

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 – OCTOBER 11, 2010

**CLOSED SESSION – OCTOBER 11, 2010
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 the City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to three (3) parcels:

- Property: Embarcadero Grill - Lease Site 86-86W
Negotiating Parties: Caldwell and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: Outrigger - Lease Site 87-88/87W-88W
Negotiating Parties: V. Leage and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: Surf Street Parking Lot.
Negotiating Parties: Maritime Museum and City of Morro Bay.
Negotiations: Terms and Conditions of Lease.

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

**PUBLIC SESSION – OCTOBER 11, 2010
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 SEPTEMBER 27, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 AUTHORIZATION TO AMEND THE CITY'S DENTAL POLICY WITH PRINCIPAL FINANCIAL TO ALLOW FOR ELIGIBILITY OF COVERAGE FOR DEPENDENTS TO AGE 26 REGARDLESS OF STUDENT STATUS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Authorize staff to submit a letter authorizing an amendment to the dental policy allowing eligibility of coverage for dependents to age 26 regardless of student status.

A-3 RESOLUTION NO. 47-10 APPROVING CONTINUATION OF THE 2009/10 DEFERRAL OF MANAGEMENT AND EXECUTIVE 3% COST-OF-LIVING ADJUSTMENT; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 47-10.

A-4 CONSIDERATION OF APPROVAL FOR A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND ABBA IMANI FOR LEASE SITE 65-66/65W-66W LOCATED AT 571 EMBARCADERO-SALT BUILDING; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 48-10.

A-5 LETTER TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME IN SUPPORT OF RE-OPENING THE MONTEREY BAY HALIBUT TRAWL GROUNDS; (HARBOR)

RECOMMENDATION: Approve sending a letter to the California Department of Fish and Game in support of re-opening the Monterey Bay Halibut Trawl grounds.

A-6 AWARD OF CONTRACT TO ASSOCIATED PACIFIC CONSTRUCTORS, INC. FOR THE WHARF REMOVAL PROJECT [MB-2010-H1]; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 49-10.

A-7 ADOPTION OF ORDINANCE NO. 563 ADDING A LANDMARK TREE SECTION TO CHAPTER 12.08 OF THE MORRO BAY MUNICIPAL CODE; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Ordinance No. 563.

A-8 RESOLUTION IN SUPPORT OF PROPOSITION 22-THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010; (CITY COUNCIL)

RECOMMENDATION: Adopt Resolution No. 50-10.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 REVIEW OF THE JODY GIANNINI FAMILY DOG PARK; (RECREATION & PARKS)

RECOMMENDATION: Review the status of the Jody Giannini Family Dog Park and the recommendations from the Recreation and Parks Commission.

B-2 ADOPTION OF RESOLUTION NO. 51-10 DECLARING THE EXISTENCE OF GULLS AT BAYSHORE VILLAGE EXEMPT FROM MORRO BAY MUNICIPAL CODE 7.16.025 AND AUTHORIZING THE HOMEOWNERS ASSOCIATION TO REMOVE GULL NESTS FROM THEIR PROPERTY; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 51-10.

B-3 APPROVAL OF PARCEL MAP MB 10-0069 (781 MARKET AVE.) AND ACCEPTANCE OF ABANDONMENT OF RIGHT-OF-WAY AND EASEMENTS; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 52-10.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS – NONE.

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: 10/11/10

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – SEPTEMBER 27, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 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

CLOSED SESSION

MOTION: Councilmember Grantham 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 54956.9(a); CONFERENCE WITH LEGAL COUNSEL REGARDING PENDING LITIGATION. Status Report on All Pending Litigation. This is a report on status and no action may be taken on any matter not specifically listed. Council may request a specific matter be agendized in the future for action.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

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

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:00 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 Kessling	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Dylan Wade	Utilities/Capital Projects Manager
	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

Garry Johnson stated Arcadia Publishing Company requested the publication of a new book on the history of Morro Bay which was written by Roger Castle and Gary Ream and some photographs taken by him. He said the books will be on sale this weekend at the Harbor Festival.

Jeremiah O'Brien expressed his support for Item A-4 (Authorization to Accept a Grant from the Nature Conservancy in Support of Fisheries Transition and Community Outreach) noting the importance to allow Rick Algert to work on this grant on a part-time contract basis due to his expertise on fisheries.

John Solu read a letter from Pradeep Patel, a Morro Bay hotel owner regarding the Chamber of Commerce CEO vacancy and the lack of representation from the hotel or tourism industry on the hiring committee. It was requested by Mr. Patel and Mr. Solu that

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

since the City holds a contract with the Chamber of Commerce, to intervene and request an hotelier be placed on the hiring committee who will be interviewing the prospective applicants for the CEO position.

Amy Perry read a letter for Jody Kennemer expressing concern with the removal of the shade trees that were cut down at the Community Center and library parking lots. She noted she tried to speak with someone at the Recreation & Parks and Planning Departments and the Library and received no information about the removal of the trees. Ms. Kennemer requested faster growing shady leafy trees be replaced instead of oak trees.

John Barta reviewed the history of the City-owned lot at the corner of San Jacinto and Highway One which is for sale. He said an offer was made in excess of \$2 million; however, the sale did not go through due to the objection of the removal of existing eucalyptus trees for a subdivision. Mr. Barta said a study was done which stated the trees cannot be saved because there is a line of eucalyptus that goes through the middle of the property which does not allow for a subdivision. He said the sales tax initiative was created instead of what was intended from the reserve from the sale of this property.

Linda Winters expressed support for Proposition 21 which would establish an \$18 annual vehicle license surcharge to help fund state parks and wildlife programs and will be on the November 2, 2010 General Election ballot.

Bill Yates thanked the SEIU employees for their endorsement of his candidacy for Mayor in the November election. He also said he and his wife were surprised by the removal of the trees at the Community Center and library parking lots. Mr. Yates encouraged the public to attend the Harbor Festival this weekend.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:04 p.m.; the meeting resumed at 7:14 p.m.

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 SEPTEMBER 13, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

A-2 ADOPTION OF ORDINANCE NO. 562 INCREASING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT ASSESSMENT FROM 2% TO 3%; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance No. 562.

A-3 RESOLUTION 46-10 AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL SECTIONS IN REGARD TO CALLING CLOSED SESSION MEETINGS; IN REGARD TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON HIRING AND EVALUATION OF DEPARTMENT HEADS; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 46-10.

A-4 AUTHORIZATION TO ACCEPT A GRANT FROM THE NATURE CONSERVANCY IN SUPPORT OF FISHERIES TRANSITION AND COMMUNITY OUTREACH; (HARBOR)

RECOMMENDATION: Authorize acceptance of a grant of \$70,000 from The Nature Conservancy to provide staff support for commercial fishing transitioning strategies and outreach.

A-5 ACCEPTANCE OF RESIGNATION FROM COMMUNITY PROMOTIONS COMMITTEE MEMBER; (ADMINISTRATION)

RECOMMENDATION: Accept resignation.

A-6 PROCLAMATION DECLARING OCTOBER 2010 AS "RIDESHARE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-3 and A-4 from the Consent Calendar; Mayor Peters pulled Item A-6.

MOTION: Councilmember Borchard moved the City Council approve Items A-1, A-2 and A-5 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

A-3 RESOLUTION 46-10 AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL SECTIONS IN REGARD TO CALLING CLOSED SESSION MEETINGS; IN REGARD TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON HIRING AND EVALUATION OF DEPARTMENT HEADS; (CITY ATTORNEY)

Councilmember Winholtz referred to Section 6.2.1 (Council Liaison Assignments) and requested the word commission(s) be amended to read advisory body/bodies; Council concurred.

MOTION: Councilmember Winholtz moved the City Council approve Item A-3 of the Consent Calendar as amended. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-4 AUTHORIZATION TO ACCEPT A GRANT FROM THE NATURE CONSERVANCY IN SUPPORT OF FISHERIES TRANSITION AND COMMUNITY OUTREACH; (HARBOR)

Councilmember Winholtz stated the fishing liaison group or fishing association should provide staff support for this grant rather than the City, and provide them space in the Nature Conservancy office in Morro Bay.

City Manager Andrea Lueker responded the limited support would be coming from past Harbor Director Rick Algert using office space at the Public Services Department; there would be minimal fiscal impact involved.

Harbor Business Manager Sue Lichtenbaum stated this is a critical grant in the transitioning of these fishing rights and the associated permits that go with them, and Mr. Algert has been involved in this process since it started.

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

A-6 PROCLAMATION DECLARING OCTOBER 2010 AS “RIDESHARE MONTH”; (ADMINISTRATION)

Mayor Peters pulled this item in order to make a presentation to a representative of RideShare.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

MOTION: Councilmember Grantham moved the City Council approve Item A-6 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 563
ADDING A LANDMARK TREE SECTION TO CHAPTER 12.08 OF THE
MORRO BAY MUNICIPAL CODE; (PUBLIC SERVICES)

Public Services Director Rob Livick stated the Morro Bay Citizens Tree Committee has reviewed the subject of landmark trees and has made recommendations for modifying the City's Municipal Code to recognize and protect these landmark trees. The tree committee has concluded that trees have an essential role supporting Morro Bay's economic and physical health and are key element in Morro Bay's famous scenic beauty and wildlife habitat. The proposal for the addition of a landmark tree section to the Morro Bay Municipal Code has been previously reviewed by the Public Works Advisory Board and the Planning Commission, and both bodies recommended approval of the addition to the municipal code. At their September 13, 2010 meeting, the Morro Bay City Council discussed the revisions to the Master Street Tree list, the draft revision to the Street Tree section of the Morro Bay Municipal Code (12.08) which would add the ability to declare landmark trees, and approved the Master Street Tree list revision. During the discussion regarding adding the landmark tree section to Chapter 12.08 of the Morro Bay Municipal, the definition of a *Specimen Tree* was added to the definitions section and requested the change come back for "first reading". Mr. Livick recommended the City Council receive public testimony, and approve Ordinance No. 563 for introduction and first reading by number and title only.

Mayor Peters opened the hearing for public comment.

John Barta stated the proposed ordinance is an attempt to regulate land use by treating groves of trees as individual landmark trees. He said if approved, this ordinance will create the City-owned lot at the corner of San Jacinto and Highway One, which is for sale to be unsellable, and would be writing off \$2 million of taxpayer's money. Mr. Barta requested the City Council remove the term "grove" out of the ordinance.

Chris Copack stated he has eucalyptus trees in his yard and requested clarification regarding some of the concerns he has with this ordinance.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

Councilmember Winholtz stated there is no landmark tree unless it is proposed and it goes through two public reviews before it is identified, first with the tree committee and then the City Council. She referred to the statement made on the San Jacinto property noting the sales tax measure was proposed for a variety of uses not only fire use, and the two are separate issues. Councilmember Winholtz stated this ordinance is not about private trees and is strictly about public trees.

Councilmember Smukler stated the value of a landmark tree is it creates a heightened review period and once identified it is considered a cherished tree within the community. He referred to the San Jacinto property noting there are some clear development conditions on this property, and it is doubtful that Council would make a choice of trees that would impact the development abilities of a property such as this.

Councilmember Borchard expressed concern with the grove of eucalyptus trees on the San Jacinto property if dedicated as landmark trees and causing a problem with the sale of this property. She said she also has concern with the potential cost to the City in maintaining groves of trees.

Councilmember Grantham clarified that this ordinance would not be a hindrance to the sale of the San Jacinto property.

Council made an amendment to Section 12.08.150 – Landmark Trees as follows:

Any Morro Bay resident may nominate a tree **within the right-of-way** to be considered for Landmark Tree designation.

Councilmember Winholtz stated she would prefer to open it up to anyone who would like to nominate a landmark tree.

MOTION: Councilmember Borchard moved the City Council approve as amended Ordinance No. 563 adding a Landmark Tree section to Chapter 12.08 of the Morro Bay Municipal Code for introduction and first reading by number and title only. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 563 by number and title only.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

C. UNFINISHED BUSINESS

C-1 STATUS REPORT ON WATER USAGE FOR AUGUST 2010; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated total August water production was 128 acre feet with 3.4 acre feet of water from the Morro groundwater basin receiving treatment through the BWRO process, 124.6 acre feet of State water delivered, and 0 acre feet of groundwater direct from the Morro and Chorro Basins. During the month of August, the City has used water from the Brackish Water Reverse Osmosis (BWRO) Treatment train to supplement water deliveries from the State Water Project by running the BWRO treatment process as necessary. State Water Project deliveries are sufficient to meet water demands for all periods except during the State Water shutdown without continuing mandatory water conservation measures. Therefore, staff is recommending cessation of mandatory water conservation at this time. Staff has been able to focus on the distribution system and is working on the replacement of service lines and old water meters. It is anticipated that in the month of October the water system will rely on the State Water Project deliveries and will decrease the use of the BWRO to augment those deliveries as our demands fall. Mr. Wade recommended the City Council review this status report, and direct staff on ending mandatory water conservation.

Councilmember Winholtz stated she supports waiting to change the mandatory water conservation measures from Level 3 and raising them to Level 4 when State Water is due to shut down within thirty days.

Councilmember Smukler agreed with Councilmember Winholtz as far as waiting to change the mandatory water conservation measures as well as with the heightened level of conservation when State Water shuts down.

Mayor Peters stated she supports removing the conservation notice at this time and reinstate it in November when State Water shuts down.

The City Council accepted the report; no further action was taken on this item.

D. NEW BUSINESS

D-1 REQUEST FOR FACILITY USE FEE WAIVER FOR A MAYORAL/CITY COUNCIL CANDIDATES FORUM SPONSORED BY THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (AAUW) AND LEAGUE OF WOMEN VOTERS; (ADMINISTRATION)

Councilmember Winholtz stepped down due to a conflict of interest as she is a candidate in the upcoming election.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

City Manager Andrea Lueker stated the City received a request for a fee waiver for a Mayoral/City Council Candidates' Forum sponsored by the American Association of University Women (AAUW) and the League of Women Voters. The AAUW and League of Women Voters have sponsored candidate forums in the past which benefitted the citizens of Morro Bay. The financial impact to the City would be the loss of revenue from assessed fees for a non-profit organization to utilize the Veterans Memorial Building for 2 ½ hours, in the amount of \$147.50. Ms. Lueker recommended the City Council review and discuss the possibility of waiving rental fees for the AAUW and League of Women Voters' Candidates' Forum, and direct staff accordingly.

Councilmember Borchard stated she will not support this fee waiver. She noted when she campaigned two years ago the cost of the forum was \$25 per candidate for the use of the building. Councilmember Borchard stated this could set a precedent and the City is not in a financial position to waive fees and she believes the candidates should pay a fee to hold a forum.

MOTION: Councilmember Grantham moved the City Council deny the request for a fee waiver for a Mayoral/City Council Candidates Forum sponsored by the American Association Of University Women (AAUW) and League Of Women Voters. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler voting no. (3-1)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendize a discussion on incorporating the Grey Water and Park Tree lists into the Major Vegetation Guidelines - take to Public Works Advisory Board and Recreation & Parks Commission with recommendations to Planning Commission and then to City Council; Council concurred.

ADJOURNMENT

The meeting adjourned at 8:18 p.m.

Recorded by:

Bridgett Kessling
City Clerk



AGENDA NO: A-2

MEETING DATE: 10/11/2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 23, 2010

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Authorization to Amend the City's Dental Policy with Principal Financial to Allow for Eligibility of Coverage for Dependents to age 26 Regardless of Student Status.

RECOMMENDATION:

It is recommended that the City Council authorize staff to submit the attached letter to Gray & Troy authorizing an amendment to the Principal Financial dental policy allowing eligibility of coverage for dependents to age 26 regardless of student status.

FISCAL IMPACT:

The cost to amend the policy as requested is one percent (1%) of the current premium. Our most recent billing statement reflecting the October 2010 billing period shows a total monthly premium of \$8,563.45. A one percent (1%) increase equates to \$85.63 of which, based on the City's current MOU's with each bargaining group, would be shared half by the City and half by the employee. Thus, the average monthly cost to the City would equate to \$42.81/month or \$513.72 for the year.

BACKGROUND:

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act of 2010, enacted on March 23, 2010 contains a mandate that, effective with the first plan year beginning on or after September 23, 2010, all group health plans that provide coverage to an employee's child must provide such coverage until the child's 26th birthday, regardless of the child's marital status, residency, student status or financial dependence on the employee. On June 16, 2010, the CalPERS Board of Administration voted to implement

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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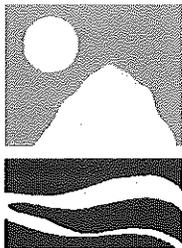
this provision effective January 1, 2011, the beginning of the next plan year for CalPERS. In kind, our vision program, Medical Eye Services administered by Blue Shield, while not required to do so, are including eligibility for dependents to age 26 regardless of student status. Our vision premiums for the 2011 calendar year are unaffected by this provision and remain unchanged. Many carriers are including this provision in their 2011 policies so that their plans match group medical plans.

DISCUSSION:

The City's dental coverage is provided by Principal Financial. We are in the second year of a 2 year rate guarantee with them. The City was contacted on September 13, 2010 by Gray & Troy, our insurance brokers for both our dental and vision plans, telling us that Principal Financial is allowing groups in rate guarantees to add 1% to their rates to include this age 26 eligibility.

CONCLUSION:

Based on the very minimal cost as well as the fact that this provision is already being implemented with both our health and vision plans, it is recommended that the City Council authorize staff to submit the attached letter to Gray & Troy authorizing the amendment to the Principal Financial dental policy allowing eligibility of coverage for dependents to age 26 regardless of student status.



City of Morro Bay

Morro Bay, CA 93442
(805) 772-6201

Debra Kushon
Principal Financial
18100 Von Karman Ave., #1170
Irvine, CA 92612

Policy Holder Name: City of Morro Bay

Policy Holder Number: 1005842

Dear Debra,

Effective January 1, 2011 please add the following language to our contract below in accordance with the new healthcare reform:

Dependent Age: Cover dependents to age 26 regardless of student or marriage status.

We agree to the following rate increase for our dental coverage:

Dental: 1% applies to all tiers

Current Rates: Employee - \$37.39/mo
EE+1 or more - \$105.34/mo

New Rates as of January 1, 2011: Employee - \$37.76/mo
EE+1 or more - \$106.39/mo

Please feel free to contact me if you have any other questions.

Sincerely,

Jamie Boucher
Human Resources Analyst
City of Morro Bay

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
595 Harbor Street

POLICE DEPT.
850 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way



AGENDA NO: A-3

MEETING DATE: 10/11/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 29, 2010
FROM: Susan Slayton, Administrative Services Director
SUBJECT: Resolution No. 47-10 Approving Continuation of the 2009/10 Deferral of Management and Executive 3% Cost-of-Living Adjustment (COLA)

RECOMMENDATION:

Council to approve Resolution No. 47-10.

FISCAL IMPACT:

Cost-of-Living Adjustment (COLA) for Management (salary and benefit impact) = \$32,261
Management employees in General Fund = \$17,819
Management employees in Enterprise Funds = \$14,442
COLA for Executive (salary and benefit impact) = \$37,094
Executive employees in General Fund = \$37,094
Executive employees in Enterprise Funds = \$0
Total cost of COLA (salary and benefit impact) = \$69,355
General Fund portion = \$54,913
Enterprise Funds portion = \$14,442

SUMMARY:

At the June 29th regular City Council meeting, Council enacted Resolution No. 38-09, which withdrew Resolution No. 78-08 that granted salary and benefit increases to the Management and Executive employees, and deferred the 3% COLA for Council's review in one year. At the September 13th closed session meeting, Council reiterated its desire to defer this COLA for another year. Resolution No. 47-10 establishes that deferral.

BACKGROUND:

In October 2008, the City Council agreed to proceed with 3-year contracts for the Police Officers Association, SEIU, and the unrepresented groups, Confidential, Management and Executive. Resolution 78-08 was adopted at the November 10, 2008 regular Council meeting, which gave a 3% COLA to Confidential, Management, and Executive employees.

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

At the June 22nd meeting, Council requested that an agenda item be brought forward to withdraw Resolution 78-08, grant the 3% COLA to Confidential employees, and defer the 3% COLA for Management and Executive employees for a period of one year. Resolution No. 38-09 was adopted at the June 29th meeting, which deferred the 3% COLA for Management and Executive employees for one year and allowed for Council to revisit that decision.

DISCUSSION:

At the September 13th closed session meeting, Council revisited its June 29, 2009, decision to defer the 2009/10 3% Management and Executive COLA. The Council voted unanimously to continue that deferral for another year, at which time Council will revisit this issue.

RESOLUTION NO. 47-10

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA
CONTINUATION OF THE 2009/10 DEFERRAL OF MANAGEMENT AND
EXECUTIVE 3% COST-OF LIVING ADJUSTMENT (COLA)**

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

WHEREAS, the City Council of the City of Morro Bay enacted Resolution No. 38-09 which deferred the 2009/10 3% Cost-of-Living Adjustment (COLA) for Management employees for a period of one year at which time Council would revisit the decision; and

WHEREAS, the Executives, by virtue of their contract language, receive any salary and/or benefit increases that are granted to the Management employees; and

WHEREAS, on September 13, 2010, the City Council met in closed session to discuss the deferral decision, and voted unanimously to continue the deferral as it was established with Resolution 38-09.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the 2009/10 3% COLA for the Management and Executive employees is further deferred for a period of one year when Council will revisit this decision.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 11th day of October 2010, by the following vote:

AYES:
NOES:
ABSENT:

Janice Peters, Mayor

Bridgett Kessler, City Clerk

The lease agreement was assigned to Abba and Kristen Imani in October 1997. The Imanis were aware when they took over the lease agreement for Lease Site 65-66/65W-66W, that the lease would expire in 2011 and that in order to maintain the site they would need to make some major improvements to the site.

DISCUSSION:

In 2007 Mr. Imani began looking into major repairs that were needed on the facilities. Because of the unique architecture of the Salt Building and the fact that the building itself was in relatively good condition, the decision was made to upgrade the existing facility and to provide lateral shore-side and Embarcadero side access. The initial cost estimate for the project was approximately \$485,000 in March of 2009.

Mr. Imani got Precise Plan approval for his project on June 14, 2010 from the City Council. Mr. Imani's engineer updated the cost estimate on the project to approximately \$600,000 in August 2010.

The City's Lease Management Policy provides for negotiation of a new lease with existing tenants that are in compliance with their existing lease and who have obtained a CUP for site improvements and or redevelopment. The proposed new lease agreement for Lease Site 65-66/65W-66W is in the City's updated Master Lease format and includes the following provision:

Term: 25 years, based on amount of investment in improvements and the fact that the Planning Commission wanted to preserve the building as it is rather than to replace it because it is a prominent building on the Embarcadero.

Minimum Rent: \$12,000 with annual CPI adjustments and reappraisal every 5 years.

Percentage of Gross Sales Rent: 3% for restaurant, 5% fast food and retail, 10% slip/mooring rental and 6% of rental income for any office/non-retail uses.

Completion of Construction: Construction of improvements to be completed by July 1, 2013.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 48-10 approving a new lease agreement between the City of Morro Bay and Abba Imani, located at 571 Embarcadero (Salt Building).

RESOLUTION NO. 48-10

**APPROVAL OF A LEASE AGREEMENT FOR LEASE SITE 65-66/65W-66W,
LOCATED AT 571 EMBARCADERO (SALT BUILDING) BETWEEN
THE CITY OF MORRO BAY AND ABBA IMANI**

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

WHEREAS, the City is the lessor of certain property on the Morro Bay waterfront described as Lease Site 65-66/65W-66, located at 571 Embarcadero; and,

WHEREAS, Abba and Kristen Imani hold the current lease agreement for Lease Site 65-66/65W-66W; and

WHEREAS, Abba Imani, following the City's Lease Management Policy, has proposed a renovation and received precise plan approval under UPO #260 to improve lateral public access on the Embarcadero and to provide new public access along the waterfront; and

WHEREAS, the City and Abba Imani desire to terminate the existing lease and enter into a new lease agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the new twenty five year lease agreement between the City of Morro Bay and Abba Imani is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute said lease agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-5

MEETING DATE: October 11, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** 10/4/10
FROM: Harbor Operations Manager
SUBJECT: Letter to the California Department of Fish and Game in Support of
Re-Opening the Monterey Bay Halibut Trawl Grounds

RECOMMENDATION:

It is recommended that the City Council approve sending the attached letter from the Mayor to the California Department of Fish and Game in support of re-opening the Monterey Bay Halibut Trawl grounds.

This recommendation is consistent with numerous City Council policy resolutions since incorporation in support of commercial fishing as an important part of the community's economy and culture.

MOTION: I move that the City Council approve sending of the attached letter from the Mayor to the California Department of Fish and Game in support of re-opening the Monterey Bay Halibut Trawl grounds.

FISCAL IMPACT:

None.

SUMMARY:

Re-opening the Monterey Bay area halibut trawl grounds would correct a regulatory oversight that occurred during enactment of SB1459. It would help ensure a local supply of sustainably caught fresh seafood under a highly regulated management scheme.

BACKGROUND:

An oversight in the language of a 2004 California law (SB1459) made it illegal to use light-touch trawl gear to fish for halibut in Monterey Bay. SB1459 codified the State's authority to manage all types of bottom trawling (halibut, sea cucumber, prawns, and shrimp) within State waters, including where inside

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

the three-mile line where trawling could continue. The bill was enacted after much discussion and negotiation between legislators, fishermen, and conservation organizations. The area where trawling within State waters could continue became known generally as the “California Halibut Trawl Grounds” and exist only in Southern California centered in the Santa Barbara area. A similar Monterey Bay Halibut Trawl ground area was not designated primarily because the majority of the halibut trawling in Monterey Bay was occurring outside of the three-mile line, so at the time legislators and fishermen saw no need to designate any such grounds because they believed that the traditional grounds accessed by the fishermen were outside State jurisdiction.

State waters extend seaward from land three nautical miles, *except* in Monterey Bay. In Monterey Bay the State line of demarcation cuts straight across Monterey Bay beyond the three-mile line. Therefore when SB1459 was enacted, it inadvertently “cut-off” trawl grounds historically used since at least 1915 by a very low-impact, artisanal fishery.

DISCUSSION:

The Monterey Bay area halibut trawl grounds are essentially the same sandy bottom habitat as the Santa Barbara area trawl grounds. The Fish and Game Commission has already considered the environmental effects of this type of fishery in the sandy bottom of the Santa Barbara area and made findings that it:

“1) minimizes bycatch, 2) is likely not damaging seafloor habitat, 3) is not adversely affecting ecosystem health, and 4) is not impeding reasonable restoration of kelp, coral, or other benthic habitats.”

Re-opening the Monterey Bay halibut trawl grounds outside of the three-mile line but within the State’s territorial jurisdiction would be conditioned on fishermen using the same gear restrictions as for the Santa Barbara area fishery, and limited to existing permit holders. Currently only a limited number of small trawl vessels actively participate in the fishery, including some Morro Bay/Port San Luis fishermen. However, they do contribute significantly to the supply of fresh, sustainably caught, local California seafood to restaurants and markets from San Francisco to Los Angeles.

The Morro Bay and Port San Luis commercial fishing organizations both support the re-opening, as does the City of Monterey, the City of Santa Barbara, the Moss Landing Harbor District, the San Mateo County Harbor District, the Pacific Coast Federation of Fishermen’s Associations, and the Alliance of Communities for Sustainable Fisheries.

CONCLUSION:

Staff recommends that the City Council votes to approve sending a letter to the California Department of Fish and Game in support of re-opening the Monterey Bay Halibut Trawl grounds.



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6200

October 11, 2010

Mr. Jim Kellogg, President
California Fish and Game Commission
PO Box 944209
Sacramento, CA 95814

RE: MONTEREY BAY HALIBUT TRAWL GROUNDS

Dear President Kellogg:

I am writing on behalf of the City of Morro Bay to request that the Fish and Game Commission consider re-opening the Monterey Bay halibut trawl grounds that lie within State waters. It is widely recognized that the availability of sustainably caught, fresh local seafood is in the best interests of all Californians. Trawl-caught halibut using paranzella net practices are no exception. Currently, such fishing practices are allowed under State Law in Southern California, and the Fish and Game Commission has already considered the environmental impacts of this fishery and found that it:

“1) minimizes bycatch, 2) is likely not damaging seafloor habitat, 3) is not adversely affecting ecosystem health, and 4) is not impeding reasonable restoration of kelp, coral, or other biogenic habitats.”

The Santa Barbara-area halibut trawl grounds are operated under strict oversight by State and Federal authorities and utilize the highly innovative “light-touch” paranzella net. This net is designed to avoid harming the seafloor and minimize bycatch, and is a model for environmental and economic success. Therefore the City of Morro Bay urges the Commission to re-open access to the traditional Monterey Bay halibut trawl grounds under the same management regime as the Santa Barbara-area grounds in order to provide a fresh, local, sustainably harvested seafood source for all Californians.

Thank you for considering this request.

Sincerely,

Janice Peters, Mayor



AGENDA NO: A-6

MEETING DATE: 10/11/2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 11, 2010
FROM: Harbor Business Manager
SUBJECT: Award of Contract to Associated Pacific Constructors, Inc. for the
 Wharf Removal Project (MB-2010-H1)

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 49-10 to award the Wharf Removal Project to Associated Pacific Constructors, Inc. and to authorize transfer of \$70,000 from the Harbor Accumulation Fund to the Wharf Removal Project Fund.

MOTION: I move that the City Council adopt Resolution No. -10 to award the Wharf Removal Project to Associated Pacific Constructors, Inc. and to authorize transfer of \$70,000 from the Harbor Accumulation Fund to the Wharf Removal Project Fund.

FISCAL IMPACT:

Reduction to the Harbor Accumulation Fund by approximately \$70,000. Any funds not expended upon project completion will be transferred back to the Harbor Accumulation Fund.

SUMMARY:

The wharf at Lease Site 35W-36W was operated in conjunction with a fish unloading, fish processing operation from the 1970's through November 2000 when the lease was assigned to Bill Martony and Bernadette Pekarek. As a result of legal issues surrounding failed lease negotiations and lease termination, a settlement agreement (agreement) was reached between the Bill Martoney and Bernadetter Pekarek (former tenants) and the City in 2009.

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

BACKGROUND:

The agreement between the former tenants, approved by the City Council in June of 2009, required that the City put a project out to bid for removal of the wharf on Lease Site 35W-36W. The agreement required that the former tenants put \$41,000 in a holding fund to be released to the City upon completion of demolition. The agreement also has specific timeframes for completion of the bid process and completion of the removal project. Final permit approval for the project was received on June 14, 2010. The agreement requires execution of the contract within 120 days of final permitting and then completion of the demolition within 120 days of contract execution.

DISCUSSION:

The bids for the Wharf Removal Project were opened on September 28, 2010. Thirteen bids were received and Associated Pacific Constructors, Inc. was the lowest bid at \$89,250, well below the Engineer's estimate of \$224,500. The bid was checked for compliance with bidding requirements. Per the agreement, the contract must be awarded by October 14, 2010 and final removal/completion of the Project must occur by January 14, 2011 in order for the City to receive the \$41,000 from the holding fund.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 49-10 to award the Wharf Removal Project to Associated Pacific Constructors, Inc. and to authorize transfer of \$70,000 from the Harbor Accumulation Fund to the Wharf Removal Project Fund.

RESOLUTION NO. 49-10

**AWARD OF THE CONTRACT FOR PROJECT NO. MB-2010-H1
WHARF REMOVAL PROJECT**

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

WHEREAS, a settlement agreement (agreement) was approved by the City Council in June 2009, requiring the City of Morro Bay to begin permitting, contracting and completion of Wharf Removal at Lease Site 35W-36W; and

WHEREAS, plans and specifications for the Wharf Removal Project, No. MB-2010-H1, were prepared and bid pursuant to the Public Contract Code; and

WHEREAS, the bids for the Wharf Removal Project, No. MB-2010-H1, were opened on September 28, 2010; and,

WHEREAS, Associated Pacific Constructors, Inc. submitted the lowest responsible bid in the amount of \$89,250.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the contract for the Wharf Removal Project, No. MB-2010-H1, is hereby awarded to Associated Pacific Constructors, Inc.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay that the amount of \$70,000 be transferred from the Harbor Accumulation Fund to the Wharf Removal Project Fund.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the required contract documents for the Wharf Removal Project, No. MB-2010-H1.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Kessling, City Clerk

ORDINANCE NO. 563

**AN ORDINANCE OF THE CITY OF MORRO BAY, CALIFORNIA AMENDING
CHAPTER 12.08 OF THE MORRO BAY MUNICIPAL CODE ESTABLISHING POLICIES
AND PROCEDURES FOR LANDMARK TREE DESIGNATION**

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

WHEREAS, the City of Morro Bay (“City”) has adopted Local Policies and Procedures for the regulations of Trees within the Public Right of Way; and

WHEREAS, said policies and procedures are Codified in Chapter 12.08 of the Morro Bay Municipal Code; and

WHEREAS, the community through the Morro Bay Citizens tree Committee recognizes that trees have an essential role supporting Morro Bay’s economic and physical health and are key element in Morro Bay’s famous scenic beauty and wildlife habitat; and

WHEREAS, the Morro Bay Citizens Tree Committee has made recommendations to protect the trees and vegetation in our city, are designed to work for the betterment of our present and future; and

WHEREAS, Landmark Tree recognition, designation, protection, and proactive maintenance is an important step in establishing valuable control measures to preserve our history as the City of Morro Bay evolves in the future; and

WHEREAS, recognized Landmark Trees give our community another opportunity to reflect and celebrate our heritage, environment and the City’s future; and

WHEREAS, City staff made recommended amendments to Chapter 12.08 of the Morro Bay Municipal Code and presented those amendments to City Council at their September 13 2010, City Council meeting for review and comment; and

WHEREAS, the City Council provided staff with direction and recommended changes to the draft ordinance and City staff has since made these changes.

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1. That Chapter 12.08 of the Morro Bay Municipal Code is hereby modified and shall be coded and found to read as follows:

A. The following definitions shall be added to section 12.08.020 Definitions:

G. “Landmark tree” is any tree existing within city limits, which has been so designated by resolution of the City Council, after review and recommendation by the City’s Public Works Advisory Board.

H. “Specimen Tree” is a tree that obviously belongs to a particular category but is of particular interest due to its individual distinguishing characteristics, such as color, texture, scent, or other pleasures it provides.

B. The following paragraph shall be added to Section 12.08.060:

Recognized Landmark Trees will be protected and proactively maintained for long-life/health, under the authority of the Director of Public Services. Landmark Trees may also be identified with a sign or plaque, as approved by the public services director. The sign or plaque shall be provided and maintained by the nominee at no expense to the City of Morro Bay.

C. The following section shall be added to Chapter 12.08:

12.08.150 – Landmark Trees

Any Morro Bay resident may nominate a tree within the right-of-way to be considered for Landmark Tree designation. The nominated tree shall meet at least 3 of the 7 criteria listed below. All nominated Landmark Trees shall be reviewed by the Public Works Advisory Board. The recommendation of the Public Works Advisory Board shall be forwarded to the City Council for official landmark tree designation.

Landmark Tree Criteria:

- a) *Any Specimen Tree or grove of significant size, beauty, cultural heritage or habitat value.*
- b) *Specimen tree or grove of significant habitat value for migratory birds and butterflies.*
- c) *Native trees or groves of historical significance to local indigenous cultures.*
- d) *Specimen tree or grove of agricultural significance and history.*
- e) *Specimen tree or grove older than 80-100 years.*
- f) *Any Trees playing very important functional role in city parks or for city planning and maintenance.*
- g) *Specimen Trees or groves of significance planted by early settlers of Morro Bay.*

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 27th day of September 2010 by motion of Councilmember Borchard, seconded by Councilmember Grantham.

PASSED, APPROVED AND ADOPTED on the _____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney

AGENDA NO: A-8

MEETING DATE: 10/11/10

RESOLUTION NO. 50-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
IN SUPPORT OF PROPOSITION 22
THE LOCAL TAXPAYER, PUBLIC SAFETY AND
TRANSPORTATION PROTECTION ACT OF 2010**

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

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds, and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response, parks, libraries, and other vital local services, and gas tax funds are vital to maintain and improve local streets and roads, relieve traffic congestion, and provide public transit systems; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the State from taking these dedicated local revenues, the State Legislature has continued to seize and borrow billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, these continual raids of local government, redevelopment and transit funds have lead to severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and

WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government, transportation and transit advocates filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, which will be on the November 2010 statewide ballot as Proposition 22; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment, or dedicated to transportation improvement projects and mass transit.

NOW, THEREFORE, BE IT RESOLVED that the City of Morro Bay formally endorses Proposition 22, the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment.

BE IT FURTHER RESOLVED that the City Council of the City of Morro Bay hereby authorize the listing of the City of Morro Bay in support of Proposition 22, the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, and instruct staff to fax a copy of this resolution to campaign offices at 916.442.3510.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

DISCUSSION:

At the regular meeting of the RPC on September 28, 2010, the Commission reviewed the operational status of the JGFDP, as well as, the current MOU between the CMB and the MBP.

Staff reports that the MBP have exceeded the City's expectations in performing maintenance related to the JGFDP. The MBP have installed a double gate within the entrance structure, informational kiosk, mutt mitt dispensers, elevated trash receptacles, and benches for attendees. The MBP have provided park monitoring and have continuously and promptly removed any and all dog waste and litter from the park. When turf has become barren due to inclement weather or heavy usage, the MBP have used temporary fencing to secure the area and have re-seeded to reinstate the turf. Turf maintenance will be an ongoing issue, and staff feels the MBP realize the importance of turf maintenance and continue to work diligently on restoring any potentially poor area within the JGFDP.

The operation of the dog park is the primary responsibility of MBP, acting as volunteers. The MBP members are to assist the Department with enforcement of rules and dissemination of information to JGFDP attendees. Staff feels the MBP have put significant effort into both requirements. The MBP have developed an educational program that includes member docents at the park as well as information for attendees through signs, posters, and e-mails. MBP are also attempting to partner with Morro Bay High School for the recruitment of students to volunteer at JGFDP for required community service hours. This partnership is still in the development stage.

Although JGFDP has been successful today, there has been some opposition to the dog park. Neighbors living on Island Street signed a common letter identifying the noise from Dog Park as a public nuisance. The noises coming from the park include dogs barking, fighting and handlers yelling at their dogs. Residents claim these types of noises existed during the previous temporary use, but had increased since the JGFDP opened. Staff has met with two Island Street residents, Jeannie McIntosh and Michael Anderson, on several occasions regarding the noise from the dog park. Staff offered some potential solutions, but directed both to the public hearing process.

During public comment several members from the public spoke regarding the dog park. The list of speakers all considered the dog park to be a real asset to the community, at least half brought up the concern of noise. The sounds of dogs and their handlers seemed to be a common thread of those who spoke of noise. Apparently, these sounds were either generated in JGFDP, Del Mar Park, or in the yard of an Island Street resident. All agreed dogs off leash within Del Mar Park are a problem and more enforcement of current City regulations would be desirable.

Public comment brought both JGFDP accolades and concerns. One speaker illustrates the JGFDP is a dream come true, then the next would cite 17 pages of the noise nuisance problem.

Several members of the MBP spoke to convey their efforts for a successful dog park. They explained the docent program and the efforts to communicate with the Island Street residents and the community. Several Island Street residents spoke explaining their impacts from the dog park. The main objection is the level of noise from both dogs barking and fighting, and handlers yelling. Residents renounced the location of the dog park, stating it was poor City planning; and the dog park is a great idea, wrong place. These Island Street residents did offer solutions to their stated concerns, the first being one of monitoring JGFDP for compliance of attendees. The JGFDP should be a directed activity, open only when a monitor is present. Other solutions included: signage prohibiting barking, change of operating hours, install a sound barrier, increase the size of the North fence and possibly change material, ban all unneutered male dogs, stop advertising the JGFDP, review dog park semi-annually, improve signage at JGFDP.

Commission discussed the comments from the public and agreed noise and loose dogs in the Park proper appear to be major concerns which should be addressed. The relationship with the MBP should remain within the parameters of the MOU. The RPC is recommending no amendments to the current MOU between the CMB and MBP for the construction and maintenance of the dog park. However, if Council decided to require JGFDP to be monitored, the MOU would need to be amended to place the responsibility with MBP. The RPC would like the Council to consider some action to address the stated major concerns and offers these recommendations:

1. Modify hours of operation for the JGFDP and monitor at certain times.
2. Increase enforcement of current City regulations for dogs off leash. Efforts could include administrative citations or Police volunteer patrols.
3. Modify North fence line to address sound transfer to Island Street.
4. Add vegetation between JGFDP and creek for sound control.
5. Staff to moderate meeting between MBP and Island Street residents
6. Improve site signage at JGFDP and parking lots.

Staff concur the major concerns, discussed during the JGFDP review, were noise and loose dogs in Del Mar Park. The current hours of operation for the JGFDP are 8am to dusk Sunday thru Saturday. Del Mar Park is open from 7am to dusk. Any restriction of hours at the JGFDP would not necessarily curtail the number of handlers/dogs visiting the Park. It would, however, limit the off leash time available to the community. Staff feels the remaining recommendations should be considered with emphasis on enforcement and improved signage.

CONCLUSION:

Entities operating off-leash dog parks will have issues of concern from time to time and the reaction from the park's steward is critically important to the longevity of the park. The JGFDP has been in the making for approximately ten years and staff has hosted many public hearing regarding the matter. Staff received no opposition when presenting a Master Plan revision for Del Mar Park to include an off-leash dog area and no objections when the project was presented to the Planning Commission and City Council for approval. Understanding that issues and concerns do arise as programs progress, our staff is willing to address any and all community concerns with the desire to satisfy as many as possible.



AGENDA NO: B-2

MEETING DATE: October 11, 2010

Staff Report

TO: Mayor and Council
FROM: Robert Schultz, City Attorney

DATE: September 29, 2010

SUBJECT: Adoption of Resolution No. 51-10 Declaring the Existence of Gulls at Bayshore Village Exempt from Morro Bay Municipal Code 7.16.025 and Authorizing the Homeowners Association to Remove Gull Nests from their Property.

RECOMMENDATION:

Review this report and adopt Resolution 51-10 declaring the existence of Gulls at Bayshore Village exempt from Morro Bay Municipal Code 7.16.025 and authorizing the Homeowners Association's request to remove Gull nests from their property.

FISCAL IMPACT:

None

SUMMARY:

On September 25, 2010, my office received a correspondence from Bayshore Village Homeowners Association requesting that the Gulls located within their complex be declared a public nuisance and that an exemption to allow for the removal of Gull nests from their roofs be granted by the City Council pursuant to Morro Bay Municipal Code Section 7.16. Attached hereto as Exhibit A is a copy of the correspondence and related documents from Bayshore Village Homeowners Association.

DISCUSSION:

Morro Bay Municipal Code Section 7.20.020 was amended and incorporated into Section 7.16.025 in 2000 and states as follows:

“No person shall trap, shoot, hunt, molest or kill any wild birds, or tamper, damage or destroy the nests or eggs of any wild birds within the City. Should the City Council determine by resolution that birds protected under this chapter have become so numerous or destructive in any particular location or area as to constitute a menace and danger to the public health, safety or property, the Council may provide for such remedies appropriate under the circumstances.”

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

Bayshore Homeowners Association is requesting that the City Council determine by resolution that Gulls have become so numerous or destructive in their complex as to constitute a menace and danger to the public health, safety or property and allow Bayshore Homeowners Association to remove Gull nests from their roofs.

CONCLUSION:

Staff recommends Council review and adopt Resolution 51-10 declaring the existence of Gulls at Bayshore Village Exempt from Morro Bay Municipal Code 7.16.025 and Authorizing the Homeowners Association to Remove Gull Nests from their Property.

RESOLUTION NO. 51-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DECLARING THE EXISTENCE OF GULLS AT BAYSHORE VILLAGE
EXEMPT FROM MORRO BAY MUNICIPAL CODE 7.16.025 AND
AUTHORIZING THE HOMEOWNERS ASSOCIATION TO
REMOVE GULL NESTS FROM THEIR PROPERTY**

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

WHEREAS, Morro Bay Municipal Code Section 7.16.025 states that it is unlawful to damage or destroy the nests or eggs of any wild birds within the City unless the City Council determines by resolution that the birds protected have become so numerous or destructive as to constitute a menace and danger to the public health, safety or property; and,

WHEREAS, On September 25, 2010, the City received a correspondence from Bayshore Village Homeowners Association requesting that the Gulls located within their complex be declared a public nuisance and requesting an exemption to allow for the removal of Gull nests from their roofs be granted by the City Council pursuant to Morro Bay Municipal Code Section 7.16.025; and,

WHEREAS, on October 11, 2010, the public was given an opportunity to appear and object to the City Council declaring the Gulls within the Bayshore Village a public nuisance and the granting of an exemption pursuant to Morro Bay Municipal Code Section 7.16.025; and,

WHEREAS, after hearing the evidence and testimony, the City Council determined that the presences of Gulls and their nests at the Bayshore Village Homeowners Association property are hazardous, unsafe, unsightly, unsanitary and constitute a nuisance detrimental to the public health, safety and welfare and the property of others.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California hereby grants Bayshore Village Homeowners Association an exemption from Morro Bay Municipal Code Section 7.16.025 and allows them to remove the Gull nests from their roofs for a period of 5 years. This exemption applies only to Morro Bay Municipal Code Section 7.16.025 and does not relieve the Bayshore Village Homeowners Association from complying with all other local, state and federal laws.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the _____ day of _____, 2010 on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

Attest:

BRIDGETT KESSLING, City Clerk



AGENDA NO: B-3

MEETING DATE: 10/11/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 4, 2010

FROM: Rob Livick, PE/PLS –Director of Public Services/City Engineer
Damaris Hanson, CPESC – Engineering Technician

SUBJECT: Approval of Parcel Map MB 10-0069 (781 Market Ave) and acceptance of abandonment of right of way and easements

RECOMMENDATION:

Staff recommends City Council approve the Parcel Map MB 10-0069 with the following easements to be accepted; a 16 foot wide abandoned road from Front Street to Market Street for sewer and water rights and a 5 foot wide easement for foot passage extending from Market Street easterly to the abandoned road from Front Street to Market Avenue. Staff also recommends to City Council to abandon the following portions of right of way; a 10 foot strip along the easterly side of Market Street, a 6 foot strip along the southerly side of Morro Bay Boulevard, and a 8 foot strip along the northerly side of Pacific street by Resolution No. 52-10.

MOTION: I move that the City Council adopt Resolution No. 52-10, approving the Parcel Map MB 10-0069.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND/DISCUSSION:

Approval of a lot line adjustment and a parcel map is a "ministerial act", pursuant to the California Subdivision Map Act (Government Code Section 66474 .1), once the map is found to be in substantial conformance with the approved tentative map. This Parcel Map has met all City regulations and no further discretionary approvals are required. The Parcel Map is coming to City Council for the abandonment of right of way and acceptance of easements mentioned above. The purpose for the above referenced right of way abandonments is to allow the existing building to meet zoning setbacks and to clean up old easements that are no longer needed. The abandonment along Market Avenue includes a reservation for a five foot public pedestrian easement, so that there is no change in public access but allows the existing building to meet zoning setbacks.

CONCLUSION:

Staff recommends the City Council approve Parcel Map MB 10-0069 abandoning portions of right of way and accept the easements as noted on the Parcel Map and discussion above per Resolution No. 52-10.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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RESOLUTION NO. 52-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING THE PARCEL MAP MB 10-0069 AND ACCEPTING THE ABANDONMENT OF RIGHT OF WAY AND EASEMENTS**

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

WHEREAS, on August 25, 2010 the Director of Public Services conditionally approved the lot line adjustment for 781 Market Avenue; and

WHEREAS, the Director of Public Services also made findings required by the California Environmental Quality Act (CEQA) and the City of Morro Bay procedures for implementation of CEQA; and

WHEREAS, the applicant has since satisfied all Conditions of Approval and requests permission to record the Parcel Map; and

WHEREAS, the applicant has offered a reservation for a five foot wide pedestrian access easement and public utility easements; and

WHEREAS, the recordation of the Parcel Map is a ministerial act pursuant to the City of Morro Bay Subdivision Ordinance and California Subdivision Map Act.

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

1. The City Council hereby approves the Parcel Map MB 10-0069 abandoning easements and Right of Way and accepts the associated dedication of a public pedestrian easement.
2. The City Council does hereby authorize the Mayor to sign as owner on behalf of the City of Morro Bay.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of October, 2010 by the following vote:

AYES:

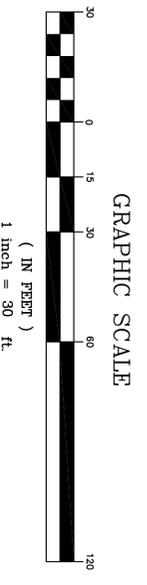
NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

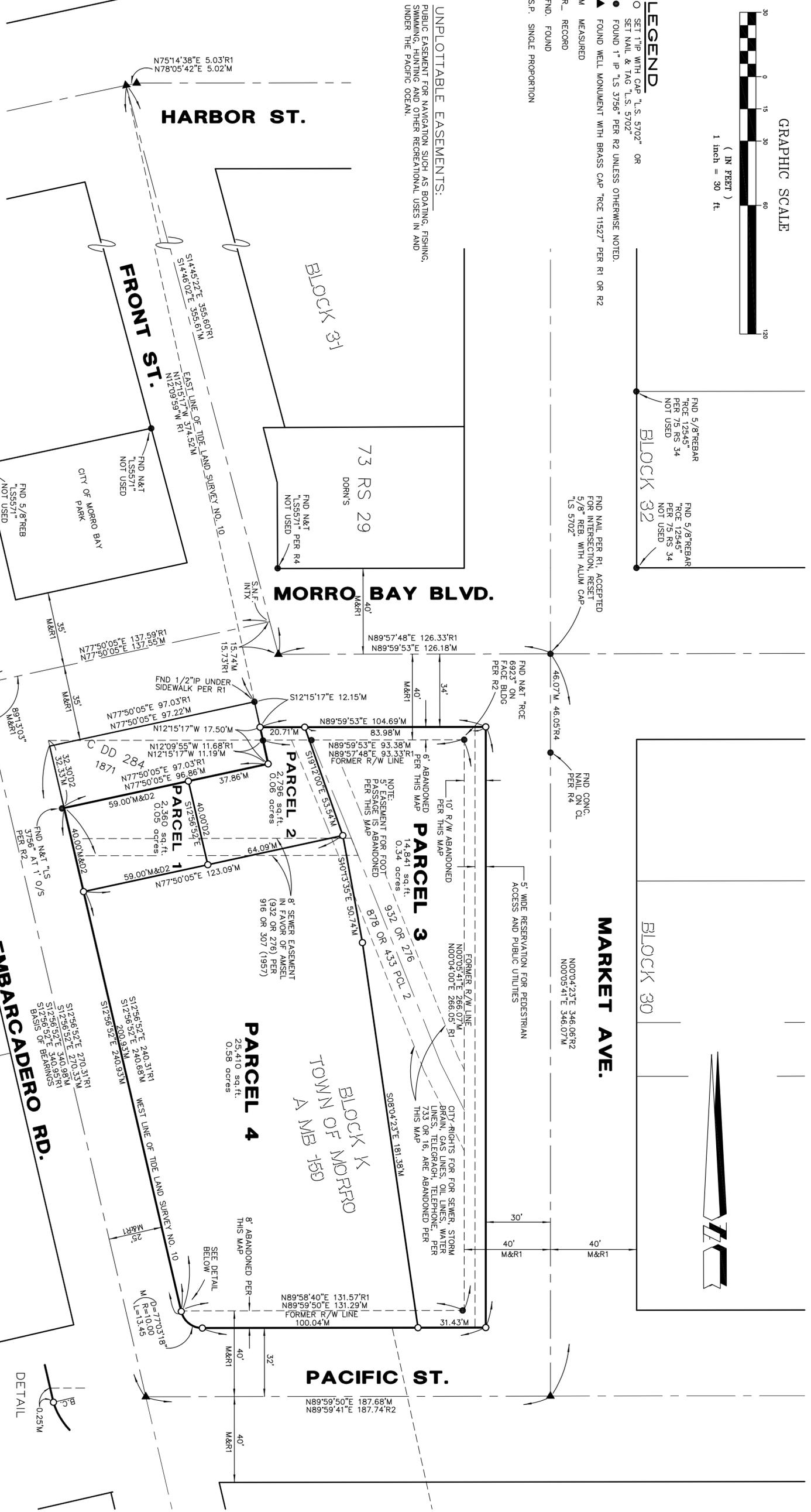
BRIDGETT KESSLING, City Clerk



LEGEND

- SET TYP WITH CAP "L.S. 5702" OR SET NAIL & TAG "L.S. 5702"
- FOUND 1" IP "L.S. 3758" PER R2 UNLESS OTHERWISE NOTED.
- ▲ FOUND WELL MONUMENT WITH BRASS CAP "RCE 11527" PER R1 OR R2
- M MEASURED
- R RECORD
- FND. FOUND
- S.P. SINGLE PROPORTION

UNPLOTTABLE EASEMENTS:
 PUBLIC EASEMENT FOR NAVIGATION SUCH AS BOATING, FISHING, SWIMMING, FISHING AND OTHER RECREATIONAL USES IN AND UNDER THE PACIFIC OCEAN.



REFERENCES

- R1 3 PM 10 SHEET 2/3 (GTA) 1964
- R2 19 RS 36 J.R. ADAMS (GTA) 1972
- R3 20 RS 51 MLENNAN 1973
- R4 76 RS 56 WILSON 1998
- D1 626 OR 129 (1951)
- D2 789 OR 569 (1955)

BASIS OF BEARINGS
 THE BASIS OF BEARINGS FOR THIS SURVEY WAS TAKEN FROM THE CENTERLINE OF THE EMBARCADERO BETWEEN FOUND MONUMENTS AT PACIFIC AND MORRO BAY BLVD. AS SHOWN, BEARING N 12° 56' 52" W PER 3 PM 10.

PARCEL MAP
MB AL 10-0069

A PORTION OF BLOCK K OF THE LANDS OF MORRO AND MCALLISTER IN THE TOWN OF MORRO AS SHOWN ON MAP FILED IN BOOK A OF MAPS AT PAGE 159, IN THE CITY OF MORRO BAY, COUNTY OF SAN LUIS OBISPO, CALIFORNIA

MBS LAND SURVEYS
 MICHAEL B. STANTON, PLS 5702
 2416 MARKET STREET, SUITE A-1
 SAN LUIS OBISPO, CA 93401
 805-594-1960