax is collected by the utility as part of its regular billing and then remitted to the City. The tax rate set by the City Council is typically defined by the voter referendum used to authorize the tax. There are approximately 150 cities and 4 counties with UUTs. The particular utility to which the tax is applied varies. In some cities, different rates apply to residential versus commercial users. The most common rate (the mode) is 5%, applied broadly among many types of utilities. The average rate (mean) is 5.5% with a standard deviation of 2.1%. Because most large cities have UUTs, roughly half of California residents and businesses pay a utility user tax. By way of comparison, Grover Beach charges 1% on telephones, gas, electric, CATV, and water, and raises \$169,500 per year or \$13.24 per capita. San Luis Obispo charges 5% and also includes cell phones, raising \$4,187,700 or \$97.47

per capita (or \$19.49 per 1% of UUT per capita). The average per capita per 1% is \$16.37. No other cities in the county charge a UUT.

Potential revenues for Morro Bay using \$16.37 per capita per 1% of UUT are as follows:  
1% = \$165,882, 2% = \$331,765, 3% = \$497,647, 4% = \$663,530, 5% = \$829,412.

A UUT may be imposed as a special tax earmarked for a specific purpose. However, all other cities in California impose the UUT as a general tax to be used for a variety of municipal service needs at the discretion of the city council.

***Increase the City's Transit Occupancy Tax (TOT).*** Transient Occupancy Tax (TOT) at a rate of 10% per rental is currently collected by all entities renting lodging for 30 days or less. Those taxes are remitted monthly to the City, and that revenue stream accounts for 20.5% of the General Fund's revenues before transfers in. TOT is the second largest revenue source to the City (Property tax is the largest). An increase from the current 10% to 11% will result in a 10% increase in TOT revenues, projected to be \$187,500 annually. A TOT may be imposed as a special tax earmarked for a specific purpose. However, all other cities in California impose the TOT as a general tax to be used for a variety of municipal service needs at the discretion of the city council.

***Implement City-Wide Assessment.*** An Assessment District is a special district that includes property that will receive direct benefit from new public improvements or from the maintenance of existing public improvements. The most common types of assessments are for roads, storm water, parks, landscaping, and street lighting. Formation of an Assessment District requires voter approval, which must be done in the form of a mailed ballot. Assessment Districts require that at least as many ballots (as weighed by the amount of the assessment against the parcel submitting the ballot) are returned in favor of the assessment as are returned in opposition to the assessment.

Each property is assessed a certain amount based on the percentage of benefit received by the property. Factors that determine the amount of benefit received may include the size of the lot or the proximity to the improvement being financed. The collection of the assessment charges occurs through County property tax collections, and is earmarked for the special assessment district as defined. Unless specified by a sunset clause, the collection will continue into the future at a minimum growth allowable by Proposition 13. A CPI (consumer price index) may also be added to the collection so as to keep revenues growing at a rate equal to expenditures.

Revenues are assumed at \$359,000 in the Management Partners Report.

***Implement a General or Special Parcel Tax.*** A parcel tax (otherwise known as a property-tax override) is a special non-ad valorem (non-value based) tax on parcels of property generally based on either a flat per-parcel rate or a variable rate depending on the size, use, or number of units on the parcel. However, since this tax is not based on the value of the property, it is a "fixed" tax. Parcel taxes require two-thirds voter approval and are imposed for any number of purposes, including funding police and fire services, clean water watershed management and flood control, and neighborhood improvement and revitalization. There are approximately 6,000 taxable parcels in the

City. With an annual assessment of \$100 on each parcel in the City, the revenue derived would be approximately \$600,000.

***Emergency Communications (or 911) Tax.*** This tax is usually designed to charge all phone customers in the City equally to pay for the costs of providing emergency police and fire dispatch communications. The City's current budget for emergency police and fire dispatch communications is \$412,425. A fee of \$3.50 per month on approximately 11,000 phone lines would raise enough funds to cover the current budget.

### **General Taxes vs. Special Taxes**

Local agencies, such as cities, may impose taxes using a variety of methods, subject to voter approval. These taxes are classified as either "general" or "special" pursuant to Proposition 218.

Whether the ballot measure requires a simple majority (50% + 1 vote) or a super majority (two-thirds of those voting in the affirmative) depends upon the ballot language and whether the question is placed upon the ballot as a general tax increase or a special tax increase

A "general tax" may be used for any public purpose - the funds are fully discretionary and may be deposited into the General Fund. A majority vote (50%+1) of the electorate is required to impose, increase, or extend a general tax.

A "special tax" is a tax imposed for a specific purpose. For example, some cities dedicate tax revenues for the payment of law enforcement or street maintenance costs rather than using the taxes for the general operations of government. A two-thirds majority of voters is required to impose, increase, or extend a tax for a specific purpose.

Special tax revenues must be accounted for in a separate fund.

General taxes may only be put on the ballot at the same general election when the City Council election is held, unless the Council unanimously finds that there is an urgent need to impose the tax measure. Upon such unanimous declaration, the General Tax measure may be put before the voters at a special election. Special taxes may be placed before the electorate at any time, either during a general election or in a special election.

The Council may elect to place a ballot measure on the November 2009 election. Since this election is not a regularly scheduled City election at which Council members will be elected, the ballot measure would appear as a special tax. Placing the ballot measure on this election would require two-thirds approval by the Council. It should be noted that, as a special tax, the ordinance must earmark the proceeds of the tax to specified purposes; use of the revenues would be limited to these purposes. Passage of the ballot measure would be achieved by a two-thirds voter approval. Alternatively, if the Council can make the required findings and declare a fiscal emergency consistent with provisions of Proposition 218, it may place the ballot measure on the November 2009 elections as a general tax. Doing so would require the Council to make findings that an emergency exists and would require a

unanimous Council vote. The ballot measure would be passed by a simple majority approval from the voters.

**CONCLUSION:**

Staff recognizes that increasing taxes is a serious decision that cannot be taken lightly. However, Staff expresses its conviction that Morro Bay has the immediate need to beginning working on revenue-generating ballot measures in order to continue to provide the community with the services and quality of life that it wants.

Therefore, it is Staff's recommendation that Council direct Staff to begin preparing a draft Emergency Communications (or 911) Tax Ordinance, a Utility User Tax Ordinance, and a Transient Occupancy Tax Ordinance, and to bring back the draft Ordinances for consideration at a City workshop.