

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 – NOVEMBER 8, 2010

**CLOSED SESSION – NOVEMBER 8, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

CS-2 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 one (1) parcel.

- Property: Water Rights
Negotiating Parties: Roandoak and City of Morro Bay.
Negotiations: Voluntary termination of Water Service

CS-3 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES. Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

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

**PUBLIC SESSION – NOVEMBER 8, 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 OCTOBER 25, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 AUTHORIZATION TO REPLACE A WATER SYSTEM OPERATOR II WITH A WATER SYSTEM OPERATOR I; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Authorize the hiring of a Water System Operator I for the Water Division and approve the provided job description.

A-3 APPROVAL OF THE SIDE LETTER WITH THE MORRO BAY FIREFIGHTERS, IAFF LOCAL 3725; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt the terms and conditions of the side letter with the Morro Bay Firefighters, IAFF Local 3725.

A-4 RESOLUTION APPROVING ADJUSTMENT TO LEASE SITE MAPS FOR LEASE SITES 113W AND 122W-129W: GREAT AMERICAN FISH COMPANY/VIRG'S LANDING/HARBOR HUT; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 60-10.

A-5 RESOLUTION NO. 59-10 ACCEPTING \$100,000 GRANT FROM THE STATE OF CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM; (POLICE)

RECOMMENDATION: Adopt Resolution No. 59-10.

A-6 ADOPTION OF ORDINANCE NO. 564: REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE CITY OF MORRO BAY MUNICIPAL CODE - BUILDINGS AND CONSTRUCTION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Ordinance No. 564.

A-7 APPROVAL OF SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT REQUEST FOR CITY PUBLIC, EDUCATION AND GOVERNMENT ACCESS FUNDS; (PUBLIC SERVICES)

RECOMMENDATION: Approve the San Luis Coastal Unified School District's request for \$2,000 in Public, Education and Government Access Funds.

A-8 PROCLAMATION DECLARING NOVEMBER 2010 AS "NATIONAL FAMILY CAREGIVERS MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 61-10 AUTHORIZING SUBMISSION OF RURAL TRANSIT FUND GRANT APPLICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 61-10.

B-2 CONSIDERATION OF AWARD OF REQUEST FOR PROPOSALS [NO. MB 10-T1] FOR OPERATION AND MANAGEMENT OF MORRO BAY TRANSIT (MBT) AND TROLLEY SERVICES; (PUBLIC SERVICES)

RECOMMENDATION: Award Request for Proposals No. MB10-T1 to MV Transportation.

B-3 APPROVAL OF AGREEMENT BETWEEN ROANDOAK AND THE CITY OF MORRO BAY FOR THE INSTALLATION OF A WELL SYSTEM AND TERMINATION OF CITY WATER SERVICES; (CITY ATTORNEY)

RECOMMENDATION: Approve the Agreement between Roandoak and the City of Morro Bay for the Installation of a Well System and Termination of City Water Services.

C. UNFINISHED BUSINESS

C-1 REVIEW OF ANNUAL REPORT AND APPROVAL OF THE BUSINESS LICENSE RENEWAL FOR THE “FAMILY FUN ZONE” ARCADE LOCATED AT 725 EMBARCADERO SUITE 105; (POLICE)

RECOMMENDATION: Approve the renewal of the business license for the “Family Fun Zone” Arcade with the existing conditions.

D. NEW BUSINESS

D-1 DISCUSSION OF THE VISITORS CENTER INCLUDING THE 2009/10 FINANCIAL REVIEW, PERCENTAGE OF FUNDING FROM THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) AND REPRESENTATION ON THE BOARD; (ADMINISTRATION)

RECOMMENDATION: Review the staff report and provide further direction on three issues with the Visitors Center: 1) financial review of the 2009/2010 fiscal year; 2) funding of the Visitors Center from the TBID Assessment; and 3) representation on the Chamber Board for Visitors Center oversight.

D-2 CREATION/FUNDING OF A FACILITY REPAIR FUND [FUNDS FROM THE SALE OF 714 MARKET STREET]; (RECREATION & PARKS)

RECOMMENDATION: This item has been pulled from the agenda.

D-3 REQUEST TO ACCESS PARK FEE FUNDS TO UPGRADE CITY PARK IRRIGATION SYSTEMS; (RECREATION & PARKS)

RECOMMENDATION: Review and approve the proposed use of Park Fee Funds allowing Staff to enhance and improve City Park irrigation systems.

D-4 DISCUSSION ON THE STATUS OF THE CURRENTLY ACKNOWLEDGED TREE COMMITTEE AND WHETHER TO MAKE IT OFFICIAL; (COUNCIL)

RECOMMENDATION: Discuss what official role, if any, a tree committee should have.

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.

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – OCTOBER 25, 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 Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Smukler and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to five (5) parcels.

- Property: Market/Pacific
Negotiating Parties: Salwasser and City of Morro Bay
Negotiations: Voluntary Purchase and Sale.
- Property: Moorage for Two Vessels in Harbor
Negotiating Parties: AIS Construction and City of Morro Bay
Negotiations: Six-Month License Terms and Conditions.
- Property: Lease Sites 124-128/124W and 128W and 113W; (1215 Embarcadero)
Negotiating Parties: Sea One Solutions (SOS) LLC and City of Morro Bay
Negotiations: Lease Terms and Conditions.
- Property: Outrigger - Lease Site 87-88/87W-88W; (833 Embarcadero)
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.

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – OCTOBER 25, 2010

CS-2 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.

Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:30 p.m.

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

The meeting adjourned at 5:30 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 25, 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 Kessler	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police 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 discussed real property transactions. The City Council did take action on the Market/Pacific Street property, which is currently in escrow; the City Council amended the escrow instructions to allow for a nine month extension to install the public elevator and also to accept a deed of trust instead of a bond or line of credit to perform the elevator installation. Mr. Schultz listed the remaining property transactions discussed by Council; however, no reportable action under the Brown Act was taken. He also noted the Personnel issue was not discussed and will be continued to the next City Council meeting on November 8, 2010.

PUBLIC COMMENT

Carrie Burton thanked those who contributed to the Del Mar Elementary School Jog-a-Thon and making it a successful event to raise funds for the school's field trips, school supplies, text books and technology.

Haley Rivalry thanked everyone for their support towards Del Mar Elementary School.

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Madurai, Morro Bay High School City Council representative, gave an update on high school events.

Liz Bednorz, Beach House Bistro and Laura from Harbor Floral Studio announced a Halloween Open House will be held in North Morro Bay by the North Morro Bay Business Co-op.

Alex Eberline expressed concern with the local economy and lack of entertainment for young people and would like to promote a free local music festival. He suggested Del Mar Park as a location for this festival, and requested assistance in sponsorship for this event.

The following people expressed support for Item A-7 (Resolution in Support of Proposition 21 - The State Parks and Wildlife Conservation Trust Fund Act of 2010): Louise Abbott, Norma Whiteman, Linda Winters, Mary Golden and June Krystoff-Jones.

Joan Solu representing the Tourism Business Improvement District shared the new visitor guides, which have been received very well by tourists. She also reviewed the Savor the Central Coast event as well as the Travel Writer tours that brought writers to Morro Bay.

Nancy Castle requested Council support by approving Item D-2 (Review and Approval of the Video Production Services & Local Government Channel Insertion Point Management Agreement With AGP Video, Inc.). She also announced the Historical Society will be meeting on November 7th with Botso Korisheli being the guest speaker.

Keith Taylor thanked Mayor Peters, Councilmember Grantham and Councilmember Winholtz for their support in the building of the new fire station and their assistance with Measure Q.

John Barta addressed the Wastewater Treatment Plant upgrade and reviewed points of interest with the PERC Corporation proposal.

Nancy Johnson stated she was pleased to be part of the planting of the City trees last weekend which was a great event.

Robin Cole expressed concern with the removal of a Monterey Cypress tree adjacent to her house on Juniper Street which PG&E has posted a notice that they are going to destroy.

Bill Yates announced his candidacy for Mayor in the upcoming election, and asked everyone to vote on November 2nd.

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Dorothy Cutter expressed her support for Betty Winholtz who is running for Mayor in the upcoming election.

Anne Reeves expressed her displeasure with the “*Seagull Sentinel*” campaign literature that was mailed out to local residents.

David Nelson expressed concern with the removal of the Monterey Cypress tree on Juniper Street that is going to be removed by PG&E. He referred to the Wastewater Treatment Plant noting it is old technology, and there are alternatives available that the City should be considering.

Garry Johnson stated there will be a book signing of the *Then and Now* book by authors Roger Castle and Gary Ream on November 7th. He said he was a leader for the Photo Expo and lead classes through the State Park which was beautiful and is why Proposition 21 is important to the Central Coast.

Natalia Merzoyan stated she would also like to save the Monterey Cypress tree on Juniper Street. She expressed her support for Betty Winholtz who is running for Mayor in the upcoming election, and her disappointment in the negative campaigning that has been going on during this election.

Nancy Bast expressed her displeasure with the “*Seagull Sentinel*” campaign literature that was mailed out to local residents.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:30 p.m.; the meeting resumed at 7:40 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 OCTOBER 11, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 25, 2010

A-2 APPROVAL OF A SIX-MONTH LICENSE AGREEMENT TO ALLOW MOORAGE FOR TWO VESSELS OWNED BY AIS CONSTRUCTION; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 54-10.

A-3 RESOLUTION TO APPROVE AMENDMENT #5 TO THE LEASE AGREEMENT FOR LEASE SITE 87-88/87W-88W LOCATED AT 833 EMBARCADERO-OUTRIGGER RESTAURANT; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 55-10.

A-4 APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SEA ONE SOLUTIONS (SOS) LLC, FOR LEASE SITES 124-128/124W AND 128W AND 113W LOCATED AT 1215 EMBARCADERO; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 56-10.

A-5 APPROVAL OF RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO VESSEL TURN-IN PROGRAM (VTIP) CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 57-10.

A-6 STATUS REPORT ON WATER USAGE FOR SEPTEMBER 2010; (PUBLIC SERVICES)

RECOMMENDATION: Receive report for information.

A-7 RESOLUTION IN SUPPORT OF PROPOSITION 21 - THE STATE PARKS AND WILDLIFE CONSERVATION TRUST FUND ACT OF 2010; (CITY COUNCIL)

RECOMMENDATION: Adopt Resolution No. 53-10.

Councilmember Smukler pulled Item A-2 from the Consent Calendar; Councilmember Winholtz pulled Item A-6 and Mayor Peters pulled Item A-7.

MOTION: Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-2, A-6 and A-7. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 25, 2010

A-2 APPROVAL OF A SIX-MONTH LICENSE AGREEMENT TO ALLOW
MOORAGE FOR TWO VESSELS OWNED BY AIS CONSTRUCTION;
(HARBOR)

Councilmember Smukler verified that AIS Construction would be good neighbors to the existing boats and slips in the area where its boats are being moored, and the City would be the lead agency to receive concerns or complaints regarding their vessels during their stay in the harbor. He also responded to concerns regarding view shed noting their utility vessel will be housed closer to the Harbor Department office pier which is a more utilitarian use of the Embarcadero. Councilmember Smukler referred to the inspection of their seaworthiness stating they require a full inspection by their insurance company.

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

A-6 STATUS REPORT ON WATER USAGE FOR SEPTEMBER 2010; (PUBLIC
SERVICES)

Councilmember Winholtz referred to Future Water Usage, and the appeal to the State for an exception to the City pumping in the Chorro Valley should the City need water during the month of November when the water system will not be able to rely on the State Water Project deliveries. She said to be consistent she would like to express her desire to talk to the California Men's Colony about receiving water from them instead.

Councilmember Smukler stated since the City is entering the State Water shutdown period, to encourage water savings during this period of time.

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

A-7 RESOLUTION IN SUPPORT OF PROPOSITION 21 - THE STATE PARKS AND
WILDLIFE CONSERVATION TRUST FUND ACT OF 2010; (CITY COUNCIL)

Councilmember Smukler expressed support for Proposition 21 - The State Parks and Wildlife Conservation Trust Fund Act of 2010.

Mayor Peters and Councilmember Borchard stated they will vote in favor; however, they both expressed it was unfair to impose this fee on voters due to the bad economic times.

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MOTION: Councilmember Smukler moved the City Council approve Item A-7 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 564: REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE CITY OF MORRO BAY MUNICIPAL CODE - BUILDINGS AND CONSTRUCTION; (PUBLIC SERVICES)

Public Services Director Rob Livick stated in addition to adopting by reference the 2010 California Building Standards Code, this update reorganizes Title 14 and removes sections of the existing ordinance that are dated or otherwise superseded by other state laws or regulations. The local amendments of the existing ordinance are codified as modifications to the California Building Standards Code where required by state law. Division II of Chapter 1 of the California Building Code is adopted and amended as the administrative provisions of Title 14. The ordinance adopts the new state Residential and Green Building Codes. Mr. Livick recommended the City Council introduce for first reading and introduction by number and title only, Ordinance No. 564; repealing, amending, and reenacting Title 14 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2010 California Building Standards Code, as adopted by the State of California and the local modifications thereto.

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

Councilmember Winholtz suggested an amendment to Section 113.4 (Board of Appeals-Appointment) noting she would like the selection of this Board to follow the same format as the other appointed City boards and committees.

Mr. Livick requested Council include the addition of words “combustible materials” to Section 3.08.1.1.1 in the amendment; Council concurred.

MOTION: Councilmember Winholtz moved the City Council approve Ordinance No. 564 for introduction and first reading, as amended by Council. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 564 by number and title only.

C. UNFINISHED BUSINESS – NONE.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 25, 2010

D. NEW BUSINESS

D-1 RESOLUTION DETERMINING ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL PERMIT FOR A WINE TASTING ROOM LOCATED AT 1099 EMBARCADERO; (CITY ATTORNEY)

City Attorney Robert Schultz stated Giovanni Michael DeGarimore applied for a permit from the Department of Alcoholic Beverage Control to operate a Wine Tasting Room at 1099 Embarcadero. The Department of Alcoholic Beverage Control (ABC) automatically denies permits to sell alcoholic beverages if there is an “undue concentration” of licenses in the census tract (Business and Professions Code Section 23958). In order for the ABC to issue the license, they require the local governing body to determine that the “public convenience and necessity” would be served by issuance of the license. The ABC requires the governing board/council to pass a resolution or a signed letter on official letterhead stating whether or not the issuance of the applied license would serve as a public convenience or necessity. The Police Department has reviewed this application and has no significant concerns at this time in regard to a wine tasting room at this location. Furthermore, the approval of Resolution 58-10 will support the City Council’s goals and priorities to develop ways to attract businesses to Morro Bay. Mr. Schultz recommended the City Council adopt Resolution 58-10 determining that issuance of an ABC permit for a wine tasting room located at 1099 Embarcadero would serve as a public convenience or necessity.

MOTION: Councilmember Borchard moved the City Council adopt Resolution 58-10 determining that issuance of an ABC permit for a wine tasting room located at 1099 Embarcadero would serve as a public convenience or necessity. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

D-2 REVIEW AND APPROVAL OF THE VIDEO PRODUCTION SERVICES & LOCAL GOVERNMENT CHANNEL INSERTION POINT MANAGEMENT AGREEMENT WITH APG VIDEO, INC.; (ADMINISTRATION)

City Manager Andrea Lueker stated the Video Production Services and Local Government Channel Insertion Point Management Agreement have been on a month to month extension for some time. Staff and AGP Video have successfully completed negotiations and agreed upon an agreement which outlines services and funding. The 2010/11 Fiscal Year budget was adopted with the allocation of \$60,000 of funding for AGP Video, Inc. for the televising of City Brown Act meetings. Ms. Lueker recommended the City Council approve the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc.

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MOTION: Mayor Peters moved the City Council approve the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-3 APPROVAL TO SEND LETTER TO THE SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS RECOMMENDING THE BOARD SELECT MARY ANN REISS AS THE CITY COUNCIL MEMBER NOMINEE FOR APPOINTMENT TO THE CALIFORNIA COASTAL COMMISSION; (CITY COUNCIL)

Mayor Peters stated Supervisor Katcho Achadjian has served as the Central Coast representative on the California Coastal Commission for several years, and Pismo Beach Mayor Mary Ann Reiss has been serving as his alternate. After the November election, Katcho will no longer be eligible to hold this position and Mayor Reiss is requesting support for appointment to succeed him. Mayor Reiss has participated in several CCC meetings as the alternate, and has often appeared before the CCC on behalf of Pismo Beach issues. Her long time experience in Pismo Beach city government and with coastal issues makes her an ideal candidate to represent the Central Coast. Mayor Peters requested the City Council approve sending a letter to the San Luis Obispo County Board of Supervisors recommending the Board Select Mary Ann Reiss as the City Council Member nominee for appointment to the California Coastal Commission.

The City Council requested one amendment to the first sentence of the letter stating – “The City of Morro Bay ~~has appreciated~~ acknowledges the service of Supervisor Katcho Achadjian...”

MOTION: Mayor Peters moved the City Council approve sending the letter as amended to the San Luis Obispo County Board of Supervisors recommending the Board Select Mary Ann Reiss as the City Council Member nominee for appointment to the California Coastal Commission. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-4 DISCUSSION OF WHETHER TO HOLD A JOINT PLANNING COMMISSION/CITY COUNCIL MEETING ON NOVEMBER 15, 2010 AND IF A MEETING IS TO BE HELD, TOPICS TO BE DISCUSSED; (PUBLIC SERVICES)

Public Services Director Rob Livick stated Morro Bay Municipal Code Section 2.28.120 states the Planning Commission will meet twice annually with the City Council to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The scheduled meeting date (November 15, 2010) for the joint meeting occurs after the City’s election of a new Mayor and City

MINUTES - MORRO BAY CITY COUNCIL
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Councilpersons. This election will result in a change in the make-up of the City Council and the potential change to the Planning Commission. Mr. Livick recommended the City Council provide direction to staff on whether to hold the joint City Council/Planning Commission meeting on November 15, 2010. If the meeting is to be held, staff recommends the City Council consider and discuss potential discussion topics for the November 15, 2010 joint City Council/Planning Commission meeting; including a review of the Planning Commission's recommendations for meeting topics that were acted on at their October 18, 2010 meeting.

Mayor Peters stated she feels the Council should wait until after the election to hold this joint meeting so that the newly-elected City Council could meet with perhaps newly-appointed Planning Commissioners to discuss goal setting for the City.

Councilmember Winholtz stated she feels the Council should uphold the municipal code which states the City Council shall meet with the Planning Commission twice a year. She said it is a valuable meeting for the public and public officials, and another meeting will be held at the beginning of next year again as well.

Councilmember Grantham stated the joint meetings between the City Council and Planning Commission should be scheduled in January/February and August/September of each year.

Councilmember Smukler stated he would like to hold the joint meeting previously scheduled to discuss the important issues brought forward by the Planning Commission.

Councilmember Borchard stated she supports deferring the meeting due to the change in the City Council and perhaps the Planning Commission. She said she agrees that future joint meetings should be scheduled in January/February and August/September.

Councilmember Winholtz stated she will rebut in that the top body of the City is going to violate the code just for convenience when we expect other people and ourselves to abide by the municipal code in responding to all the laws that we have.

MOTION: Mayor Peters moved the City Council postpone the joint City Council/Planning Commission meeting scheduled on November 15, 2010, and defer the joint meeting to when the new officers are in place. The motion was seconded by Councilmember Grantham and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

MINUTES - MORRO BAY CITY COUNCIL
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E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendaize a discussion on the role of the Tree Committee; there was no consensus of Council.

ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Recorded by:

Bridgett Kessling
City Clerk



AGENDA NO: A-2

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 2, 2010
FROM: Dylan Wade, Utilities/Capital Projects Manager
SUBJECT: Authorization to Replace a Water System Operator II with a Water System Operator I

RECOMMENDATION:

Authorize the replacement of a Water Systems Operator II with a Water System Operator I for the Water Division and approval of the Water System Operator I job description.

MOTION: I move that the City Council Authorize the hiring of a Water System Operator I for the Water Division and approve the provided job description.

FISCAL IMPACT:

Ranging between neutral to negative, recruiting at the entry level position will produce a small salary savings which will be offset by the training process. If we can retain the trained staff then this will likely be an expense neutral activity. If we cannot retain trained staff then this will lead to higher expenses for the Division.

BACKGROUND AND DISCUSSION:

This position is required to fill a vacancy in the Division left by staff leaving for better opportunities in another organization. Staff is recommending replacing the journeyman level position which is being left vacant (Water System Operator II) with the entry level position (Water System Operator I).

There are two primary reasons for switching from the journeyman level to the entry level position:

The first reason is that based on recent recruitment efforts in both the Water and Waste Water Collections Divisions Morro Bay is unable to attract sufficient quantities of qualified candidates. In the recently filled Waste Water Collections System Operator II recruitment there was only one qualified applicant. The recruitment for the Waste Water Collections System Operator III position, which is currently in process, only two qualified candidates have applied, and one of those applicants is an internal candidate. Reducing the qualification requirements to the entry level position will increase the candidate pool from

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

which to hire.

The second reason to hire at the entry level position is that the Division has sufficient expertise on staff to provide the training function. By training the entry level candidate, the thought process is that the city might be able to retain staff for a longer period of time. Since the entry level position will have more opportunity for advancement than in hiring the journey level position where advancement opportunity is limited.

CONCLUSION:

Staff recommends that the Council authorize the replacement of a Water Systems Operator II with a Water System Operator I for the Water Division. Staff also requests that Council approve the attached Water System Operator I job description.

Attachments:

A- Water System Operator I job description.

CITY OF MORRO BAY WATER SYSTEM OPERATOR I

DEFINITION

Under general supervision is trained to perform a variety of semi-skilled and skilled tasks in the construction, repair, installation, and maintenance of water treatment and distribution works; maintain and repair buildings, facilities, and equipment; and to do related work as required.

DISTINGUISHING CHARACTERISTICS

This is the apprentice level class in this series. Incumbents perform a variety of semi-skilled tasks as a member of a water crew. An incumbent operates power driven equipment regularly but not as a major assignment. Positions allocated to this class are assigned difficult work involving responsibility but will be assisted and trained by more experienced personnel. This employee will be expected to acquire the D2 and T1 license issued by the State of California within one year of appointment.

ESSENTIAL DUTIES & RESPONSIBILITIES

1. Reads water meters, recording readings.
2. Excavates and exposes water lines and mains.
3. Cuts and replaces broken water lines
4. Repairs leaks in water mains and water service lines and replaces broken lines with proper sized pipe.
5. Measures, cuts and threads pipe.
6. Taps into water main lines to install new service lines.
7. Uses premix asphalt to repair streets and gutters following water and sewer line repair.
8. Removes and replaces road material, such as asphalt.
9. Turns water service on or off.
10. Installs, removes, replaces and repairs water meters.
11. Operates loader, tractor, or backhoe to excavate or backfill trenches or to remove dirt and debris.
12. Checks and maintains fire hydrants.
13. Patrols for drainage problems and cleans clogged storm drain basins.
14. Cleans and maintains equipment used in the course of work.
15. Assists in the operation and maintenance of water treatment and water distribution facilities.
17. Participates in repairs, construction, and routine preventative maintenance work related to system lines, pumps, equipment, and computerized telemetry system.
18. Utilizes a variety of computerized programs in the maintenance, monitoring, and analysis of the system; records preventative maintenance, trouble areas, and history.
19. Keeps records and prepares reports.
20. Performs related duties as required.

QUALIFICATIONS

Knowledge of:

Construction and maintenance material, procedures, and equipment with particular reference to water operations; methods, tools, techniques and supplies used in water work; and, safe work practices will all be helpful but are not required.

Ability to:

Perform semi-skilled maintenance tasks in the construction, maintenance and repair of public works; operate trucks and moderately heavy power driven equipment when assigned; perform heavy manual labor; perform mathematical and chemical computations associated with water systems; read and write at the level required for successful job performance. Use hand and small power tools; work without close supervision; understand, communicate, and follow oral and written instructions; establish and maintain effective work relationships with employees and public; be on standby duty once licenses are obtained and competencies are achieved; and, live within a 20 minute response time.

Education and Experience:

High school diploma or equivalent.

One year of experience performing duties similar to that of a Maintenance Worker in a municipal water department.

Must possess and maintain a valid D-2 Water Distribution Operator Certification issued by the State of California and a Grade I Water Treatment Certificate issued by the State of California within one year of appointment.

Residency permitting a 20 minute response time to callbacks.

Possession of a Class B or above California Driver's License with required endorsements or the ability to obtain within 6 months of appointment.

TOOLS & EQUIPMENT USED

Motorized vehicles and equipment, including backhoes, excavators, dump truck, pickup truck, utility truck, street sweeper, street roller, manlift, tamper, plate compactor, saws, pumps, compressors, sanders, generators, common hand and power tools, shovels, wrenches, leak and chemical detection devices, variety of lab equipment, personal computer including word processing and other software; copy and fax machine, mobile radio, telephone.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to use hands to finger, handle, feel or operate objects, tools, or controls and reach with hands and arms. The employee frequently is required to stand and talk or hear. The employee is occasionally required to walk; sit; climb or balance; stoop, kneel, crouch, or crawl; and smell.

The employee must frequently lift and/or move up to 25 pounds and occasionally lift and/or move up to 100 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee regularly works in outside weather conditions. The employee frequently works near moving mechanical parts and is frequently exposed to wet and/or humid conditions and vibration. The employee occasionally works in confined, high, or precarious places and is occasionally exposed to fumes or airborne particles, toxic or caustic chemicals, and risk of electrical shock.

The noise level in the work environment is usually loud.

SELECTION GUIDELINES

Formal application, rating of education and experience, oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approved by the Morro Bay City Council on November 8, 2010.



AGENDA NO: A-3

MEETING DATE: 11/8/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 26, 2010
FROM: Susan Slayton, Administrative Services Director
SUBJECT: Approval of the Side Letter with the Morro Bay Firefighters, IAFF Local 3725

RECOMMENDATION:

Per the terms and conditions of the negotiated for, and approved, side letter with the Morro Bay Firefighters, IAFF Local 3725, approve as presented.

MOTION: I move that the City Council adopt the terms and conditions of the attached side letter with the Morro Bay Firefighters, IAFF Local 3725.

FISCAL IMPACT:

While there won't be a negligible fiscal impact at the outset, by virtue of the change of retirement formula from 3% at 50 to 3% at 55 for our Fire Safety Unit, the City will see substantial savings as we hire new employees to replace our existing employees who either retire or move on to other agencies.

DISCUSSION:

The City has been in negotiations with the Morro Bay Firefighters Association for over a year. The crux of the negotiation process centered on the Reserve Firefighter/Seasonal Firefighter staffing levels. The City was presented a signed side letter from the Morro Bay Firefighters, which is attached. Highlights of the letter include:

- staffing requirements for Limited Term Reserve Firefighters (part-time hourly employees)
- effective July 1, 2011, the City will provide 3-person full-time minimum staffing
- effective immediately, all newly-hired employees in the regular, full-time classification shall be covered by the CalPERS 3% @ 55 retirement formula with final compensation based on the average of the highest paid 36 consecutive months.

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City Manager Review: _____

City Attorney Review: _____

CONCLUSION:

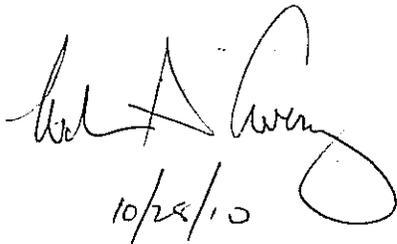
The negotiation of the revised retirement formula, along with the potential savings it will provide, is a milestone for the City of Morro Bay. We are the first City in the County to adopt a two-tiered retirement formula, which is to be commended. Both the City's as well as the Fire's negotiation teams should be applauded in their efforts. The next step will be to contact CalPERS, and begin the contract amendment process, which should be completed by the end of the calendar year. Given this, staff recommends approval of the attached side letter in its entirety.

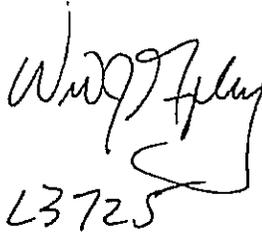
SIDE LETTER OF AGREEMENT
BETWEEN
THE CITY OF MORRO BAY
AND
THE MORRO BAY FIREFIGHTERS, IAFF LOCAL 3725
October 20, 2010

The City of Morro Bay and the Morro Bay Firefighters agree that effective October 12, 2010:

- 1) **Limited term reserve firefighter assignment** – The City will create a new limited term reserve firefighter assignment. The Morro Bay Firefighters Association does not represent this assignment.
- 2) **Work period** – Two individuals from the reserve firefighter classification will be assigned into a limited term following a departmental selection process. Individuals in this position will be assigned to one of the three shifts for no more than 6 months in any 12-month period. The work schedule for each position will normally follow the same 56-hour per week schedule as the shift to which he/she is assigned.
 - a. Limited term assignments may begin simultaneously or on staggered dates based on the needs of the department.
 - b. At the discretion of the Fire Chief, within their 6-month schedule, limited term reserves may be scheduled to accommodate the most efficient coverage of shifts.
 - c. Any shifts remaining uncovered by limited term reserve firefighter(s) may be staffed by reserve firefighters, up to 190 shifts per fiscal year.
- 3) **Qualifications** – Beginning July 1, 2011 reserve firefighters qualified for limited term assignments must have completed a firefighter 1 academy and be eligible for EMT accreditation in SLO County upon appointment.
- 4) **Retirement and leave credit** – Limited term reserve firefighters shall receive a 4% PARS contribution from the City. They shall also be credited the amount of 5 hours leave time per 120 hours of 24-hour shift work. This time may be used for vacation or sick leave, subject to normal Department time off approval process.
- 5) **Salary** – Limited term reserve firefighters shall be paid at the rate from \$10 to \$13 per hour based on a 56-hour workweek. Hours in excess of 53 hours per week will be paid at the time and one-half overtime rate.
- 6) **Part-time staffing limitations** – The City agrees to cap the total number of part-time, unrepresented firefighters to one per scheduled 24-hour shift.

- a. Exception: In an emergency and for mutual aid response coverage the City may have more than one reserve firefighter working 24-hour shifts provided the city is meeting its minimum staffing requirement.
- 7) **Staffing goal** – The 2004 Morro Bay Fire Department 5-Year Strategic Plan recommended that the City of Morro Bay provide 4-person daily staffing in the Fire Department.
- a. The City and MBFFA agree that 4-person full-time minimum staffing will be provided in the MOU when a second fire station or second company is staffed and operational. The 4-person minimum refers to the total on-duty staffing of full-time firefighters in the City of Morro Bay.
- b. The City currently staffs a single, two-piece suppression company consisting of an engine and a rescue. This response configuration is not affected by item 7a.
- 8) **Entire agreement** – This side letter encompasses the entire agreement relating to work schedule, compensation, and benefits for the limited term reserve firefighter assignment. No other sections of the MOU between the City and the MBFFA shall apply to nor be affected by the limited term reserve firefighter.
- 9) **3-person minimum staffing** – Effective July 1, 2011 the city will provide 3-person full-time minimum staffing in the MOU.
- a. Exception: For brief transitional periods lasting 8 hours or less, minimum staffing may be allowed to drop to a minimum of two with chief's approval.
- 10) **3% at 55** – Effective immediately, all newly hired employees in the regular full time classifications listed in Article 3.1 of the MOU between the City of Morro Bay and the Morro Bay Firefighters shall be covered by the 3% @ 55 retirement formula with final compensation based on the average of the highest paid 36 consecutive months.
- 11) **Workforce reductions** – For purposes of workforce reductions as outlined by the City's personnel rules and regulations, shifts worked by part-time unrepresented employees will be eliminated prior to a reduction in full-time MOU represented personnel.


10/28/10


L3725



AGENDA NO: A-4

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 1, 2010
FROM: Rob Livick, PE/PLS –Director of Public Services/City Engineer
SUBJECT: Resolution Approving Adjustment to Lease Site Maps for Lease Sites 113W and 122W-129W; (Great American Fish Company/Virg’s Landing/Harbor Hut)

RECOMMENDATION:

Staff recommends City Council approve the adjustment to Lease Sites 113W and 122W through 129W by Resolution No. 60-10.

MOTION: I move that the City Council adopt Resolution No. 60-10, approving the adjustment to Lease Sites 113W and 122W through 129W.

FISCAL IMPACT:

The adjustment will cause an increase in the leasable area and could result in an increase of lease payments to the City’s Harbor fund.

BACKGROUND/DISCUSSION:

On December 9, 1974 the City Council adopted Resolution 77-74 approving the “Lease Site Maps’ as the official reference document for the lease sites. These maps include all those tide and submerged areas held in trust by the City of Morro Bay for the State of California. These maps have been adjusted from time to time based upon direction from City Council to accommodate new and modified lease sites.

Approval of UPO-058 by City Council on May 12, 2008 required certain waterside improvements such as installation of floating docks, removal of the platform and gangway proposed off the South T-Pier and install a ladder, extend the floating dock towards the South T-Pier approximately 43-feet, and shortening the western most finger style dock by at least 15-feet to increase navigation to the North T-Pier for the Great American Fish Company, Virg’s Landing and the Harbor Hut proposed redevelopment project located at 1185 to 1215 Embarcadero Road. This proposed adjustment to the lease lines facilitates the development as approved by UPO-058.

CONCLUSION:

Staff recommends the City Council approve the adjustment to Lease Sites 113W and 122W through 129W by adopting Resolution No. 60-10 to facilitate the installation of the waterside improvements required by UPO-058.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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RESOLUTION NO. 60-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING ADJUSTMENTS TO LEASE
LITE MAPS, LEASE SITES 113W AND 122W THROUGH 129W**

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

WHEREAS, on December 9, 1974, the City Council approved the “Lease Site Maps” dated November 1974; and

WHEREAS, the “Lease Site Maps” have been revised at various times by the City Council of Morro Bay to reflect new lease sites and adjustments in lease site boundaries; and

WHEREAS, City desires to adjust the boundaries to accommodate new uses by existing and future leases; and

WHEREAS, the said map clearly identifies each lease site and its boundaries for easy reference and access.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California does hereby adjust the boundaries of lease sites: 113W and 122W through 129W, and hereby designates the attached “Exhibit A-Revision to Lease Site Maps” as the official reference document for said lease sites.

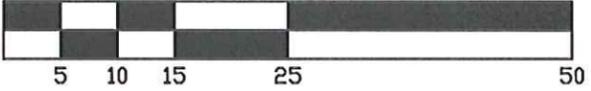
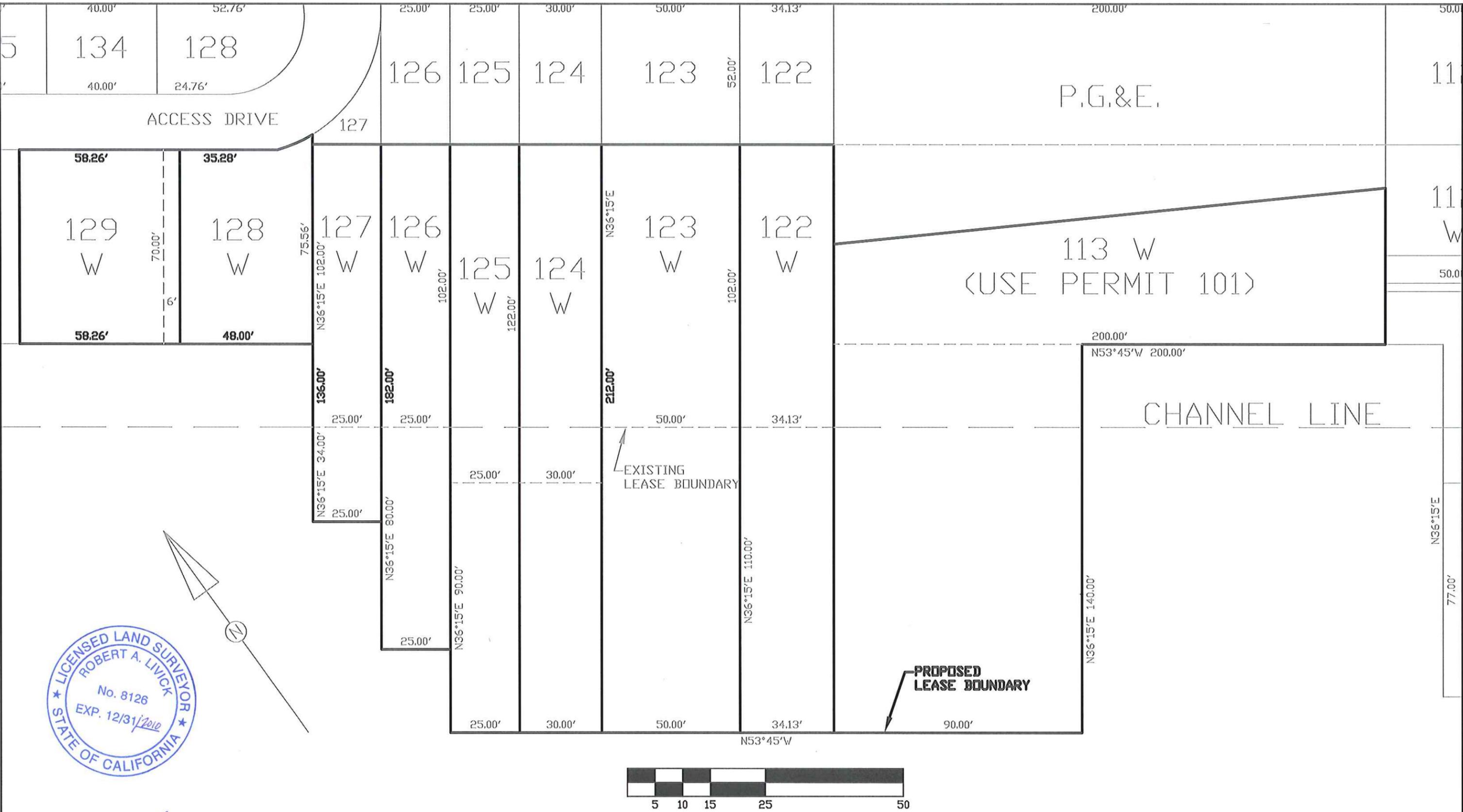
PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of November, 2010 by the following vote:

AYES:
NOES:
ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



APPROVED: Rob Livick DATE: 11/1/2010
 Rob Livick, Director/ City Engineer

DRAWN BY: RZ DATE: JULY 2010

REVISED: OCTOBER 2010



SCALE IN FEET
Approximate Scale

EXHIBIT A
 REVISION TO LEASE SITES MAPS
 LEASE SITES 113 W AND 122 W THRU 129 W



AGENDA NO: A-5

Meeting Date: 11/08/10

Staff Report

TO: Honorable Mayor and City Council DATE: October 25, 2010

FROM: Tim Olivas, Police Chief

SUBJECT: Approval of Resolution 59-10 Accepting \$100,000 Grant from the State of California Citizens Option for Public Safety (COPS) Program

RECOMMENDATION:

The Police Chief recommends that Council hold a public hearing and adopt the attached resolution authorizing the proposed spending plan for the \$100,000 that will be received from the Citizens Option for Public Safety (COPS) grant program that complies with the requirements of Government codes 30061, 30062, 30063 and 30064.

MOTION: I move that the City Council approve Resolution No. 59-10 authorizing the proposed spending plan for the Citizens Option for Public Safety (COPS) grant program.

FISCAL IMPACT:

COPS grant funds are established pursuant to Government Code Section 30061. In the past, each law enforcement agency was guaranteed a minimum of \$100,000 per fiscal year. Once again this year the grant funds are tied to the State Vehicle License Fees (VLF) and will be adjusted according to revenue to that fund. The funds are being distributed quarterly instead of one lump sum. The first quarterly installment of \$25,000 has already been sent to the County for distribution. There is a sunset clause this year that applies to the grant funds being tied to the VLF. If the sunset clause is not lifted and goes into effect this may be the last year law enforcement agencies receive funding through the COPS grant fund. If this happens, the Police Department will have to pursue other options to fund equipment replacements and personnel costs for the Property Evidence Technician. Our spending plan will remain flexible to reprioritize needs as the year progresses. Funds are distributed to local agencies through the County Supplemental Law Enforcement Oversight Committee.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Page 1 of 4

The funds must be maintained in a separate, interest bearing account (outside the general fund) to insure the funds (including interest) supplement and do not supplant existing Police Department or City budgets. There are no local matching funds required for the expenditure of these funds.

SUMMARY:

Since 1996, the Citizen’s Option for Public Safety (COPS) established by AB 1913 and codified as Government Code Section 30061, has been distributing State grant funds to local law enforcement agencies to supplement “front line law enforcement services.” These funds are also known as Supplemental Law Enforcement Services Funding (SLESF). The legislation requires a report in September to the City Council on how the funds are proposed for use by the Police Department and annual reporting to the County Oversight Committee on the proposed use and actual expenditures of COPS funds. This report requirement was delayed this year due to the delay in the State budget adoption. Since the recent passage of the State budget, law enforcement agencies are now preparing the required resolutions.

The State Legislature has indicated that local law enforcement agencies are scheduled to receive a minimum of \$100,000 in COPS grant funds. These funds will be tracked separately by the Finance Department in a separate account with any interest earned credited to the account. To comply with the COPS program, each City Council is requested to act upon the written request from the Police Chief. This report is presented to Council in compliance with annual hearing/reporting requirements and to adopt the proposed expenditure plan by the Police Department.

DISCUSSION:

The City Council is required to hold a public hearing and consider whether the recommendation submitted by the Police Chief complies with the requirements of the Government Code. Once adopted, the recommendation is then forwarded to the County Oversight Committee who then distributes the COPS funds to the local jurisdictions. The funds can then be expended and/or encumbered by the police department.

Annual reports are submitted by the local agencies to the County Oversight Committee to insure that the funds are being properly expended. The Morro Bay Police Department has been complying with all requirements required under the legislation.

COPS funds in past years have been mostly used for a myriad of equipment replacements and upgrades since the Police Department equipment depreciation plan has not been funded. The proposed spending of this year’s COPS funds is outlined below. It should be noted that the amounts are approximations and will fluctuate depending on actual costs and increases. It is also recommended that the Police Chief be given discretion to use these funds during the grant period for other purposes authorized by the grant in the event of a change in department priorities. Staff plans to spread out the equipment purchases and adjust

accordingly to the quarterly revenue received.

It is recommended that the funds be allocated as follows:

Approximately \$19,000 of the grant will be spent to fund our part time Property Evidence Technician. Funding for this position and the Crime Prevention Coordinator position was cut from the general fund for this fiscal year. The Property Evidence Technician is of critical importance to our day to day operations at the Police Department. To maintain this crucial position we are requesting it be funded through the COPS Grant this year. The remaining funds will be expended on patrol equipment, training equipment and evidence storage to include; Restructure existing wall and install new property evidence lockers; Upgrade Mobile Data Computers (MDC) in the patrol units; Restructure and install armory lockers for firearms storage; GPS Units for unmarked vehicles, Office furniture replacements (chairs, etc.); and other miscellaneous tools and equipment.

It should be noted that staff will prioritize the purchases, spread them out on a quarterly basis, and adjust accordingly to the actual funds received.

CONCLUSION:

It is appropriate to use these grant funds for the Property Evidence Technician position and equipment as it enhances front line law enforcement.

ATTACHMENTS:

1. Resolution

RESOLUTION NO. 59-10

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA ACCEPTING \$100,000 GRANT FROM THE STATE OF
CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM**

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

WHEREAS, Government Code Sections 30061 through 30064 is providing supplemental funds for front line municipal police services after the City adopted its 2010-2011 budget; and

WHEREAS, it is proposed that the Police Chief be given discretion to use these funds during the grant period for other purposes authorized by the grant in the event of a change in department staffing and priorities or actual grant funds received; and

WHEREAS, the required public hearing has been held.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the expenditure of those funds is hereby authorized in accordance with the Government Code as recommended by the Police Chief.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting thereof held on the 8th day of November 2010, on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-6

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 1, 2010
FROM: Rob Livick, PE/PLS, Public Services Director/ City Engineer
Mike Pond, Fire Chief
Brian Cowen, Building Inspector
SUBJECT: ADOPTION OF ORDINANCE NO. 564; REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE CITY OF MORRO BAY MUNICIPAL CODE (BUILDINGS AND CONSTRUCTION.)

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 564; repealing, amending, and reenacting Title 14 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2010 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

MOTION: I move to adopt Ordinance No. 564.

FISCAL IMPACT:

None.

BACKGROUND/ SUMMARY:

Ordinance No. 564 was brought before the City Council for introduction and first reading on October 25, 2010.

Councilmember Winholtz suggested an amendment to Section 113.4 (Board of Appeals-Appointment) noting she would like the selection of this Board to follow the same format as the other appointed City boards and committees.

Mr. Livick requested Council include in their amendments adding the language “combustible materials” to Section 3.08.1.1.1.

Councilmember Winholtz moved the City Council approve Ordinance No. 564 for introduction

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

and first reading, as amended by Council. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

Staff has revised Ordinance No. 564 to incorporate the above changes, which are shown in strikeout format in the attached ordinance.

CONCLUSION:

Staff recommends that the City Council adopt Ordinance No. 564; repealing, amending, and reenacting Title 14 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2010 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

ATTACHMENTS:

Attachment 1- Ordinance No. 564.

ORDINANCE NO. 564

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY;
REPEALING, AMENDING, AND REENACTING TITLE 14
OF THE MORRO BAY MUNICIPAL CODE
(BUILDINGS AND CONSTRUCTION)**

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

**CERTAIN STATE AND MODEL CODES RELATING TO FIRE AND LIFE SAFETY AS
FOLLOWS:**

1. 2010 California Building Code (volumes 1 and 2)
2. 2010 California Residential Code
3. The appendix to Chapter 33 of the 1997 Uniform Building Code
4. 2010 California Electrical Code
5. 2010 California Mechanical Code
6. 2010 California Plumbing Code
7. 2009 Uniform Solar Energy Code
8. 2006 Uniform Swimming Pool, Spa and Hot Tub Code
9. 2010 California Energy Code
10. 2010 California Historical Building Code
11. 2010 California Fire Code
12. 2010 California Existing Building Code
13. 2010 California Green Building Code
14. 1997 Uniform Housing Code
15. 1997 Uniform Code for the Abatement of Dangerous Buildings

WHEREAS, Government Code § 50022, et.seq. and Health and Safety Code § 17922 authorize the City to adopt by reference the California Building Standards Code as provided in Titles 24 and 25 of the California Code of Regulations and other codes, including, without limitation, the Uniform Housing Code and Uniform Code for the Abatement of Dangerous Buildings; and

WHEREAS, Pursuant to Health and Safety Code § 17950 and 18938(b), the California Building Standards Code is applicable to all occupancies throughout the State of California, whether or not the City takes affirmative action to adopt the California Building Standards Code; and

WHEREAS, Health and Safety Code § 17960, requires a local building department to enforce State Housing Law, the California Building Standards Code, and the implementing regulations of the Department of Housing and Community Development for residential structures; and

WHEREAS, Health and Safety Code § 17958.5 allows the City may make those changes or modifications to the requirements contained in the provisions published in the California Building Standards Code as it determines, pursuant to the provisions of Health and Safety Code § 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Pursuant to Health and Safety Code § 18941.5, certain express findings have been made and are as follows:

FINDINGS

1. The topographic, underlying geologic and surface soil conditions of the hillsides of the City of Morro Bay are of a gradient and composition such that movement has historically been known to occur. Soils testing has revealed the presence of potentially hazardous geologic conditions, including expansive soils, questionable soils, soils prone to liquefaction and seasonally high ground-water. Therefore, it is reasonably necessary to adopt regulations for grading operations that are more restrictive than those adopted by the State of California and codified in the California Building Standards Code. More particularly, this finding supports the adoption and modification of Appendix J of the California Building Code.
2. Due to topographic and geologic conditions, development in Morro Bay has historically been constrained such that building occurred predominantly in the flatter areas, a scarcity of which resulted in the creation of small lots and the construction of structures in relative close proximity to one-another. These conditions are known to be conducive to the spread of fire and therefore, it is reasonably necessary to adopt standards more restrictive than those adopted by the State of California and codified in the California Building Standards Code for the installation of automatic fire sprinklers on new and existing buildings, limiting the use of wood shakes or shingles, requiring that elevator cars be constructed to accommodate an ambulance stretcher, and to otherwise establish construction and fire prevention regulations more restrictive than those adopted by the State of California and codified in the California Building Standards Code to reduce and minimize the potential for loss of and damage to life and property resulting from fire, hazardous materials, explosions and to protect firefighters and emergency personnel during emergency operations. More particularly, this finding supports the modification of California Building Code sections 1505.1 and 3002.4, California Fire Code sections 903.3.1.1 and 4504.1, California Residential Code sections R313.1 and R313.2, California Electrical Code Article 230-70(A)(1), the deletion of Sections 903.2 through 903.2.10.1 of the California Fire Code and the addition of section R313.3.3.5 to the Residential Code, and sections 308.1.1.1, 901.4.5, 903.2 and 3310 to the Fire Code.

3. Due to topographic conditions and in order to protect the estuarine environment of and adjacent to the City of Morro Bay, it is reasonably necessary to adopt regulations more restrictive than those adopted by the State of California and codified in the California Building Standards Code, prohibiting the construction of private sewage disposal systems and requiring the installation of sewer backwater valves. More particularly, this finding supports the modification of California Plumbing Code section 713.0 and the addition of Plumbing Code section 709.5.

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

SECTION ONE. Title 14 of the Morro Bay Municipal Code is hereby repealed, amended, and reenacted to read as follows:

Title 14

BUILDINGS AND CONSTRUCTION

Chapters:

- 14.01 General**
- 14.02 Administration and Enforcement**
- 14.03 Building Code**
- 14.04 Residential Code**
- 14.05 Electrical Code**
- 14.06 Mechanical Code**
- 14.07 Plumbing Code**
- 14.08 Fire Code**
- 14.09 Existing Building Code**
- 14.10 Green Building Code**
- 14.11 Housing Code**
- 14.12 Dangerous Buildings Code**
- 14.18 Seismic Safety Program**
- 14.40 Unsafe Buildings**
- 14.44 Frontage Improvements**
- 14.48 Storm Water Control**
- 14.52 Marine Docks and Structures**
- 14.56 Moving of Buildings**
- 14.62 Self-Inspection Fire Safety Program**
- 14.68 Wells**
- 14.72 Flood Damage Prevention**
- 14.75 Mandatory Construction and Demolition Debris Recycling Program**

Chapter 14.01

GENERAL

Sections:

14.01.010	Title and Purpose.
14.01.020	Adoption of Codes .
14.01.030	Building Official and Fire Chief Designated.

14.01.010 Title and Purpose.

This title shall be known and may be cited as "The Buildings and Construction Ordinance of the City of Morro Bay," Title 14 of the Morro Bay Municipal Code. These regulations are hereby established and adopted to protect and promote public health, safety and welfare. This title establishes minimum regulations for construction, fire prevention, and the use and occupancy of buildings and other structures. This title prescribes regulations and standards that are consistent with the State Housing Law of California.

14.01.020 Adoption of Codes.

Fifteen documents, one each of which are on file in office of the Building Official, identified by the seal of the City of Morro Bay, marked and designated as the:

1. 2010 California Building Code (volumes 1 and 2),
2. 2010 California Residential Code,
3. The appendix to Chapter 33 of the 1997 Uniform Building Code published by the International Conference of Building Officials,
4. 2010 California Electrical Code,
5. 2010 edition of the California Mechanical Code,
6. 2010 California Plumbing Code,
7. 2009 edition of the Uniform Solar Energy Code, published by International Association of Plumbing and Mechanical Officials,
8. 2006 edition of the Uniform Swimming Pool, Spa and Hot Tub Code published by the International Association of Plumbing and Mechanical Officials,
9. 2010 California Energy Code,
10. 2010 California Historical Building Code,
11. 2010 California Fire Code, 12. 2010 California Existing Building Code,
13. 2010 California Green Building Code,
14. 1997 Uniform Housing Code, published by the International Conference of Building Officials,
15. 1997 Uniform Code for the Abatement of Dangerous Buildings, published by the International Conference of Building Officials;

are hereby adopted, including chapters and sections not otherwise adopted by agencies of the State of California, and the appendices thereto as the buildings, construction, and fire prevention regulations of the City of Morro Bay. The provisions of the above-mentioned are hereby referred to, adopted, and made a part hereof as if fully set out in this title except as modified hereinafter.

14.01.030 Building Official and Fire Chief Designated.

The Public Services Director is hereby designated as the Building Official and Code Official for the City of Morro Bay. The Fire Chief is hereby designated as the Fire Code Official for the City of Morro Bay. Where the “authority having jurisdiction” is used in the adopted codes, it shall mean the Building Official or the Fire Chief, as applicable.

14.02

ADMINISTRATION AND ENFORCEMENT

Sections:

14.02.010 Administration and Enforcement.

14.02.020 Modification of Division II of Chapter 1 of the California Building Code.

14.02.010 Administration and Enforcement.

The Administration and Enforcement of this title shall be in accordance with Division II of Chapter 1 of the California Building Code as adopted and modified, amended, and/ or supplemented herein.

14.02.020 Modifications of Division II of Chapter 1 of the California Building Code.

The California Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Amend Section 103.1 to read as follows:

103.1 Creation of Enforcement Agency. The Building Section of the Planning and Building Division of the Public Services Department of the City of Morro Bay is hereby created and the official in charge thereof shall be known as the Building Official. Where reference is made to the Authority Having Jurisdiction or Code Official in the adopted Codes, it shall mean the Building Official.

B. Add Section 104.8.1 to read as follows:

104.8.1 Liability or Responsibility due to Error or Omission. This title shall not be construed so as to impose upon the City, or upon any of its officials or employees, any liability or responsibility for injury or damage resulting from any work approved or performed with respect to this title, or by reason of any inspection performed hereunder. No person shall be relieved of the responsibility of compliance with this title because of an error or omission made by a city official or employee.

C. Add Section 104.9.2 to read as follows:

104.9.2 Cargo Containers, Rail Cars, and Vehicle Bodies. Any person who intends to bring into the City or otherwise use, alter or relocate within the City any cargo container, streetcar, boxcar, refrigerator car, motorbus body or similar vehicle body for the purpose of use or occupancy, shall first make application to the Building Official and obtain the required permit. The application shall demonstrate that the proposed use, occupancy, structure, construction, and/ or alteration will conform to the provisions of this title.

D. Amend Section 109.2 to read as follows:

109.2 Schedule of permit fees. Permit fees shall be as prescribed in the Master Fee Schedule.

E. Amend Section 113 to read as follows:

SECTION 113 BOARD OF APPEALS

113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the technical provisions this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the City Council and hold office at its pleasure. The Building Official shall be an ex officio member and shall act as secretary to the board but shall have no vote upon any matter before the board. The board shall adopt rules of procedure for conducting its business.

The board of appeals shall also serve as the Local Appeals Board, Housing Appeals Board, and Accessibility Appeals Board, as defined in Health and Safety Code § 17920.5, 17920.6 and 19957.5.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code, nor shall the board have any authority to relative to the administration of this code.

113.3 Qualifications. The board of appeals shall consist of five members who are qualified by experience and training to pass on matters pertaining to the appeal and are not employees of the jurisdiction. Two members of the Accessibility Appeals Board shall be physically handicapped, two members shall be persons experienced in construction, and one member shall be a public member.

113.4 Appointment. Upon receipt by the Building Official, of a qualified application for appeal, the Building Official shall within 60 days, recommend provide to the City Council five with nominations of persons who, based on their qualifications and experience, appear to be suited to hear and decide the appeal. Upon finding that those individuals indeed appear to be qualified to hear and deciding the appeal, the City Council shall appoint those five persons and they shall be known as the Board of Appeals and shall have the authority and be tasked with the duties thereof for the purposes of hearing and deciding that specific appeal.

F. Amend Section 114.4 to read as follows:

114.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, extends, repairs, moves, removes, demolishes or occupies any building, structure, or equipment in

violation of the approved construction documents, a directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be subject to fines and penalties as established in Title 1 of the Morro Bay Municipal Code, in addition to other penalties as prescribed by law.

G. Add Section 114.5 to read as follows:

114.5 Authority to Arrest Persons. The building official shall be a public employee and not a peace officer, but shall have the authority to arrest persons pursuant to California Penal Code Section 836.5 for violations of Title 14 of the Morro Bay Municipal Code.

Chapter 14.03

BUILDING CODE

14.03.010 Modifications of the California Building Code.

The California Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- A. Adopt appendices H, I and J. Delete appendices A, B, C, D, E, F, G and K.

- B. Amend Section 1505.1 to read as follows:

1505.1 General. Roof assemblies shall be divided into the classes defined below. Class A, B, and C roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on buildings shall comply with Table 1505.1 based on the type of construction of the building.

For the purposes of this section, any building surface flatter than forty-five degrees to the horizontal shall be considered a roof and shall not be covered by wood shakes or shingles, except as otherwise allowed by this Code.

Exception: Skylights and sloped glazing that comply with Chapter 24 or Section 2610.

- C. Amend Section 3002.4 to read as follows:

3002.4 Elevator car to accommodate ambulance stretcher. Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24 inches by 84 inches with not less than 5-inch radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches high and shall be placed inside on both sides of the hoistway door frame.

- D. Delete the text of Appendix J and amend Appendix J by reference to contain the text of the Appendix to Chapter 33 of the 1997 Uniform Building Code, which shall have the same force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:
 - 1. Amend Section 3309.2 to read as follows:

3309.2 Administration. The provisions of Division II of Chapter 1 of the California Building Code shall apply to the administration and enforcement of this chapter.

2. Amend Section 3309.7 to read as follows:

3309.7 Liquefaction Study. A study of the liquefaction potential of the site shall be provided, and the recommendations incorporated into the plans.

Exception: The Building Official may waive this requirement where it is determined by the geotechnical engineer or engineering geologist that the potential for liquefaction at the site is low.

3. Delete Section 3309.9.

4. Delete Section 3310.

Chapter 14.04

RESIDENTIAL CODE

14.04.010 Modifications of the California Residential Code.

The California Residential Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- A. Delete Division II of Chapter 1. Administration and Enforcement of the Residential Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.
- B. Adopt Appendices H and O. Delete Appendices A, B, C, D, E, F, G, I, J, K, L, M, N, P, Q and R.
- C. Amend Section R313.1 and R313.2 to read as follows:

R313.1 Townhouse and One and Two-family dwellings automatic fire sprinkler systems.

An automatic residential fire sprinkler system shall be installed in all new townhouses and one and two family dwellings, and in all existing townhouses and one and two family dwellings where alteration results in an increase in floor area in excess of 50 percent, or 1000 square feet. This section shall be applicable to mobile homes and factory-built housing not located in a mobile home or special occupancy park.

R313.2 Determination of Floor Area. For the purposes of this section, floor area shall be defined as the area within the exterior walls of the building under consideration. The floor area of a building, or portion thereof, not provided with surrounding walls, shall include the usable area under the horizontal projection of the roof or floor above.

For the purposes of this section, buildings shall be considered separate when:

- 1. The fire separation distance as defined in CBC Sec. 702.1 is not less than that permitted in CBC Table 705.8 where unprotected openings are allowed in an exterior wall of a non-sprinklered building, or
- 2. The buildings are structurally independent, the adjoining walls are constructed of fire-resistant construction as prescribed in CBC Table 602 without openings or penetrations, projections comply with CBC Section 705.2, and parapets are constructed where required by CBC Section 705.11.

- D. Add Section R313.3.3.5 to read as follows:

R313.3.3.5 Waterflow Alarm. A local waterflow alarm and remote inspector's test valve, installed in accordance with NFPA 13, shall be installed on all sprinkler systems.

Chapter 14.05

ELECTRICAL CODE

14.05.010 Modifications of the California Electrical Code.

The California Electrical Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Adopt annexes A and B. Delete annexes C, D, E, F, G and H. Administration and Enforcement of the Electrical Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

B. Amend Article 230-70(A)(1) to read as follows:

230-70(A)(1) Readily Accessible Location. A service disconnecting means shall be installed at a readily accessible location either outside the building or other structure, or inside nearest the point of entrance of the service conductors.

The disconnecting means shall be accessible to emergency personnel, either directly or by a remote actuating device, without requiring travel through the building interior.

Chapter 14.06

MECHANICAL CODE

14.06.010 Modifications of the California Mechanical Code.

The California Mechanical Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- A. Delete Division II of Chapter 1 and Table 1-1. Administration and Enforcement of the Mechanical Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

- B. Adopt appendices A, B, C and D.

Chapter 14.07

PLUMBING CODE

Sections:

- 14.07.010** **Modifications of the California Plumbing Code**
- 14.07.020** **Retrofitting with water-saving devices required.**
- 14.07.030** **Required sewer backwater valve.**

14.07.010 Modifications of the California Plumbing Code.

The California Plumbing Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Delete Division II of Chapter 1 and Table 1-1. Administration and Enforcement of the Plumbing Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

B. Adopt appendices A, B, G, I and L . Delete appendices D and K.

C. Add Section 709.5 to read as follows:

709.5 A Backwater Valve, extended to and accessible from grade for maintenance, shall be installed on every Building Sewer.

Exception: Installation of a Backwater Valve shall not be required when, to the satisfaction of the Building Official, it is determined that the intent and purpose of this section is otherwise met.

D. Amend Section 713.0 to read as follows:

713.0 Sewer Required.

713.1 Every building in which plumbing fixtures are installed and every premises having drainage piping thereon shall have a connection directly to a public or private sewer.

713.2 Private Sewage Disposal Systems shall not be permitted.

14.07.020 Retrofitting with water-saving devices required.

A. Every property owner, prior to the sale or transfer of any real property upon which is located any structure connected to the city's water supply shall retrofit the structure with the water-saving devices required for new construction as set forth in this title. In cases where the Building Official determines the use of such fixtures in existing structures would fail to meet the requirements of the Plumbing Code, fixtures using the least amount of water which do meet the requirements of the Plumbing Code shall be utilized.

B. In cases where a buyer intends to demolish all structures on such property within ninety days from the date of transfer, the structure need not be retrofitted prior to transfer; provided a covenant and a bond are filed with the city as follows:

1. The property owner shall file with the city clerk a notarized covenant agreeing to either demolish all structures located on the property connected to the city water system, within ninety days from the date of transfer or to perform the retrofit required in subsection A of this section, together with a faithful performance bond, in a form satisfactory to the city in an amount equal to one hundred and fifty percent of the full cost of retrofitting all such structures securing faithful performance of the agreement.

2. The agreement shall also authorize and grant the city permission to enter onto the property and to perform such retrofit in the event the property owner fails to do so. Further, the property owner shall agree to reimburse the city for all cost incurred by the City in the event the bond is insufficient.

C. Determination of compliance with the requirements of subsection A shall be made by the Building Official after an inspection performed by the Building Official or a qualified plumbing contractor under the supervision of the Building Official, who shall issue a certificate indicating same to the seller or title company involved. Seller shall pay the fee set forth in the Master Fee Schedule for such retrofit inspection at the time seller submits the request for the retrofit inspection. No property transfer shall be recorded until such certificate has been received by the seller and transferred with the title to the buyer. If noncompliance is found, the property owner (both seller and buyer) and any title company involved in the transfer shall be in violation of this code and subject to those penalties as prescribed in Title 1 of the Morro Bay Municipal Code.

14.07.030 Required sewer backwater valve.

A. Any existing lateral sewer piping upon any premises which services fixtures whose elevation is lower than the elevation of the first upstream sewer manhole rim, lamp hole, or pump station receiving manhole, and for which the city has record of a previous sewage backflow incident involving a clogged sewer main shall be protected from backflow of sewage by installing backwater valves of a type approved by the Building Official. The property owner shall be required to provide and install such device.

B. If the property owner fails to install and maintain a backwater valve in good working condition when required under this section, the Building Official may declare said sewer connection to be a nuisance and abate such nuisance pursuant to Section 8.12.010 et seq. of this code by installing an approved-type backwater valve at the owner's expense. Said property owner may, in addition, be subject to fines as outlined in subsection E of this section.

C. All house connection sewers, industrial sewers, private sewage disposal systems and appurtenances thereto, now existing, or hereafter constructed, shall be maintained by the owner of the

property in a safe and sanitary condition and all devices or safeguards which are required by this section for the operation thereof shall also be maintained in a good working order by the owner.

D. The director of public works, the health officer, and other duly authorized employees of the city and the health department bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this section. The director of public works, the health officer, or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for waste treatment.

E. Violations and Penalties. Any person who is convicted of violation of any provisions of this section is guilty of an infraction punishable as provided in Chapter 1.16 of this code.

Chapter 14.08

FIRE CODE

Sections:

14.08.010.	Purpose.
14.08.020.	Bureau of fire prevention.
14.08.030.	Fire district established.
14.08.040.	Penalties for turning in false alarms.
14.08.050.	Fire injury report.
14.08.060.	Storage of gasoline driven vehicles.
14.08.070.	Citation powers.
14.08.080.	Fire Hazard Severity Zones
14.08.090.	Modifications of the California Fire Code

14.08.010. Purpose.

This chapter shall be known and may be cited as “The Fire Prevention Regulations of the City of Morro Bay”, Chapter 8 of Title 14 of the Morro Bay Municipal Code. This chapter prescribes minimum regulations to reduce and minimize the potential for loss of and damage to life and property resulting from fire, hazardous materials, and explosions.

14.08.020. Bureau of fire prevention.

The California Fire Code shall be enforced by the fire department or building division of the public services department under the supervision of the Fire Chief.

14.08.030. Fire district established.

The entire incorporated area of the city is declared to be and is established a fire district.

14.08.040. Penalties for turning in false alarms or for conviction of intentionally setting a fire.

Individuals responsible for turning in false alarms shall be responsible for the cost the fire department incurs while responding to the fire alarm. The cost of the false alarm shall be determined in accordance with the master fee schedule. The intent of this section is not to penalize those persons who make honest mistakes. Persons convicted of intentionally setting a fire in violation of any law or ordinance within the city limits shall pay the cost of fighting that respective fire.

14.08.050. Fire injury report.

Any physician, first aid station, ambulance company or persons who treat or aid any person injured by a fire, explosion or chemical burn within the municipality shall, within twenty-four hours, report such treatment and pertinent information to the fire department.

14.08.060. Storage of gasoline driven vehicles.

No one shall store, repair or use any motorcycle, moped or any other gasoline driven vehicle inside of any dwelling. Storage and repair of gasoline driven vehicles are permitted in garage areas adjacent to dwellings.

14.08.070. Citation powers.

The Fire Chief, Fire Marshall and full-time safety members of the Fire Department shall have the powers of a Peace Officer in performing their duties under this Code, and shall have the powers of a Peace Officer as provided in California Penal Code, Sections 830.31 and shall have the authority to issue citations as provided in Title 1 of the Morro Bay Municipal Code.

14.08.080. Fire Hazard Severity Zones.

A. Purpose and Intent. The purpose of this chapter is to provide authority for the identification of local fire hazard severity zones and provide authority for enforcement of state and local codes in these zones. The intent of this chapter is to reduce the potential for fire losses by providing minimum requirements for the protection of properties constructed in very high hazard severity zones and other wildland/urban interface areas designated by the fire chief and supported by substantial evidence.

B. Designation-Recommendation. The fire chief is hereby authorized to designate very high fire hazard severity zones within one hundred twenty days of receiving recommendations from the California Department of Forestry and Fire Protection.

C. Designation-Not identified. The fire chief may designate areas not identified as very high fire hazard Severity Zones by the California Department of Forestry and Fire Protection following a finding supported by substantial evidence in the record that the requirements for very high fire hazard severity zones are necessary for effective fire protection within the area(s).

D. Designation-Declined. The fire chief may decline to designate areas identified by the California Department of Forestry and Fire Protection as Very high fire hazard severity zones following a finding supported by substantial evidence in the record that the requirements for very high fire hazard severity zones are not necessary for effective fire protection with the area(s).

E. Supported by substantial evidence in the record. "Supported by substantial evidence in the record" shall require the city council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the fire chief's designation as fire hazard areas.

F. Enforcement. The Building Official shall enforce the provisions of Chapter 7A of the California Building Code and Chapter 47 of the California Fire Code in all very high fire hazard severity zones and other areas designated by the Fire Chief and supported by substantial evidence in the record.

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

14.08.090. Modifications of the California Fire Code.

The California Fire Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Adopt Appendix Chapter 4 and appendices B, C, D, and H. Delete appendices A, E, F, G, I and J.

B. Section 101.1 is amended to read as follows:

Section 101.1 Title. These regulations shall be known as the Fire Code of the City of Morro Bay.

C. Section 103.1 is amended to read as follows:

Section 103.1 General. The Fire Department of the City of Morro Bay is hereby established and the person in charge thereof shall be known as the Fire Chief. Where the Code uses the term Fire Official, it shall mean the Fire Chief.

D. Section 113.2 is amended to read as follows:

113.2 Schedule of permit fees.

Fees shall be paid in accordance with the Master Fee Schedule.

E. Section 507.5.4 is amended to read as follows:

507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

The Fire Chief shall have the authority to remove or cause to be removed, without notice, any vehicle, vessel, or object that is in violation of this section. The owner of said item, so removed, shall be responsible for all towing, storage, or other costs incurred therein.

F. Section 308.1.1.1 is added to read as follows:

308.1.1.1 Burning Prohibited in Residential Neighborhoods. Open burning, bon fires, recreational fires, and all other outdoor fires are prohibited in residential neighborhoods.

Exception:

Barbeques and portable outdoor fireplaces that conform with the following provision are allowed.

1. Fires shall be conducted at a safe distance from combustible materials and in accordance with the applicable manufacturer's instructions to prevent the spread of fire to adjacent structures or other combustible materials.
2. Fire shall be contained in a non-combustible container, not to exceed 3 feet in diameter and 2 feet in height.
3. Fuel loading shall not exceed 3 feet in diameter or 2 feet in height.
4. Fire shall be fueled by propane, natural gas, charcoal, dried wood, commercial fire logs, or pellets. Fuels shall not include green waste, yard trimmings, pressure treated wood, trash, plastic, or other noxious or hazardous materials.
5. Ground fires, sub-surface or pit fires, and earth floored fire rings are prohibited.
6. If in the opinion of the Fire Chief or his or her designee, a fire is potentially hazardous or smoke is causing a nuisance, the fire shall be extinguished immediately.

G. Section 901.4.5 is added to read as follows:

901.4.5 Partial Sprinkling of Buildings. Partial sprinkling of buildings shall not be permitted, except where otherwise allowed by NFPA 13R, 13D, and Section 903.3.1.1.1.

H. Delete Sections 903.2 through 903.2.10.1.

I. Add Section 903.2 to read as follows:

903.2 Where Required. An approved automatic fire sprinkler system shall be installed throughout:

1. All **new** buildings exceeding 1000 square feet of floor area.

Exceptions:

- a. A structure containing only Group A, Division 5 occupancy.
- b. Agricultural accessory buildings and greenhouses.

2. All **new** buildings and structures on the west side of Embarcadero Road.

Exception:

Installation of an automatic fire sprinkler system shall not be required when, to the satisfaction of the Fire Chief and the Building Official, it is demonstrated that the proposed construction, use,

and occupancy are minor in scope and nature, that the installation of an automatic fire sprinkler system would be impractical, and that the intent and purpose of this section is otherwise met.

3. All **existing** buildings exceeding 1000 square feet of floor area, where an automatic fire sprinkler system does not already exist, and a change in the character of use or occupancy is made, which increases the fire hazard level.
4. All **existing** buildings, where alterations result in:
 - a. An increase in floor area in excess of 50 percent, or
 - b. An increase in floor area in excess of 1000 square feet.

903.2.1 Determination of Floor Area. For the purposes of this section, floor area shall be defined as the area within the exterior walls of the building under consideration. The floor area of a building, or portion thereof, not provided with surrounding walls, shall include the usable area under the horizontal projection of the roof or floor above.

For the purposes of this section, buildings shall be considered separate when:

1. The fire separation distance as defined in CBC Sec. 702.1 is not less than that permitted in CBC Table 705.8 where unprotected openings are allowed in an exterior wall of a non-sprinklered building, or
2. The buildings are structurally independent, the adjoining walls are constructed of fire-resistant construction as prescribed in CBC Table 602 without openings or penetrations, projections comply with CBC Section 705.2, and parapets are constructed where required by CBC Section 705.11.

J. Amend Section 903.3.1.1 to read as follows:

903.3.1.1 NFPA 13 sprinkler systems. Where other provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with this section, or where a building contains two or more occupancies or uses, sprinklers shall be installed throughout in accordance with NFPA 13 as amended in Chapter 47 except as provided in Section 903.3.1.1.1.

K. Section 4504.1 is amended to read as follows:

4504.1 General. Piers, marinas, docks, fuel docks, wharves and similar boat mooring facilities shall be equipped with fire protection equipment in accordance with Section 4504.2 through 4504.6 and as otherwise required by the Chief.

L. Section 3310 is added to read as follows:

3310. Sale and Use of Fireworks Unlawful. The sale or use of fireworks, pyrotechnics, and others explosives shall be unlawful.

Exceptions:

1. The use of fireworks, approved by the State Fire Marshall as “safe and sane,” shall be permitted on private property only.
2. Public fireworks displays may be allowed, subject to the approval of a permit by the Chief.
3. Pyrotechnics for use in movie industry operations may be allowed, subject to the approval of a permit by the Chief.
4. This section shall not apply to the sale and use of State Fire Marshall approved and listed party poppers and snap caps.

Chapter 14.09

EXISTING BUILDING CODE

14.09.010 Modifications of the California Existing Building Code

The California Existing Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/or supplemented as follows and shall be the technical strengthening provisions for buildings subject to Chapter 14.18 of this title:

A. Amend Section A102.1 of Appendix Chapter A1 to read as follows:

A102.1 General. The provisions of this chapter shall apply to all existing buildings having at least one unreinforced masonry bearing wall. The elements regulated by this chapter shall be determined in accordance with Table A1-A. Except as provided herein, other structural provisions of the building code shall apply. This chapter does not apply to the alteration of existing electrical, plumbing, mechanical or fire safety systems.

Exception: This section shall not apply to detached one-family or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

Chapter 14.10

GREEN BUILDING CODE

Chapter 14.11
HOUSING CODE

14.11.010 Modifications of the Uniform Housing Code.

The 1997 Uniform Housing Code, adopted in Section 14.01.020, shall have the full force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

- A. Amend Section 103 to read as follows:

SECTION 103-SCOPE

The provisions of this code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. Such occupancies in existing buildings may be continued as provided in Chapter 34 of the Building Code, except such structures as are found to be substandard as defined in this code.

Where any building or portion thereof is used or intended to be used as a combination apartment house- hotel, the provisions of this code shall apply to the separate portions as if they were separate buildings.

Rooming houses, congregate residences or lodging houses shall comply with all requirements of this code for dwellings.

- B. Amend Section 104.1 to read as follows:

104.1 Additions, Alterations, or Repairs. For additions, alterations or repairs, see Chapter 34 of the Building Code.

- C. Amend the following definitions, located in Section 401, to read as follows:

BUILDING CODE is the 2010 California Building Code, as adopted and amended by this jurisdiction.

HEALTH OFFICER is the legally designated head of the San Luis Obispo County Department of Public Health.

MECHANICAL CODE is the 2010 California Mechanical Code, as adopted and amended by this jurisdiction.

PLUMBING CODE is the 2010 California Plumbing Code, as adopted and amended by this jurisdiction.

Chapter 14.12

DANGEROUS BUILDINGS CODE

14.12.010 Modifications of the Uniform Code for the Abatement of Dangerous Buildings.

The 1997 Uniform Code for the Abatement of Dangerous Buildings, adopted in Section 14.01.020, shall have the full force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

- A. Amend Section 103 to read as follows:

SECTION 103- ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Chapter 34 of the Building Code.

- B. Amend the following definitions, located in Section 301, to read as follows:

BUILDING CODE is the 2010 California Building Code, as adopted and amended by this jurisdiction.

HOUSING CODE is the 1997 Uniform Housing Code, as adopted and amended by this jurisdiction.

Chapter 14.18

SEISMIC SAFETY PROGRAM

Sections:

14.18.010	Purpose.
14.18.020	Scope.
14.18.030	Definitions.
14.18.050	Notification.
14.18.060	General requirements.
14.18.070	Administration.

14.18.010 Purpose.

A. The purpose of this chapter is to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on unreinforced masonry-bearing wall buildings constructed prior to the county of San Luis Obispo's adoption of the 1955 Edition of the Uniform Building Code. Such buildings have been widely recognized for sustaining life-hazardous damage, including partial and complete collapse during moderate to strong earthquakes.

B. The provisions of this chapter are intended as minimum standards for structural seismic resistance established primarily to reduce the risk of life loss or injury. Voluntary compliance with these standards will not necessarily prevent loss of life or injury or prevent earthquake damage to rehabilitated buildings. This chapter does not require alteration of existing electrical, plumbing, mechanical or fire safety systems unless they constitute a hazard to life or property.

C. This chapter, in accordance with California Health and Safety Code § 19160 through 19169, provides voluntary compliance and standards for identification and classification of unreinforced masonry-bearing wall buildings based on their present use.

14.18.020 Scope.

Appendix Chapter One of the Uniform Code for Building Conservation and subsequent additions and/or amendments is adopted by reference with the same force and effect as if fully set forth in this section. The provisions of this chapter shall apply to all buildings constructed or under construction prior to July 1957, which on the effective date of the ordinance codified in this chapter have unreinforced masonry-bearing walls as defined herein.

Exception: This section shall not apply to detached one-family or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

14.18.030 Definitions.

For purposes of this chapter, the applicable definitions in Sections 2302 and 2312 of the 1985 Uniform Building Code (hereinafter 1985 UBC) shall apply. Chapters 23 and 24 of the 1985 Edition of the Uniform Building Code are incorporated herein by reference and adopted for the purposes of this chapter only and made a part hereof as though set forth full herein.

Where the term "building code" is used in Appendix Chapter One of the Uniform Code for Building Conservation, the term shall mean the current edition of the California Building Code as adopted in this title.

A. “Low risk building” means any building, not classified as an essential building, having an occupant load of less than twenty occupants as determined by Section 3302(1) 1985 UBC.

B. “Medium risk building” means any building, not classified as a high risk building or an occupant load of twenty occupants or more as determined by Section 3302(a) 1985 UBC.

C. “Unreinforced masonry-bearing wall” means a wall having all of the following characteristics:

1. Provides the vertical support for a floor or roof;
2. The total superimposed load is over one hundred pounds per linear foot;
3. The area of reinforcing steel is less than twenty-five percent of that required by Section 2407(b) UBC.

14.18.050 Notification.

The building official shall notify the legal owner of each building within the scope of this chapter that the building is considered to be one of the general type of structures that historically has exhibited little resistance to earthquake motion.

14.18.060 General requirements.

The owner of each building within the scope of this chapter may cause a structural analysis of such building to be made by a civil or structural engineer or architect licensed by the state. If the building does not meet the minimum earthquake standards specified in this chapter, the owner may either cause it to be structurally altered to conform to such standards, or cause the building to be demolished.

14.18.070 Administration.

A. Service and Order. A final order, to comply with this chapter as provided in subsection B of this section, specifying the rating classification of the building, has been issued by the building official to the owner of each building within the scope of this chapter.

B. Recordation.

1. At the time that the aforementioned order was served, the building official filed on July 15, 1991, with the office of the county recorder, certificates identifying all subject buildings within the scope of this chapter.

2. If any building for which an order under this section was served is found not to be within the scope of this chapter, or as a result of structural alterations or an analysis is found to be structurally capable of resisting minimum seismic forces required by this chapter, or is demolished; the building official shall file with the office of the county recorder a certificate terminating the status of the subject building as being classified within the scope of this chapter.

Chapter 14.40

UNSAFE BUILDINGS

Sections:

14.40.010	Unsafe building defined.
14.40.020	Unsafe buildings or structures declared public nuisances.
14.40.030	Notice and order of building official or fire marshal.
14.40.040	Manner of giving notice.
14.40.050	Method of service.
14.40.060	Proof of service.
14.40.070	Second notice.
14.40.080	Proof of service.
14.40.090	Subpoenas.
14.40.100	Hearing.
14.40.110	Record.
14.40.120	Oaths certification.
14.40.130	Rules.
14.40.140	Oral evidence.
14.40.150	Hearsay evidence.
14.40.160	Admissibility of evidence.
14.40.170	Exclusion of evidence.
14.40.180	Rights of parties.
14.40.190	Inspection of the premises.
14.40.200	Decision of council.
14.40.210	Time to bring action.
14.40.220	Extension of time to perform work.
14.40.230	Failure to commence work.
14.40.240	Procedure for repair or demolition.
14.40.250	Account of expense—Filing of report.
14.40.260	Set for hearing.
14.40.270	Protests and objections.
14.40.280	Hearing of protest.
14.40.290	Assessment.
14.40.300	Collection of assessment.

14.40.010 Unsafe Building defined.

All buildings or portions thereof that are or which may hereafter become substandard as defined in Health and Safety Code § 17920.3, or any building or structure that is or which may hereafter become a dangerous building as defined in the Code for the Abatement of Dangerous Buildings shall be known as “Unsafe Buildings.”

14.40.020 Unsafe buildings or structures declared public nuisances.

All unsafe buildings or structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this chapter. The Building Official may, as an alternate to the procedure set forth in this chapter, follow those procedures set forth in the Housing Code and/ or Code for the Abatement of Dangerous Buildings.

14.40.030 Notice and order of Building Official or Fire Marshal.

Whenever the Building Official or Fire Marshal has inspected or caused to be inspected any building or structure and has found and determined that such building or structure is an unsafe building or structure, he shall commence proceedings to cause the repair, rehabilitation or demolition of the building or structure.

14.40.040 Manner of giving notice.

The Building Official or Fire Marshal shall issue a notice and order to the recorded owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises on which the building is located;
2. A statement that the building official has found the building to be unsafe and a public nuisance, with a brief description of the conditions which render the building unsafe and a public nuisance;
3. An order to secure permits and physically commence within thirty days from the date of service of the notice and order, and to complete, within ninety days from such date, the elimination of the described conditions by repair or demolition;
4. A statement advising that if the required repair or demolition work is not commenced within the time specified, the building official or fire marshal shall institute proceedings for the abatement of such nuisance before the city council.

14.40.050 Method of service.

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to the recorded owner of the building, at his address as it appears on the last equalized assessment roll of the county of San Luis Obispo, or as known to the building official or fire marshal.

14.40.060 Proof of service.

Proof of service of the notice and order shall be certified at the time of service by a written declaration under perjury executed by the person effecting service; declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the building official.

14.40.070 Second notice.

If the building official or fire marshal determines to proceed with the abatement of such nuisance through proceedings initiated before the city council, he shall serve a second notice in the same manner as set forth in Section 14.40.050. He also shall post one copy of the notice, conspicuously, on the building or buildings to be abated. The notice shall be substantially in the following form, but may include other information:

NOTICE TO ABATE NUISANCE

You are hereby notified to appear before the City Council of the City of Morro Bay at its meeting to be held _____ (Date) at _____ (Place of Meeting) at the hour of _____ o'clock ____ M., or as soon thereafter as you may be heard and show cause, if any, why said building, located at _____ (Address) Lt. _____ Blk. _____ Tract _____ Assessors No. _____ should not be declared a public nuisance and said nuisance be abated by repair, rehabilitation, demolition or removal.

You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit thereof with the City Clerk, City of Morro Bay, California.

_____ Date

_____ Building Official or Fire Marshal

14.40.080 Proof of service.

Proof of service shall be as required in Section 14.40.060. Failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this chapter.

14.40.090 Subpoenas.

The city clerk of the city of Morro Bay may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of any member of the city council, the building official, fire marshal, or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular.

14.40.100 Hearing.

At the time fixed in the notice, the city council shall proceed to hear the testimony of the building official or fire marshal, the owner or his representative, witnesses, or other persons who may wish to testify, respecting the condition of the building or buildings.

14.40.110 Record.

A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the city council.

The proceedings at the hearing may also be reported by a phonographic reporter if such reporter is provided by the owner at his own expense.

14.40.120 Oaths certification.

In any proceedings under this code, the city clerk has the power to administer oaths and affirmations and to certify to official acts.

14.40.130 Rules.

Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

14.40.140 Oral evidence.

Oral evidence shall be taken only on oath or affirmation. (Ord. 175 § 2 (part), 1980)

14.40.150 Hearsay evidence.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

14.40.160 Admissibility of evidence.

Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

14.40.170 Exclusion of evidence.

Irrelevant and unduly repetitious evidence shall be excluded.

14.40.180 Rights of parties.

Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 4. To impeach any witness regardless of which party first called him to testify;
 5. To rebut the evidence against him;
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

14.40.190 Inspection of the premises.

The council may inspect the building or premises during the course of the hearing, provided that notice of such inspection shall be given to the parties before the inspection is made and the parties are given an opportunity to be present during the inspection.

14.40.200 Decision of council.

The decision of the council shall be in the form of a motion or resolution, declaring its finds; in the event that it so concludes, it may declare the building or buildings to be a nuisance and direct the owner to abate the same within thirty days after the date of passage of the resolution or motion by having the building properly reconstructed or repaired, or by having the same demolished or removed and notifying the owner that if the nuisance is not abated, the buildings will be repaired, demolished or removed by the city and the expense thereof made a lien on the lot or parcel of land upon which the building is located.

Copies of the decision shall be delivered to the owner as required in Section 14.40.050 and posted as required in Section 14.40.070.

14.40.210 Time to bring action.

Any owner or other interested person having any objection, or feeling aggrieved at any proceedings taken by the council in ordering abatement of the nuisance, must bring action in a court of competent jurisdiction within thirty days after the passage of the resolution or motion declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution or motion; otherwise all objections will be deemed to have been waived.

14.40.220 Extension of time to perform work.

Upon receipt of an application from the person required to conform to the resolution or motion and an agreement by such person that he will comply with the resolution or motion if allowed additional

time, the council may, at its discretion, grant an extension of time. The extended time shall be limited to the repair, rehabilitation or demolition of the building and will not in any way affect the time to bring an action in a court of competent jurisdiction.

14.40.230 Failure to commence work.

Thirty days after the passage of the resolution or motion, if the repair, rehabilitation or demolition has not been commenced, the city shall be deemed to have acquired jurisdiction to abate such nuisance by repair, rehabilitation or demolition.

1. The building official shall cause the building or buildings described in such resolution or motion to be vacated by posting at each entrance thereto a notice reading:

DANGER
THIS STRUCTURE IS DEEMED UNSAFE
DO NOT OCCUPY
BUILDING OFFICIAL OF THE CITY OF MORRO BAY
(Signed) _____

No person shall use or occupy any building upon which has been posted at each entrance door thereto a notice as prescribed in this subsection from and after the date of such posting until such building shall be restored to a condition of safety and stability, as required by the order of the building official, except that entry may be made to repair, demolish or remove such building. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official has been completed and a certificate of occupancy issued pursuant to the provisions of the building code.

2. The city administrator shall have the power, in addition to any other remedy provided in this chapter, to cause the building to be repaired to the extent reasonably necessary to correct the conditions which render the building dangerous as set forth in the resolution or motion, or, if the resolution or motion shall have directed demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning of the lot, shall be paid to the person or persons lawfully entitled thereto.

14.40.240 Procedure for repair or demolition.

Whenever any work or repair or demolition is to be done pursuant to Section 14.40.230, the city administrator shall issue an order therefor to the city engineer and the work shall be accomplished by city personnel or by private contract under the direction of the engineer. Plans and specifications may be prepared by the city engineer, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.

14.40.250 Account of expense—Filing of report.

The city engineer shall keep an itemized account of the net expense incurred by the city in the repairing or demolishing of any building. Upon the completion of the work or repair or demolition, the city engineer shall prepare and file with the city clerk a report specifying the work done, with itemized net cost of the work in accordance with the Master Fee Schedule, and a description of the real property upon which the building or structure is or was located.

14.40.260 Set for hearing.

Upon receipt of the report, the city clerk shall present it to the city council for consideration. The city council shall fix a time, date and place for hearing the report and any protests or objections thereto. The city clerk shall cause notice of the hearing to be posted upon the property involved, published once in

a newspaper of general circulation in the city, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appear on the last equalized assessment roll of the county, if such so appear, or as known to the clerk. Such notice shall be given at least ten days prior to the date set for hearing and shall specify the day, hour and place when the council will hear and pass upon the engineer's report, together with any objections or protests which may be filed as provided in this chapter by any person interested in or affected by the proposed charge.

14.40.270 Protests and objections.

Any persons interested in or affected by the proposed charge may file written protests or objections with the city clerk at any time prior to the time set for the hearing on the report of the engineer. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The city clerk shall endorse on every such protest or objection the date it was received by him. He shall present such protests or objections to the city council at the time set for the hearing, and no other protests or objections shall be considered.

14.40.280 Hearing of protest.

Upon the day and hour fixed for the hearing, the city council shall hear and pass upon the report of the engineer together with any such objections or protests. The council may make such revision, correction or modification in the report or the charge as it may deem just; and when the council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the city council on the report and the charge, and on all protests or objections, shall be final and conclusive.

14.40.290 Assessment.

The city council may thereupon order that the charges be assessed against the property, to be recorded on the assessment roll, and thereafter the assessment shall constitute a special assessment against and a lien upon the property.

All such assessments remaining unpaid thirty days, as deemed appropriate by the council, from the date of recording on the assessment roll, shall become delinquent and shall bear interest at the rate often percent per year from and after said date.

14.40.300 Collection of assessment.

The amount of the assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such assessment.

Chapter 14.48

STORM WATER CONTROL

Sections:

- 14.48.010 Purpose.**
- 14.48.020 Applicability**
- 14.48.030 Improvements Required**

14.48.010 Purpose.

The purposes of the requirements of this chapter are to:

Prevent water quality degradation and prevent erosion and sedimentation of creeks, streams, bay and other water bodies;

Prevent damage to property from increased runoff rates and volumes;

Establish sound developmental policies which protect and preserve the city's water resources;

Protect city streets and rights-of-way from damage due to inadequately controlled runoff and erosion;

Preserve and enhance the aesthetic quality of the City's water resources;

Protect the health, safety and welfare of the inhabitants of the city;

Further the goals of no net negative impact caused by quantity of runoff entering streams and no net negative change in the quality of runoff entering streams through the implementation of best management practices; and

Minimize erosion and control sediment from land development and land disturbing activities.

14.48.020 Applicability.

Stormwater runoff from all improved areas of a development or redevelopment site resulting in 2,500 ft² of impervious surface shall be treated in accordance with the Best Management Practices (BMP) published in the most current edition of the California Stormwater Quality Association's Best Management Practices Handbook.

For the purpose of water quality design, peak flows BMPs shall be designed to treat the runoff from 28% of the 2-year storm event and volumetric BMPs shall be designed to treat the runoff from a 1 inch/24 hour storm event.

For the purposes of water quantity design, peak runoff shall be managed to prevent any significant increase in downstream peak flows, including 2-year, 10-year, 50-year, and 100-year events. Significant is an increase of over 5 percent at and immediately downstream of the project site. Roof areas and roof replacement are exempt from this water quality requirement.

For the purpose of this section, redevelopment means on an already developed parcel, the creation or addition of impervious surfaces; structural development including construction, installation or expansion of a building or other structure and/or replacement of impervious surface that is not part of a routine maintenance activity; and land-disturbing activities associated with structural or impervious redevelopment that results in a total of 2,500 ft² of impervious surface.

For the purposes of Erosion and Sediment Control, development or redevelopment of sites less than one-half acre or less than 15 percent average slope shall require a standard erosion control plan; on sites one-half acre or greater or 15 percent average slope or greater a detailed erosion control plan is required. Sites greater than one acre will require a Construction Permit issued by the State and a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted to the City for approval prior to construction.

14.48.030 Improvements required.

Property owners and/or applicants for development permits shall at their own expense design, construct and install stormwater control facilities meeting the requirements of 14.48.020 pursuant the City's Engineering Standards and Specifications and the California Stormwater Quality Association's Best Management Practice Manual or as approved by the City Engineer. Erosion and sediment control measures shall be in place from October 1 through April 30 of each year.

Chapter 14.52

MARINE DOCKS AND STRUCTURES

Sections:

14.52.010	Floating docks.
14.52.020	Definitions.
14.52.030	Permits required.
14.52.040	Application for permit.
14.52.050	Parking requirements.
14.52.060	Safety.
14.52.070	Sanitation.
14.52.080	Floating dock construction.
14.52.090	Large floating dock construction.
14.52.100	Small private floating dock construction.
14.52.110	Materials except for private floating docks.
14.52.120	Flotation for all floating docks.
14.52.130	Gangway design.

14.52.010 Floating docks.

The intent of this chapter is to regulate floating docks and marina construction as defined in this chapter within the city limits. The design and specification criteria is in addition to all other city codes, ordinances and rules and regulations and is in addition to applicable laws or statutes of the United States or the state and to any applicable rule, regulation, or order of any state or federal agency. (Ord. 37 § 1 (part), 1965: prior code § 4270)

14.52.020 Definitions.

A. "Floating dock" means a moorage for boats, ships and sailing vessels supported by a buoyant method acceptable to this chapter which may or may not be attached to land. For purposes of this chapter, floating docks are further classified in this section as public floating docks and private floating docks limited to single family use.

B. "Floating marina" means a moorage defined as a floating dock which has buildings or equipment and/or structures on it used for service to boats. (Ord. 37 § 1 (part), 1965: prior code § 4271)

14.52.030 Permits required.

It is unlawful for any person to commence, or cause to be commenced, any construction of any floating dock or marina or other similar work governed by this chapter without having first obtained a permit evidencing approval of the city building department of all construction plans, specifications and schematic and working drawings pursuant to which such structure is to be constructed, all as provided in this chapter. After the issuance of such permit and approval of such plans and specifications and other documents, the construction of such approved structure or facility shall be in strict compliance with such approved plans, specifications and documents. See Master Fee Schedule. (Ord. 225 § 78, 1982; Ord. 37 § 1 (part), 1965: prior code § 4272(a))

14.52.040 Application for permit.

The applicant for a permit for the construction of any floating dock or marina or other facility of a similar nature governed by this chapter shall submit to the planning and building department of the city the following:

A. Three copies each of the plot plan (including the parking layout), full construction plans and specifications, complete working drawings, schematic drawings of electrical and mechanical work, and other similar documents;

B. Evidence that an encroachment permit has been obtained from the city if the construction work is to be done on or abutting city property;

C. Evidence that the applicant has the approval of the owner of the property over which the facility is to be located and the abutting land area to construct such facility;

D. Evidence that the applicant has complied with all applicable statutes and laws of the United States, or the state, and with all applicable rules, regulations and orders of any state or federal agency;

E. Where the approval of any other city or county department or agency is required, evidence that such approval has been obtained;

F. Where the applicant seeks a permit for construction of a floating marina or any floating dock in excess of four hundred square feet in area or fifty feet in length measured perpendicular to the shoreline, evidence that a licensed civil engineer has prepared the plans and specifications for the construction thereof;

G. The complete design criteria on which the plans and specifications for such facility are based, including the severity of the design wave action; and

H. Any other information reasonably required by the planning and building department in order to evaluate the proposed facility. (Ord. 37 § 1 (part), 1965: prior code § 4272(b))

14.52.050 Parking requirements.

A. Commercial boat docking facilities shall provide one vehicle parking space for each one and one-half mooring spaces and/or each twenty-five lineal feet of dock, plus one added space for each two employees. Parking spaces shall be located within one thousand feet of the mooring or dock spaces.

B. Parking requirements for commercial facilities housed in buildings, such as restaurants, which are used in conjunction with a marina or dock facility shall be the same as required by Title 17, zoning.

C. All other parking shall conform to the standards established in Title 17, zoning. (Ord. 66 § 16, 1967; Ord. 37 § 1 (part), 1965: prior code § 4273)

14.52.060 Safety.

Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the city, and all installations shall be subject to the approval of the chief of the fire department.

Domestic water service to any floating facility shall meet minimum requirements established by the department of public works, and the county health department and such approval shall be made a part of the construction plans.

All commercial piers, floats and docks used for loading of passengers shall be illuminated at a minimum five footcandle level for all such loading areas.

All railing on floating facilities shall be designed for a minimum twenty pound lineal foot horizontal load applied at the top railing. The minimum height of the railing shall be forty-two inches above adjacent floor level. (Ord. 37 § 1 (part), 1965: prior code § 4274)

14.52.070 Sanitation.

Removal of sewage from floating facilities shall be subject to the approval of the department of public works and the county health department and approval of the method of disposal desired shall be obtained at the time the construction plans are submitted. In addition to other sanitary requirements for buildings, all public floating docks or floating marinas shall have a minimum of two restroom facilities (one for male and one for female) for each seventy-five mooring spaces available. The maximum walking distance from boat berth to restroom shall not exceed four hundred feet. (Ord. 37 § 1 (part), 1965: prior code § 4275)

14.52.080 Floating dock construction.

Construction requirements for a floating dock less than two thousand square feet, except private floating docks less than four hundred square feet, are as follows:

Pier width	— 4'0" minimum
Gangway width	— 3'0" minimum
Main access width	— 6' for finger floats 35' or less in length. 8' for over 35' finger length or when main access float exceeds 350'.
Finger float width	— 3' minimum for 30' or less in length. 4' minimum for over 30' in length.

All docks shall be designed for boat moorage on at least one side of the boat unless otherwise approved by the building official. Guardrails shall be provided on all access piers and gangways and floats intended for gathering places such as food distribution areas and similar service areas.

The clear water dimension between opposing rows of finger floats shall be a minimum of 1.75 times the length of the longest finger float. (Ord. 37 § 1 (part), 1965: prior code § 4276.1)

14.52.090 Large floating dock construction.

Construction requirements for large floating docks (over two thousand square feet of float area) are as follows:

Pier width	— 8'0" minimum.
Gangway width	— 4'0" minimum.
Fueling float or similar service areas	— 10' minimum width.
Finger floats	— 4'0" minimum width.

The clear water dimensions between opposing rows of finger floats shall be a minimum of two times the length of the longest finger float.

Guide piles shall be installed at ends of all fingers attached to outboard end of main access float and at all floats exceeding thirty-five feet in length in ocean waters and inland waters not subject to fluctuation. Maximum spacing of guide piles for main floats shall be forty feet. Piles shall meet the requirements of the Uniform Building Code. (Ord. 37 § 1 (part), 1965: prior code § 4276.2)

14.52.100 Small private floating dock construction.

Small private floating docks (less than four hundred square feet, etc.) shall meet flotation and anchorage requirements of this chapter. (Ord. 37 § 1 (part), 1965: prior code § 4276.3)

14.52.110 Materials except for private floating docks.

Flotation units shall be made of one of the following types of material: Concrete, pressure molded fiberglass, reinforced plastic, or an expanded cellular plastic material coated with an approved material to prevent physical or chemical damage.

Iron and steel parts shall be heavily galvanized or equally protected with a corrosion resistant coating.

Deck surfaces may be either concrete, plastic or wood. Lumber shall be a minimum of one and five-eighths inches net thickness. Plywood shall be marine exterior of three-fourths inches minimum thickness. All surfaces shall have a nonslip finish.

All lumber shall receive a full cell process salt preservative treatment in accordance with the specifications of the American Wood Preservers' Association. (Ord. 37 § 1 (part), 1965: prior code § 4277)

14.52.120 Flotation for all floating docks.

A. Design Loads. All portions of facility shall be designed to resist full dead load plus live loads. All buoyant units shall resist full design loads with maximum seventy-five percent submergence of unit.

B. Lateral Loads. All portions of facility shall be designed according to minimum requirements of the Uniform Building Code.

C. Vehicular Loads. All portions of facility shall be designed in accordance with the standard specifications for highway bridges as adopted by the American Association of State Highway Officials.

D. Finger Floats and Main Access Floats. The minimum design live load shall be fifteen pound square feet or a five hundred pound concentrated load on one square foot at any location, whichever causes the worst condition.

E. Fueling floats and Similar Service Area Floats. The minimum design live load shall be twenty pound square feet or a five hundred pound concentrated load on one square foot at any location, whichever causes the worst condition. (Ord. 37 § 1 (part), 1965: prior code § 4278)

14.52.130 Gangway design.

Gangways shall be provided at the end of all main floats. Where the gangway rests on the main float, adequate width shall be provided at the main float to provide clear width of eight feet on one side or four feet on each side of the gangway to the edge of the main float.

Gangways shall be designed for a live load of fifty pound square feet minimum. Special float conditions may require a greater live load to be considered, subject to the approval of the building official. (Ord. 37 § 1 (part), 1965: prior code § 4279)

Chapter 14.56

MOVING BUILDINGS

Sections:

14.56.010	Scope.
14.56.020	Permit application.
14.56.030	Conditions prohibiting issuance of permit.
14.56.040	Restorable buildings permitted.
14.56.050	Investigations and appeal.
14.56.060	Terms and conditions of permit.
14.56.070	Form of terms and conditions.
14.56.080	Notice of moving.
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14.56.150	Procedure for moving building—Posting of bonds.
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14.56.260	Completion by surety.
14.56.270	Building permit fee required.
14.56.280	Application fee required.
14.56.290	Moving application and inspection fees designated.
14.56.300	Building permit fee—Refund.
14.56.310	Penalty payments.

14.56.010 **Scope.**

A person shall not relocate on or move onto any premises or lot within the incorporated area of the city any building, house or other structure, except a contractor's tool house, construction building or similar structure which is moved as construction requires, until he first obtains from the planning and building department a permit for such moving, and building permit for necessary and required alterations, repairs, and additions. Transit permits are required by both the city and the state for moving buildings on public roads. (Ord. 36 § 1 (part), 1966: prior code § 4500)

14.56.020 **Permit application.**

Every application for a moving permit shall be in writing upon a form furnished by the building official and shall set forth such information as the building official may reasonably require in order to carry out the purpose of this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4501)

14.56.030 Conditions prohibiting issuance of permit.

Except as otherwise provided in this chapter, the building official shall not issue a moving permit for any building or structure which:

- A. Is so constructed or in such condition as to be dangerous;
- B. Is infested with pests or is unsanitary;
- C. If it is a dwelling for habitation, is unfit for such use;
- D. Is so dilapidated, defective, unsightly or in such condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the property or improvements in the district;
- E. Is intended for a use which is prohibited by any zoning ordinance, land use or any other ordinances;
- F. If the structure is of a type prohibited at the proposed location by this or by any other law or ordinance. (Ord. 36 § 1 (part), 1966: prior code § 4502)

14.56.040 Restorable buildings permitted.

If the condition of the building or structure in the judgment of the building official admits of practicable and effective repair he may issue a moving permit upon conditions as provided in this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4503)

14.56.050 Investigations and appeal.

With respect to any application under this chapter, the building official may make or cause to be made any investigation which he believes necessary or helpful in order to carry out the purpose of this chapter, and he may petition to the city council for instructions as to any matter involving any such application. (Ord. 36 § 1 (part), 1966: prior code § 4504)

14.56.060 Terms and conditions of permit.

The building official shall grant or deny the application in compliance with this code unless a protest is filed as provided in this chapter. Prior to the issuance of a moving permit, the building official shall impose thereon such terms and conditions as are necessary to make the building or structure comply with all the requirements of the building regulations of the city, and may impose thereon such other terms and conditions as he may deem reasonable and proper, including, but not limited to the requirements of changes, alterations, additions or repairs to be made to or upon the building or structure, to the end that the moving thereof will not be materially detrimental or injurious to public health, safety or welfare or to the property and improvements, or either, in the district to which it is to be moved. (Ord. 36 § 1 (part), 1966: prior code § 4505)

14.56.070 Form of terms and conditions.

The terms and conditions upon which each permit is granted shall be written upon the application or appended in writing thereto. (Ord. 36 § 1 (part), 1966: prior code § 4506)

14.56.080 Notice of moving.

When such application is filed with the required information, the building official shall cause moving notice cards to be posted for fifteen consecutive days upon the building or structure to be moved and at the premises where the building or structure is to be moved. (Ord. 36 § 1 (part), 1966: prior code § 4507)

14.56.090 Time of issuance.

No permit shall be issued before the expiration of fifteen days from the date of the posting of the moving notice cards. (Ord. 36 § 1 (part), 1966: prior code § 4508)

14.56.100 Protests filed.

Any protest against the moving of said building or structure shall be filed within fifteen days of the posting of the moving notice cards and shall be signed by two or more individual property owners of the surrounding area, within one thousand feet of the site. The applicant may protest the decision of the building official granting or denying the application or imposing restrictions or conditions thereon within ten days of such decision of such building official. (Ord. 36 § 1 (part), 1966: prior code § 4509)

14.56.110 Place of filing.

Any protest shall be in writing and filed in the office of the building official of the city. (Ord. 36 § 1 (part), 1966: prior code § 4510)

14.56.120 Forwarding of protests.

The building official shall cause such protest to be presented to the city council at the first regular meeting period. Upon the protest being received by the city council, the council may set a date for hearing the protest, and the council may appoint a committee, which committee may consist partly or entirely of members of the council or consist entirely of nonmembers of the council, to investigate the protest and recommend to the city council at such hearing whether or not the building or structure shall be moved. Notice of the hearing shall be published at least once in a newspaper of general circulation within the city at least ten days prior to such hearing, or, in the alternative, the city clerk may notify the applicant and all protestants who have filed protests against such application by ordinary mail, addressed to the last known address of the applicant and such protestants as shown on the protests filed with the building official at least ten days prior to said hearing. Such hearing may be continued from time to time at the discretion of the city council. Within thirty days after the close of such hearing, the city council shall grant or deny such application. (Ord. 36 § 1 (part), 1966: prior code § 4511)

14.56.130 Term of denial.

In the event the city council denies the application after notice and hearing, a second application to move the same building or structure to the same property and address shall not be applied for, nor permit granted therefor, within six months from and after the date of the city council's denial of the application to move the building or structure. (Ord. 36 § 1 (part), 1966: prior code § 4512)

14.56.140 Conditions and terms of council action.

In the event that the city council grants the application after notice and hearing, the building official shall issue a permit therefor, subject to such terms and conditions as may be imposed, providing all other requirements of this chapter have been fulfilled. (Ord. 36 § 1 (part), 1966: prior code § 4513)

14.56.150 Procedure for moving building—Posting of bonds.

The building official shall not issue a moving permit unless the owner of the building or a licensed contractor shall first post with the building official a bond executed by the permittee, as principal, and by a surety company authorized to do business in the state, as surety, or makes a deposit as provided in this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4514)

14.56.160 Terms of bond.

The surety bond required by this chapter shall:

- A. Be in form joint and several;
- B. Name the city of Morro Bay as obligee;
- C. Be in the amount equal to the estimated cost plus ten percent of the work required to be done

in order to comply with all the conditions of the moving permit, such estimate to be approved by the building official. (Ord. 36 § 1 (part), 1966: prior code § 4515)

14.56.170 Deposits allowed.

The deposit, if made in place of the surety bond, shall also be equal to the cost plus ten percent of such work. (Ord. 36 § 1 (part), 1966: prior code § 4516)

14.56.180 Conditions of permits mandatory.

Every bond posted and every deposit made pursuant to this chapter shall be conditioned as follows:

A. That each and all of the terms and conditions of the moving permit shall be complied with to the satisfaction of the building official;

B. That all of the work required to be done pursuant to the conditions of the moving permit shall be fully performed and completed within the time limit specified in the moving permit. If no time limit is specified, the work shall be completed within ninety days after the date of this issuance of the moving permit. The time limits herein specified or the time limit specified in any permit issued within the provisions of this section may be extended for good and sufficient cause, either before or after said time period has expired, by a written order of the building official. (Ord. 36 § 1 (part), 1966: prior code § 4517)

14.56.190 Termination of bond.

The terms of each bond posted pursuant to this chapter shall end upon the completion to the satisfaction of the building official of the performance of all the terms and conditions of the moving permit. (Ord. 36 § 1 (part), 1966: prior code § 4518)

14.56.200 Refunds.

When a cash bond has been posted, the building official shall authorize the return of the cash to the depositor or to his successors or assigns upon the termination of the bond, except any portion thereof that may have been used or deducted as elsewhere in this chapter provided. (Ord. 36 § 1 (part), 1966: prior code § 4519)

14.56.210 Default.

Whenever the building official finds that a default has occurred in the performance of any term or condition of any moving permit, he shall give written notice thereof to the principal and to the surety on the bond. Such notice shall be served upon the principal and the surety by depositing the same in the United States mail, postage prepaid, addressed to the recipient at the last known address as shown by the records of the building official. Such notice shall be deemed to be given on the date such notice is so deposited in the United States mail. (Ord. 36 § 1 (part), 1966: prior code § 4520)

14.56.220 Contents of notice.

In a notice of default the building official shall state the work to be done, the estimated cost thereof, and the period of time deemed by him to be reasonably necessary for the completion of such work. (Ord. 36 § 1 (part), 1966: prior code § 4521)

14.56.230 Required performance.

Within the time specified in the notice of default, the surety shall cause the required work to be performed. (Ord. 36 § 1 (part), 1966: prior code § 4522)

14.56.240 Work by contract.

If a cash bond has been posted, the building official shall give notice of default, as provided in Sections 14.56.210 and 14.56.220, to the principal, and if compliance is not had within the time specified, the building official shall proceed without delay and without further notice or proceeding whatever, to use the cash deposit or any portion of said deposit to cause the required work to be done by contract or otherwise in his discretion. The balance, if any, of cash deposit, upon completion of the work, shall be

returned to the depositor or to his successors or assigns after deducting the cost of the work plus ten percent thereof. (Ord. 36 § 1 (part), 1966: prior code § 4523)

14.56.250 Inspection.*

The building official, the surety and the duly authorized representatives of either shall have access to the premises described in the moving permit for the purpose of inspecting the progress of work. (Ord. 36 § 1 (part), 1966: prior code § 4524)

* For specific provisions regarding right of entry, see Chapter 1.08 of this code.

14.56.260 Completion by surety.

In the event of any default in the performance of any term or condition of the moving permit, the surety or any person employed or engaged on its behalf or any persons employed or engaged on his behalf, may enter upon the premises to complete the required work or to remove the building or structure pursuant to the terms and conditions of the permit. (Ord. 36 § 1 (part), 1966: prior code § 4525)

14.56.270 Building permit fee required.

Before a permit is issued for the moving of a building or structure, a building permit shall be applied for and a fee therefor in accordance with the Master Fee Schedule should be paid to the planning and building department in accordance with the fee schedules set forth in Sections 14.16.030, 14.16.070 and 14.16.080. (Ord. 225 § 79, 1982; Ord. 36 § 1 (part), 1966: prior code § 4526.1)

14.56.280 Application fee required.

In addition to the building permit fees in Section 14.56.270, an application fee shall accompany each application to cover costs of processing said application, inspection of the building and premises, route approval and other matters in connection therewith and said fee shall not be refunded in the event that said application is denied or is for any reason withdrawn. (Ord. 36 § 1 (part), 1966: prior code § 4526.2)

14.56.290 Moving application and inspection fees designated.

Moving application and inspection fees shall be as follows:

A. For moving a building or structure from one location to another location within the city the fee shall be in accordance with the Master Fee Schedule;

B. For moving a building or structure from an area outside of the city into the city the fee shall be in accordance with the Master Fee Schedule. (Ord. 225 §§ 80 and 81, 1982; Ord. 36 § 1 (part), 1966: prior code § 4526.3)

14.56.300 Building permit fee—Refund.

In the event that the building permit hereunder is denied or withdrawn, or for any other reason upon good cause shown, the building official may authorize a refund to the applicant of the building permit fees theretofore paid; provided, however, that the moving application and inspection fee shall not be refunded. (Ord. 36 § 1 (part), 1966: prior code § 4526.4)

14.56.310 Penalty payments.

Failure to obtain a permit in accordance with this chapter before moving the building shall cause a penalty of double fees to be assessed against the applicant or removal of the building or prosecution of any violator as set forth in Chapter 1.16 or any combination of such penalties. Said penalty payments shall not relieve any persons from fully complying with other requirements of this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4526.5)

Chapter 14.62

SELF-INSPECTION FIRE SAFETY PROGRAM

Sections:

- 14.62.010 Purpose and intent.**
- 14.62.020 Business Group B premises defined.**
- 14.62.030 Established.**
- 14.62.040 Functions.**
- 14.62.050 Violation—Penalty.**
- 14.62.060 Liability for damages.**

14.62.010 Purpose and intent.

It is the purpose of this chapter, by the creation of a fire safety self-inspection program, to promote the public health, safety and welfare by better protecting the citizens of Morro Bay from the dangers to life and property caused by fire and panic. The new program will:

- A. Better insure that regular annual inspections of premises within the city occur;
- B. Provide better fire prevention and fire prevention education to the public;
- C. Minimize expenditure of public money for annual inspections of premises within the city;
- D. Minimize inconvenience and work interruptions to owners of premises to be inspected. (Ord.

315 § 1, 1987)

14.62.020 Business Group B premises defined.

The term “Business Group B premises,” as used in this chapter, means those drinking and dining establishments having an occupant load of less than fifty, wholesale and retail stores, office buildings, printing plants, municipal police and fire stations, factories and workshops using materials not highly flammable or combustible, storage and sales rooms for combustible goods, paint stores without bulk handling and buildings or portions of buildings having rooms used for educational purposes beyond the twelfth grade with less than fifty occupants in any room, all as defined in Section 202 of the California Fire Code. (Ord. 315 § 3, 1987)

14.62.030 Established.

A fire safety self-inspection program is established to be administered and conducted as set forth in this chapter. (Ord. 315 § 2, 1987)

14.62.040 Functions.

A. The fire department has authority to prepare and distribute self-inspection worksheet forms to the owner or person having control of each of the Business Group B premises within the city on an annual basis.

B. The owner or person having control of the premises shall conduct an inspection for fire safety following directions contained within the self-inspection forms, complete such forms and return completed forms to the fire department within fifteen calendar days from issue date, as shown on the self-inspection worksheet. (Ord. 315 § 4, 1987)

14.62.050 Violation—Penalty.

Failure to conduct the required inspection to complete and/or return the self-inspection worksheets within the time specified shall constitute a misdemeanor/infraction punishable as set forth in Title 1 of this code. Any person knowingly or intentionally misrepresenting any material fact on the self-inspection forms is guilty of a misdemeanor/infraction punishable as set forth in Title 1 of this code. (Ord. 315 § 5, 1987)

14.62.060 Liability for damages.

This code shall not be construed to hold the public entity or any officer or employee responsible for any damage to persons or property by reason of the inspection or re-inspection authorized in this chapter, or by reason of the approval or disapproval of any equipment or process authorized in this chapter, or for any action in connection with the control or extinguishment of any fire or in connection with any other official duties. (Ord. 315 § 6, 1987)

Chapter 14.68

WELLS

Sections:

14.68.010	Purpose.
14.68.020	Definitions.
14.68.030	Permit required.
14.68.040	Chapter and permit compliance required.
14.68.050	Construction of individual domestic wells.
14.68.060	Permit applications.
14.68.070	Permit application fees.
14.68.080	Expiration of permit.
14.68.090	Permit qualification.
14.68.100	Bonds.
14.68.110	Conditions.
14.68.120	Term, completion of work.
14.68.130	Reports.
14.68.140	Appeal procedure.
14.68.150	Inspection.
14.68.160	Standards.
14.68.170	Public nuisance.
14.68.180	Immediate abatement.

14.68.010 Purpose.

It is the purpose of this chapter to provide for the construction, repair, modification and destruction of wells in such a manner to safeguard the municipal water system and to prevent reduction of capacity of city owned and/or operated wells, and that the ground water of the city will not be contaminated or polluted and that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the people of the city. (Ord. 111 § 1 (part), 1973: prior code § 3400)

14.68.020 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as hereinafter set out, unless it is apparent from the content that they have a different meaning:

A. "Abandoned" or "abandonment" apply to a well which had not been used for a period of one year, unless the owner declares in writing to the health officer, through the director of public works, his intention to use the well again for supplying water or other associated purpose (such as an observation well or injection well) and received approval of such declaration. All such declarations shall be renewed annually. Test holes and exploratory holes shall be considered abandoned twenty-four hours after construction work has been completed, unless otherwise approved by the health officer.

B. "Agricultural wells" means water wells used to supply water for irrigation or other agricultural purposes, including stock wells.

C. "Cathodic protection wells" means any artificial excavation in an aquifer or in excess of fifty feet, constructed by any method for the purpose of installing equipment or facilities for the protection electrically of metallic equipment in contact with the ground commonly referred to as cathodic protection.

D. "Community water supply well" means a water well for domestic purposes in systems subject to Chapter 7 of Part 1 of Division 5 of the California Health and Safety Code.

E. "Completion" or "completion operation" means any work conducted after artificial excavation to include:

1. Placement of well casing;
2. Gravel packing;
3. Sealing;
4. Casing perforation; or
5. Other operations deemed necessary by the health officer.

F. "Contamination" means an impairment of the quality of water to a degree which creates a hazard to the public health through poisoning or through spread of disease.

G. "Destruction" or "destroy" means the complete filling of a well in such a manner that it will not produce water or act as a conduit for the interchange of water, when such interchange will result in deterioration of the quality of water in any water-bearing formations penetrated.

H. "Electrical grounding well" means any artificial excavation in an aquifer or in excess of fifty feet, constructed by any method for the purpose of establishing an electrical ground.

I. "Health officer" means the San Luis Obispo county health officer, his medical deputies, his sanitarians, or his duly authorized representatives shall perform the duties as the Morro Bay health officer in accordance with Section 1.04.130 of this code.

J. "Individual domestic well" means a water well used to supply water for domestic needs of an individual residence or commercial establishment.

K. "Industrial wells" means water wells used to supply industry on an individual basis.

L. "Modification" or "repair" means the deepening of a well, re-perforation, sealing or replacement of a well casing.

M. "Observation well" means a well used for monitoring or sampling the condition of a water-bearing aquifer, such as water pressure, depth, movement or quality.

N. "Person" includes any person, firm, association, corporation, organization, partnership, business trust, company, or special district formed under the laws of the state.

O. "Pollution" means an alteration of the quality of water to a degree which unreasonably affects:

1. Such water for beneficial uses; or
2. Facilities which serve beneficial uses.

Pollution may include contamination.

P. "Public nuisance" when applied to a well, means any well which threatens to impair the quality of ground water or otherwise jeopardize the health and safety of the public.

Q. "Salt water (hydraulic) barrier wells" means wells constructed to extract or introduce water into the ground as a means of preventing intrusion of salt water into a fresh water-bearing aquifer.

R. "Test or exploratory hole" means an excavation used for determining the nature of underground geological or hydrological conditions, whether by seismic investigation, direct observation or any other means.

S. 1. "Well" means any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into, the underground, or for providing cathodic protection or electrical grounding of equipment, or for making tests or observations of underground conditions, or for any other similar purpose. Wells include, but are not limited to:

- a. Community water supply wells;
 - b. Individual domestic wells;
 - c. Industrial wells;
 - d. Cathodic protection wells;
 - e. Electrical grounding wells;
 - f. Test and exploratory holes;
 - g. Observation wells;
 - h. Salt water (hydraulic barrier wells) as defined herein;
 - i. Agricultural wells;
 - j. Other wells whose regulation is necessary to fulfill the purpose of this chapter.
2. This definition shall not include:

- a. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the State Department of Conservation, except those wells converted to use as water wells; or
- b. Wells used for the purpose of:
 - i. Dewatering excavation during construction, or
 - ii. Stabilizing hillsides or earth embankments; or
- c. The following artificial excavations:
 - i. Drill holes for soil testing purposes where such holes are less than twenty-five feet in depth,
 - ii. Holes or excavations for soil percolation tests,
 - iii. Drill holes for seismic exploration where such drill holes are less than twenty-five feet in depth,
 - iv. Excavations for drainage percolation ponds or spreading basins.

T. "Well drilling contractor" means a contractor licensed in accordance with the provisions of the California Contractor's Law, Chapter 9, Division 3, of the Business and Professions Code, commencing with Section 7000. (Ord. 118 § 2, 1973; Ord. 111 § 1 (part), 1973: prior code § 3401)

14.68.030 Permit required.

No person shall, within the incorporated area of the city, construct, repair, modify or destroy any well unless such person possesses a valid permit issued by the health officer of the city as provided in this chapter. (Ord. 111 § 1 (part), 1973: prior code § 3402a)

14.68.040 Chapter and permit compliance required.

No person shall construct, repair, modify or destroy any well unless such construction, repair, modification or destruction is in conformance with the terms, conditions, and standards specified in this chapter and in the written permit issued by the health officer. (Ord. 111 § 1 (part), 1973: prior code § 3402b)

14.68.050 Construction of individual domestic wells.

The construction of individual domestic wells within the incorporated area of the city is prohibited unless a permit to do so is first obtained from the health officer and the city council. Any person may apply for said permit by submitting an application in accordance with Section 14.68.060. In addition to the provision of Section 14.68.060 the application shall include, but is not limited to the following:

- A. A statement as to why water cannot be obtained from the city water system; and
- B. Quantities and use of the water to be developed.

The city council shall consider the application within thirty days of its receipt by the director of public works at which time it may approve the application if in its discretion the drilling of the well and the operation thereof will not deplete nor contaminate the city water supply, and that service from the municipal water system is neither practicable nor feasible. If the council grants a permit for the well, it may impose thereon reasonable conditions to prevent depletion and contamination of the city water supply and to protect the public health, safety and general welfare. In no case shall such conditions be less restrictive than the conditions specified herein. (Ord. 111 § 1 (part), 1973: prior code § 3402c)

14.68.060 Permit applications.

Applications for permits shall be made to the health officer through the director of public works of the city and shall include the following:

- A. A plot plan indicating the exact location of the well with respect to the following items within a radius of two hundred feet of the well:
 - 1. Property lines;
 - 2. Sewage disposal systems or works carrying or containing sewage or industrial wastes;
 - 3. All intermittent or perennial, natural or artificial water bodies or water courses;
 - 4. Drainage pattern of the property;

5. Existing wells;
6. Access roads;
- B. Location of the property (Include township, range and section);
- C. Name of person who will construct the well;
- D. Estimated or proposed depth of well;
- E. Use of well;
- F. Other information as may be necessary to determine if underground waters will be protected.

(Ord. 111 § 1 (part), 1973: prior code § 3403)

14.68.070 Permit application fees.

Every permit application except those made by a public agency shall be accompanied by a fee. See Master Fee Schedule. No part of the fee is refundable. (Ord. 225 § 86, 1982; Ord. 111 § 1 (part), 1973: prior code § 3404a)

14.68.080 Expiration of permit.

Each permit issued pursuant to this chapter shall expire within six months following the issuance of the permit. Upon expiration of any permit issued pursuant hereto, no further work may be done in connection with the construction, repair, modification, or abandonment of a well unless and until a new permit for such purpose is secured in accordance with the provisions of this chapter. (Ord.111 § 1 (part), 1973: prior code § 3404b)

14.68.090 Permit qualification.

No permit shall be issued to any person who is not a well drilling contractor; provided, that a permit may be issued to an owner or occupant of property who does the work of construction, repair, modification or destruction of a well located on such property himself or through his own employees; and provided further that a permit may be issued to any person exempt from the provisions of the Contractor's License Law, Chapter 9, Division 3, of the Business and Professions Code, commencing with Section 7000. (Ord. 111 §1 (part), 1973: prior code § 3405)

14.68.100 Bonds.

As a condition precedent to the issuance of a permit, every applicant for a permit shall file or have on file with the city a corporate surety bond in the sum of two thousand five hundred dollars issued by a surety company licensed to do business in the state, or in lieu thereof, a cash deposit in the sum of two thousand five hundred dollars.

As used in this section, the term "cash deposit" includes, without limitation, certificates of deposit payable to the city issued by banks doing business in the state, investment certificates or share accounts assigned to the city and issued by savings and loan associations doing business in the state, or bearer bonds issued by the United States Government or by the state.

Said surety bond shall be conditioned to secure the compliance and faithful performance by the permittee of the terms, conditions and standards imposed by this chapter, or by any permit issued hereunder.

If cash is deposited in lieu of such bond, said cash deposit shall secure the compliance and faithful performance by the permittee of the terms, conditions and standards imposed by this chapter, or by any permit issued hereunder. (Ord. 111 § 1 (part), 1973: prior code § 3406)

14.68.110 Conditions.

Permits shall be issued subject to compliance with the standards provided in Section 14.68.160. (Ord. 111 § 1 (part), 1973: prior code § 3407)

14.68.120 Term, completion of work.

The permittee shall complete the work authorized by the permit prior to the expiration date set forth in the permit. The permittee shall notify the health officer in writing upon completion of the work and such work shall not be deemed to have been completed until such written notification has been received. (Ord. 111 § 1 (part), 1973: prior code § 3408)

14.68.130 Reports.

A copy of the well driller report required under Section 13751, California Water Code, shall be submitted to the health officer upon completion of construction of each well. (Ord. 111 § 1 (part), 1973: prior code § 3409)

14.68.140 Appeal procedure.

Any person aggrieved by the refusal of the health officer to issue a permit or by the terms of a permit may appeal from the action of the health officer to the city council by filing a written notice of appeal with the city clerk. The clerk shall set the matter for hearing before the council and shall give reasonable notice of the time and place thereof to the applicant and to the health officer. The city council shall hear the evidence offered by the applicant or permittee and the health officer, and shall forthwith decide the issue. Unless the city council rescinds the health officer's action by a majority vote, his decision shall be deemed affirmed. (Ord. 111 § 1 (part), 1973: prior code § 3410)

14.68.150 Inspection.*

The health officer and his inspectors may at any and all reasonable times enter any and all places, property, enclosures and structures for the purpose of making examinations and investigations to determine whether any provision of this chapter is being violated. The health officer may require that each completion, modification, repair or destruction operation be inspected prior to any further work. See Master Fee Schedule. (Ord. 225 § 87, 1982; Ord. 111 § 1 (part), 1973: prior code 3411)

* For specific provisions regarding right of entry. see Chapter 1.08 of this code.

14.68.160 Standards.

Standards for the construction, repair, modification or destruction of wells shall be as set forth in Chapter II of the California Department of Water Resources Bulletin No. 74, "Water Well Standards," state of California and Department of Water Resources Bulletin No. 74-1 entitled "Cathodic Protection Well Standards, State of California." (Ord. 118 § 3, 1973; Ord.111 § 1 (part), 1973: prior code § 3412)

14.68.170 Public nuisance.

In the event the health officer determines that a well constitutes a public nuisance, he shall abate said nuisance in accordance with the provisions of this code. (Ord. 111 § 1 (part), 1973: prior code § 3413)

14.68.180 Immediate abatement.

If the health officer finds that immediate action is necessary to prevent impairment of the ground water or a threat to the health or safety of the public, he may immediately abate the nuisance without complying with the provisions of this code. After abating the nuisance, the health officer shall comply with the provisions of this code. (Ord. 111 § 1 (part), 1973: prior code § 3414)

Chapter 14.72

FLOOD DAMAGE PREVENTION*

Sections:

14.72.010	Statutory authorization, findings of fact, purpose and methods.
14.72.020	Definitions.
14.72.030	General provisions.
14.72.040	Administration.
14.72.050	Provisions for flood hazard reduction.
14.72.060	Variance procedure.

* Prior ordinance history: Ord. 225, 306

14.72.010 Statutory authorization, findings of fact, purpose and methods.

A. Statutory Authorization. The Legislature of the state of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Morro Bay does hereby adopt the following floodplain management regulations.

B. Findings of Fact.

1. The flood hazard areas of the city of Morro Bay are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss.

C. Statement of Purpose. It is the purpose of this chapter promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
 2. Minimize expenditure of public money for costly flood control projects;
 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. Minimize prolonged business interruptions;
 5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
 6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
 7. Ensure that potential buyers are notified that property is in an area of special flood hazard;
- and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel flood waters;
4. Control filling, grading, dredging, and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 477 (part), 1999)

14.72.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
2. "Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
3. "Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.
4. "Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.
5. Area of Special Flood Hazard. See "Special flood hazard area."
6. "Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.
7. "Basement" means any area of the building having its floor below grade (i.e., below ground level) on all sides.
8. "Breakaway walls" means type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:
 - a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - b. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
9. Building. See "Structure."
10. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.
11. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
12. "Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

13. "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

14. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

15. "Flood, flooding, or flood water" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source.

16. "Flood boundary and floodway map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

17. "Flood hazard boundary map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

18. "Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

19. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

20. "Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flooding."

21. "Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

22. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

23. "Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

24. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

25. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

26. "Floodway fringe" is that area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

27. "Fraud and victimization" as related to Section 14.72.060 of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In

addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

28. “Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

29. “Governing body” is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

30. “Hardship” as related to Section 14.72.060, of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The city council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

31. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

32. “Historic structure” means any structure that is

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

33. “Levee” means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

34. “Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

35. “Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “basement” definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided it conforms to applicable nonelevation design requirements, including, but not limited to:

a. The wet floodproofing standard in Section 14.72.050(A)(3)(C);

b. The anchoring standards in Section 14.72.050(A)(1);

c. The construction materials and methods standards in Section 14.72.050(A)(2);

d. The standards for utilities in Section 14.72.050 B.

2. For residential structures in special flood hazard areas, all subgrade enclosed areas are prohibited as they are considered to be basements (see “basement” definition). This prohibition includes below-grade garages and storage areas.

36. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

37. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

38. “Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

39. “New construction,” for floodplain management purposes, means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

40. “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

41. “Obstruction” includes, but is not limited to, any dam, wall, wharf; embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

42. One-Hundred-Year Flood or 100-Year Flood. See “Base flood.”

43. “Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

44. “Public safety and nuisance” as related to Section 14.72.060 of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

45. “Recreational vehicle” means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light-duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

46. “Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

47. “Remedy a violation” means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

48. “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

49. “Sand dunes” mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

50. "Special flood hazard area (SFHA)" means an area having special flood hazards and shown on an FHBM or FIRM as Zone A, A1-A30, AE, A99, M, V1-V30, VE or V.

51. "Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

52. "Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

53. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

54. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

55. V Zone. See "Coastal high hazard area."

56. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this chapter.

57. "Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

58. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

59. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 477 (part), 1999)

14.72.030 General provisions.

A. Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Morro Bay.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated November 1, 1985, and accompanying Flood Insurance Rate Map (FIRM), dated November 1, 1985, and all subsequent amendments and/or revisions, are hereby

adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the city council by the floodplain administrator. The study and FIRM are on file at the department of public works.

C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the term of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions~ Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of city council, any officer or employee thereof, the state of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

G. Severability. This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 477 (part), 1999)

14.72.040 Administration.

A. Establishment of Development Permit A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 14.72.030 B. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; or
2. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, if required in Sections 14.72.050(A)(3)(b) and 14.72.050(A)(3)(c); and
3. All appropriate certifications listed in Section 14.72.040 C.4 of this chapter; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Designation of the floodplain administrator. The city engineer is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

C. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:

1. Permit Review. Review all development permits to determine that:
 - a. Permit requirements of this ordinance have been satisfied,
 - b. The site is reasonably safe from flooding, and
 - c. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point;
 2. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 14.72.030 B, the Floodplain Administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 14.72.050. Any such information shall be submitted to the city council for adoption;
 3. Notification of Other Agencies. In alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation,
 - b. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency, and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained;
 4. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:
 - a. Certification required by Section 14.72.050 (A)(3)(a) (lowest floor elevations),
 - b. Certification required by Section 14.72.050 (A)(3)(b) (elevation or floodproofing of nonresidential structures),
 - c. Certification required by Sections 14.72.050 (A)(3)(c) (wet floodproofing standard),
 - d. Certification of elevation required by Section 14.72.050(C)(2) (subdivision standards),
 - e. Certification required by Section 14.72.050(F)(1) (floodway encroachments),
 - f. Information required by Section 14.72.050(G)(6) (coastal construction standards);
 5. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 14.72.060;
 6. Remedial Action. Take action to remedy violations of this ordinance as specified in Section 14.72.030 C.
- D. Appeals. The city council of the city of Morro Bay shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter. (Ord. 477 (part), 1999)

14.72.050 Provisions for flood hazard reduction.

- A. Standards of Construction. In all areas of special flood hazards the following standards are required:
 1. Anchoring.
 - a. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. All manufactured homes shall meet the anchoring standards of Section 14.72.050 D.
 2. Construction materials and methods. All new construction and substantial improvement shall be constructed.
 - a. With materials and utility equipment resistant to flood damage;
 - b. Using methods and practices that minimize flood damage;

c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Elevation and Floodproofing. (See Section 14.72.020, definitions for “basement,” “lowest floor,” “new construction,” “substantial damage” and “substantial improvement.”)

a. Residential construction, new or substantial improvement, shall have the lowest floor, including basement,

1. In an A zone, elevated to at least one foot above the base flood elevation, as determined by this community.

2. In all other zones, elevated to at least one foot above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor retained by the applicant, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

b. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 14.72.050 (A)(3)(a) or together with attendant utility and sanitary facilities.

1. Be floodproofed below the elevation recommended under Section 14.72.050(A)(3)(a) so that the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect retained by the applicant that the standards of this Section 14.72.050(A)(3)(a) are satisfied. Such certification shall be provided to the floodplain administrator.

c. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

1. Be certified by a registered professional engineer or architect, or

2. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

d. Manufactured homes shall also meet the standards in Section 14.72.050 D.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

a. Infiltration of flood waters into the systems; and

b. Discharge from the systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

C. Standards for Subdivisions.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

2. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor retained by the applicant and provided to the floodplain administrator.

3. All subdivision proposals shall be consistent with the need to minimize flood damage.

4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

5. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

D. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved, within Zones A1-30 on the Flood Insurance Rate Map, on sites located:

- a. Outside of a manufactured home park or subdivision;
- b. In a new manufactured home park or subdivision;
- c. In an expansion to an existing manufactured home park or subdivision; or
- d. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred “substantial damage” as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. All manufactured homes that are placed or substantially improved on sites located within Zones V1-30 on the Flood Insurance Rate Map will meet the requirements of Section 14.72.050(D)(1) and Section 14.72.050 G.

3. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30 and V1-30 on the Flood Insurance Rate Map that are not subject to the provisions of Section 14.72.050(D)(1) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

- a. Lowest floor of the manufactured home is at least one foot above the base flood elevation;
- b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade.

E. Standards for Recreational Vehicles.

1. All recreational vehicles placed on sites within Zones A1-30 on the Flood Insurance Rate Map will either:

a. Be on the site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use—a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

b. Meet the permit requirements of Section 14.72.040 of this chapter and the elevation and anchoring requirements for manufactured homes in Section 14.72.050(D)(1).

2. Recreation vehicles placed on sites within Zones V1-30 on the Flood Insurance Rate Map will meet the requirements of Section 14.72.050(E)(1) and Section 14.72.050 G.

F. Floodways. Located within areas of special flood hazard established in Section 14.72.030 B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.

2. If Section 14.72.050(F)(1) is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 14.72.050.

G. Coastal High Hazard Areas. Within coastal high hazard areas as established under Section 14.72.030 B, the following standards shall apply:

1. All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist

flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

2. All new construction and other development shall be located on the landward side of the reach of mean high tide.

3. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 14.72.020. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

4. Fill shall not be used for structural support of buildings.

5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

6. The floodplain administrator shall obtain and maintain the following records:

a. Certification by a registered engineer or architect that a proposed structure complies with Section 14.72.050(G)(1).

b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement (Ord. 477 (part), 1999)

14.72.060 Variance procedure.

A. Nature of Variances. The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the city council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. Appeal Board.

1. In passing upon requests for variances, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

a. Danger that materials may be swept onto other lands to the injury of others;

b. Danger of life and property due to flooding or erosion damage;

c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

d. Importance of the services provided by the proposed facility to the community;

e. Necessity to the facility of a waterfront location, where applicable;

f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. Compatibility of the proposed use with existing and anticipated development,

h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. Safety of access to the property in time of flood for ordinary and emergency vehicles;

j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

2. Any applicant to whom a variance is granted shall be given written notice over the signature of the floodplain administrator that

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage; and

b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain administrator in the Office of the San Luis Obispo County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

3. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

C. Conditions for Variances.

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 14.72.040 and 14.72.050 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Section 14.72.020) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the city council will not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city council believes will both provide relief and preserve the integrity of the local ordinance.

5. Variances shall only be issued upon a:

a. Showing of good and sufficient cause;

b. Determination that failure to grant the variance would result in exceptional “hardship” (as defined in Section 14.72.020) to the applicant; and

c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 14.72.020, “Public safety and nuisance”), cause fraud or victimization (as defined in Section 14.72.020) of the public, or conflict with existing local laws or ordinances.

6. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (C)(1) through (C)(5) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

7. Upon consideration of the factors of Section 14.72.060(B)(1) and the purposes of this ordinance, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 477 (part), 1999)

Chapter 14.75

MANDATORY CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING PROGRAM

Sections:

14.75.010	Definitions.
14.75.020	Threshold for covered projects.
14.75.030	Submission of recycling plan.
14.75.040	Review of recycling plan.
14.75.050	Compliance with recycling plan.
14.75.060	Infeasible exemption.
14.75.070	Appeals.
14.75.080	Civil penalties.
14.75.090	Severability.

14.75.010 Definitions.

A. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the city for the applicable permits to undertake any construction, demolition, or renovation project within the city, unless otherwise specifically exempted by law.

B. "Compliance Official" means the chief building official or his/her designee.

C. "Construction" means the building of any structure or any portion thereof including any tenant improvements to an existing facility or structure.

D. "Construction and demolition debris" means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

E. "Conversion rate" means the rate set forth in the standardized conversion rate table approved by the city pursuant to this article for use in estimating the volume or weight of materials identified in a recycling plan.

F. "Covered project" shall have the meaning set forth in Section 14.75.020(A) of this article.

G. "Deconstruction" means the systematic removal of usage items from a structure.

H. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

I. "Divert" means to use material for any purpose other than disposal in a landfill.

J. "Diversion requirement" means the diversion of at least fifty percent by weight of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasible exemption pursuant to Section 14.75.060 of this chapter, in which case the diversion requirement shall be the maximum feasible diversion rate established by the recycling plan compliance official for the project.

K. "Noncovered project" shall have the meaning set forth in Section 14.75.020(C) of this article.

L. "Project" means any activity that requires an application for a building or demolition permit or any similar permit from the city.

M. "Renovation" means any change, addition, or modification in an existing structure.

N. "Reuse" means further or repeated use of construction or demolition debris.

O. "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse or storage for later recycling or reuse.

P. "Recycling plan" means a completed recycling plan form, approved by the city for the purpose of compliance with this article, submitted by the applicant for any covered or noncovered project. (Ord. 488 § 1 (part), 2002)

14.75.020 Threshold for covered projects.

A. Covered Projects. All construction and renovation projects within the city, the valuation of which are, or are projected to be, greater than or equal to fifty thousand dollars ('covered projects'), shall be required to divert at least fifty percent of all project construction and demolition debris in compliance with this chapter. The cost of the project shall be the valuation ascribed to the project by the building official. In addition, all demolition projects having a total footage of more than one thousand square feet shall be a covered project. Failure to comply with any of the terms of this chapter shall subject the project applicant to the full range of enforcement mechanisms set forth in Sections 14.75.050(C)(3) and 14.75.060 below.

B. City-Sponsored Projects. All city-sponsored construction and renovation projects within the city, the costs of which are, or are projected to be, greater than or equal to fifty thousand dollars ('covered projects') shall be required to divert at least fifty percent of all project construction and demolition debris in compliance with this chapter. The cost of the project shall be the valuation attributed to the permit issued by the building official. In addition, all demolition projects having a total square footage of more than one thousand shall be a covered project.

These city-sponsored covered projects shall submit a recycling plan to the compliance official prior to beginning any construction or demolition activities and shall be subject to all applicable provisions of this chapter with the exception of Section 14.75.050(C)(3).

C. Non-covered Projects. Applicants for construction, demolition, and renovation projects within the city whose permit valuations are less than fifty thousand dollars ('non-covered projects') shall be encouraged to divert at least fifty percent of all project-related construction and demolition debris.

D. Compliance as a Condition of Approval. Compliance with the provisions of this chapter shall be listed as a condition of approval on any building or demolition permit issued for a covered project. (Ord. 488 § 1 (part), 2002)

14.75.030 Submission of recycling plan.

A. Recycling Plan Forms. Applicants for building or demolition permits involving any covered project shall complete and submit a recycling plan on a recycling plan form approved by the city for this purpose as part of the application packet for the building or demolition permit. The completed recycling plan shall indicate all of the following:

1. The estimated volume or weight of project construction and demolition debris, by materials type, to be generated;
 2. The maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;
 3. The vendor or facility that the applicant proposes to use to collect or receive that material;
- and

4. The estimated volume or weight of construction and demolition debris that will be landfilled.

B. Calculating Volume and Weight of Debris. In estimating the volume or weight of materials identified in the recycling plan, the applicant shall use the standardized conversion rates approved by the city for this purpose.

C. Deconstruction. In preparing the recycling plan, applicants for building or demolition permits involving the removal of all or part of an existing structure shall deconstruct, to the maximum extent feasible, and shall make the materials generated thereby available for salvage. (Ord. 488 § 1 (part), 2002)

14.75.040 Review of recycling plan.

A. Approval. Notwithstanding any other provision of this code, no building or demolition permit shall be issued for any Covered Project unless and until the recycling plan compliance official has

approved the recycling plan. Approval shall not be required, however, where an emergency demolition is required to protect the public health, welfare or safety as determined by the chief building official. The recycling plan compliance official shall only approve a recycling plan if he or she first determines that all of the following conditions have been met:

1. The recycling plan provides all of the information set forth in Section 14.75.030(A) of this chapter; and

2. The recycling plan indicates that at least fifty percent by weight of all construction and demolition debris generated by the project will be diverted.

If the recycling plan compliance official determines that these conditions have been met, he or she shall mark the recycling plan 'Approved', return a copy of the recycling plan to the applicant, and notify the building department that the recycling plan has been approved.

B. Nonapproval. If the recycling plan compliance official determines that the recycling plan is incomplete or fails to indicate that at least fifty percent by weight of all construction and demolition debris generated by the project will be reused or recycled, he or she shall either:

1. Return the recycling plan to the applicant marked 'Denied', including a statement of reasons, and so notify the building department; or

2. Return the recycling plan to the applicant marked 'Further Explanation Required'. (Ord. 488 § 1 (part), 2002)

14.75.050 Compliance with recycling plan.

A. Documentation. Prior to receiving a certificate of occupancy for the project, the applicant shall submit to the recycling plan compliance official documentation that the diversion requirement for the project has been met. The diversion requirement shall be that the applicant has diverted at least fifty percent of the total construction and demolition debris generated by the project via reuse or recycling, unless the applicant has been granted an infeasible exemption pursuant to Section 14.75.060 of this chapter, in which case the diversion requirement shall be the maximum feasible diversion rate established by the recycling plan compliance official for the project. This documentation shall include all of the following:

1. Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material;

2. A copy of the previously approved recycling plan for the project adding the actual volume or weight of each material diverted and landfilled;

3. Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this chapter.

B. Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all construction and demolition debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the city for this purpose.

C. Determination of Compliance. The recycling plan compliance official shall review the information submitted under Section 14.75.050(A) and determine whether the applicant has complied with the diversion requirement, as follows:

1. Full Compliance. If the recycling plan compliance official determines that the applicant has fully complied with the diversion requirements applicable to the project, he or she shall approve the recycling plan and inform the building division that a certificate of occupancy can be issued.

2. Substantial Compliance. If the recycling plan compliance official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort and is in substantial compliance with this chapter.

In making this determination, the recycling plan compliance official shall consider the availability of markets for the construction and demolition debris landfilled, the size of the project, and/or the documented efforts of the applicant to divert construction and demolition debris. If the recycling plan compliance official determines that the applicant has made a good faith effort to comply with this chapter and is in substantial compliance, he or she shall approve the recycling plan and inform the building division that a certificate of occupancy can be issued.

3. Noncompliance. If the recycling plan compliance official determines that the applicant is not in substantial compliance with this chapter, or if the applicant fails to submit the documentation required by Section 14.75.050(A), then the applicant shall pay a civil penalty as prescribed in Section 14.75.080 prior to the issuance of a certificate of occupancy.

D. Falsification of Records. If the applicant deliberately provides false or misleading data to the city in violation of this chapter, the applicant may be subject to penalties in addition to those specified in Section 14.75.080. In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its attorneys' fees and costs from an applicant who is determined by a court of competent jurisdiction to have violated this chapter.

E. Final Approval. Prior to final approval by the building division all conditions of this chapter shall be met. (Ord. 488 § 1 (part), 2002)

14.75.060 Infeasible exemption.

A. Application. If an applicant for a covered project experiences unique circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the recycling plan required under Section 14.75.030(A) of this chapter. The applicant shall indicate on the recycling plan the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion requirement.

B. Meeting with recycling plan compliance official. The recycling plan compliance official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion requirement. Based on the information supplied by the applicant and, if applicable, San Luis Obispo County Integrated Waste Management Authority staff or designee, the recycling plan compliance official shall determine whether it is possible for the applicant to meet the diversion requirement.

C. Granting of Exemption. If the recycling plan compliance official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the recycling plan submitted by the applicant. The recycling plan compliance official shall return a copy of the recycling plan to the applicant marked 'Approved for Infeasible Exemption' and shall notify the building division that the recycling plan has been approved.

D. Denial of Exemption. If the recycling plan compliance official determines that it is possible for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing. The applicant shall have thirty days to resubmit a recycling plan form in full compliance with Section 14.75.030(A) of this chapter. If the applicant fails to resubmit the recycling plan, or if the resubmitted recycling plan does not comply with Section 14.75.030(A) of this chapter, the recycling plan compliance official shall deny the recycling plan in accordance with Section 14.75.040(B) of this chapter. (Ord. 488 § 1 (part), 2002)

14.75.070 Appeals.

A. Contents of Appeals. An appeal of the recycling plan compliance official decision may be made to the public services director in writing not longer than ten days after the compliance official's decision. The decision of the public services director shall be final. The appellant must specifically state in the notice of appeal:

1. The name and address of the appellant and appellant's interest in the decision;

2. The nature of the decision appealed from and/or the conditions appealed from;
3. A clear, complete, but brief statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate; and
4. The specific facts of the matter in sufficient detail to notify the city. The appeal shall not be stated in generalities.

B. Acceptance of Appeal. An appeal shall not be accepted by the public services director unless it is complete. (Ord. 488 § 1 (part), 2002)

14.75.080 Civil penalties.

A. Civil Penalty. If the recycling plan compliance official, or on upon appeal, the public services director determines that an applicant is in noncompliance as described in Section 14.75.050(C)(3), the applicant shall pay a civil penalty in the amount calculated as two percent of the total project valuation. Until the civil penalty is paid, the building division may withhold a certificate of occupancy. In order to provide adequate education to applicants of this chapter and allow time for them to become familiar with the necessary requirements, enforcement of the civil penalty shall not occur until twelve months after the effective date of this chapter.

B. Enforcement. The city attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the city of Morro Bay. (Ord. 488 § 1 (part), 2002)

14.75.090 Severability.

If any subdivision, paragraph, sentence, clause, or phrase of the this chapter is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this chapter, or any other provisions of the city's rules and regulations. It is the city's express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable. (Ord. 488 § 1 (part), 2002)

SECTION TWO. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its passage and, before the expiration of fifteen (15) days after its passage, shall be published once in a newspaper of general circulation printed and published in the City of Morro Bay, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance. Any publication of the Ordinance or summary or posting of the Ordinance shall include the names of the members of the City Council voting for and against the same.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 25th day of October, 2010 by motion of Councilmember Winholtz, seconded by Councilmember Borchard.

PASSED 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-7

MEETING DATE: November 10, 2010

Staff Report

TO: Honorable Mayor and Council **DATE:** November 3, 2010
FROM: Janeen Burlingame, Management Analyst
SUBJECT: Approval of San Luis Coastal Unified School District Request for City Public, Education and Government Access Funds

RECOMMENDATION:

Approve the San Luis Coastal Unified School District's October 18, 2010 request for \$2,000 in Public, Education and Government (PEG) Access funds for the purchase of one (1) camera for the tricast system and risers for the Morro Bay High School video production studio in order to complete the studio set up that the City previously approved PEG funds to establish.

MOTION: I move that the City Council do the following:

- 1. Approve the San Luis Obispo Coastal Unified School District's October 18, 2010 request for City Public, Education and Government Access funds to purchase one (1) camera for the tricast system and risers for the Morro Bay High School video production studio; and**
- 2. Authorize the release of Public, Education and Government Access funds in an amount up to \$2,000 to San Luis Coastal Unified School District on a reimbursement basis based on actual costs incurred.**

FISCAL IMPACT:

There is no fiscal impact to the general fund. Approval of the request would reduce the PEG Access fund by \$2,000, leaving an estimated fund balance of \$123,000 before additional quarterly PEG Access payments are received by Charter Communications.

DISCUSSION:

Pursuant to the Cable System Franchise Agreement, Charter Communications pays the City quarterly 1% of gross annual cable service revenues to support PEG Access. Per the agreement, these funds are to be used for PEG Access equipment and facilities and cannot be used for operations.

The City received a letter dated October 18, 2010 from Rita Delkeskamp, Director Instructional Services & Special Projects, for San Luis Coastal Unified School District with a request for an additional \$2,000 City PEG Access funds for use at Morro Bay High School's video production studio. The PEG funds would be used to purchase one camera for the tricast system and risers for the video production studio. These purchases would provide for the completion of its educational access programming/video production curricular project the City approved PEG funds for in August 2009 (See Attachment 1).

Prepared By: J Burlingame

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

As with the previously approved request in August 2009, the requested funds will be disbursed on a reimbursement basis based on actual costs up to the requested amount with the school district submitting to the City a reimbursement request supported with paid invoices. The City will then have a full accounting of the PEG Access funds used.

CONCLUSION:

The school district's previous request in July 2009 for the initial project and the current request in October 2010 to purchase equipment to complete the project are the only requests for PEG Access funds that have been made by the school district. These funds have been used by the City for the City's website redesign as well as computer equipment and software upgrades for the local government channel (Channel 20) insertion point. There is adequate funding available in the PEG Access Fund for this request, leaving ample funds remaining for planned City projects that use this funding source.

The request from the school district falls within the PEG Access fund usage requirements of the Cable System Franchise Agreement as it is for equipment and facilities upgrades in support of educational access with no requested funding to be used for operations. In addition, the requested funds would be used to purchase equipment in support of the educational access programming/video production curricular project the City has previously approved PEG funding to complete and would be of benefit to Morro Bay students.

Attachment 1



San Luis Coastal Unified School District

1500 Lizzie Street
San Luis Obispo, CA 93401-3062
(805) 549-1200

October 18, 2010

City of Morro Bay
Public Services Department
955 Shasta Avenue
Morro Bay, CA 93442

Attn: Janeen Burlingame

RECEIVED
OCT 19 2010
San Luis Coastal Unified School District
Public Services Department

Dear Ms. Burlingame:

The purpose of this letter is to provide an update on our Public, Education, Government (PEG) project at Morro Bay High School, and to request additional funding. PEG funds from the City of Morro Bay have enabled Morro Bay High School to build, furnish, and run a broadcasting studio. Our new Video Production class began in August 2010. We have been able to accomplish a live student broadcast of the video bulletin in each class period. We also brought the drama class to our studio and filmed class projects for them to critique. In setting up the studio, our students have learned a great deal about video techniques.

As our PEG project is nearing completion, we've found that the tricaster system needs three cameras to work at its optimum level, and we have only two. We would also like to purchase risers for the studio area so that it better models a real news studio.

In order to purchase the additional camera, with cabling, and the risers, we are requesting an additional \$2,000 in PEG funds from the City of Morro Bay. We greatly appreciate the PEG funds we have received, and hope you can help us to complete our project. Please let us know if and when this request will be presented to the city council, as we would like to be in attendance.

Sincerely,

Rita M. Delkeskamp

Rita M. Delkeskamp
Director – Instructional Services & Special Projects



AGENDA NO: A-8

MEETING DATE: 11/08/10

**A PROCLAMATION OF THE CITY OF MORRO BAY
DECLARING NOVEMBER 2010 AS
“NATIONAL FAMILY CAREGIVER MONTH”**

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

WHEREAS, Thanksgiving is the season where we pause to reflect on the many blessings bestowed on us as a city and as individuals. We are especially grateful for the profound love that is expressed through the support, care and compassion that is provided by family caregivers to our loved ones; the chronically ill, terminally ill, elderly and frail, young, or those living with a disability. Caregivers reflect family and community life at its best, and should be counted as one of our most important natural resources; and

WHEREAS, the need for family caregivers is growing. The blessings of medicine and technology have helped us live longer; as a result, persons with disabilities are enjoying longer lives and people over 85 are the fastest growing segment of our population. Family caregivers can be found in every city and town in America. It is very likely that we all know at least one family caregiver; and

WHEREAS, these everyday heroes among us deserve our lasting gratitude and respect. This month, as we honor the many contributions that family caregivers make to the quality of life, let us resolve to work through our community, religious, social, business and other organizations to offer programs and services that will provide caregivers the support and encouragement they need to carry out their vital responsibilities.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby proclaim **November 2010** as “**National Family Caregivers Month**” in the City of Morro Bay, California.

IN WITNESS WHEREOF I have
hereunto set my hand and caused the
seal of the City of Morro Bay to be
affixed this 8th day of November, 2010.

Janice Peters, Mayor
City of Morro Bay, California



AGENDA NO: B-1

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 2, 2010
FROM: Janeen Burlingame, Management Analyst
SUBJECT: Resolution No. 61-10 Authorizing Submission of Rural Transit Fund Grant Application

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 61-10 authorizing submission of Rural Transit Fund (RTF) grant applications for operating assistance and the purchase of various materials, supplies and equipment needed for operation of the Morro Bay Transit and Trolley services.

MOTION: I move that the City Council adopt Resolution No. 61-10.

FISCAL IMPACT

Total estimated costs for the RTF projects are \$33,500 of which \$31,280 is requested from RTF and the remaining \$2,220 for the required City local match would come from the general fund or other alternative funding source, such as Measure Q or Parking In-Lieu, identified by Council.

SUMMARY

On December 5, 2002 the San Luis Obispo Council of Governments (SLOCOG) adopted Resolution No. 02-16 to create a RTF program. The creation of the program was designed to streamline the lengthy federal process of applying for, receiving and using Federal Transportation Administration Section 5311 funds for rural transit agency projects by programming the region's share of Section 5311 funds to the Regional Transit Authority (RTA) for operations and exchanging it with a like amount of State Transportation Development Act (TDA) funds, programmed through SLOCOG, to create the RTF.

SLOCOG, RTA and City staff worked on developing program policies and procedures that would govern the RTF program for SLOCOG Board approval that would preserve the intent of the Section 5311 program in terms of who and what projects would be eligible for funds. The SLOCOG Board adopted the policies and procedures in October 2003. The City of Morro Bay is an eligible recipient to apply for these funds.

Approximately \$520,000 is available for competitive distribution for the FY 2011/2012 cycle. Applications are due December 3 and applicants are requested to rank multiple project applications in case all requests cannot be funded.

DISCUSSION

The City intends to submit an application for the FY 2011/2012 cycle for the following projects: operating assistance for Morro Bay Transit and a bus stop information display case project. The projects have been ranked in order of importance per SLOCOG request.

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

- 1st Priority: The operating assistance for Morro Bay Transit project would be for the request of \$15,000 in operating assistance. Due to State TDA decreases over the last three fiscal years, and not having enough TDA funds to continue operating the Dial-A-Ride system, the Council approved changing to a flex fixed route (Morro Bay Transit fixed route and Call-A-Ride services) beginning July 1, 2010. With the slow pace of the economic recovery, it is unclear at this time whether TDA allocations for next fiscal year will remain the same or be lower than the current fiscal year.

In addition, fares for Morro Bay Transit are projected to be lower than estimated for the current year budget; however, this projection is based on only three months of service data reported and for a time when schools were out for summer break and transition from a demand response system to the flex fixed route system (fixed route and Call-A-Ride) was taking place. In looking at the ridership categories, Call-A-Ride trips were lower than projected but are increasing with each month of operation. What is apparent during the first months of operation is that former Dial-A-Ride discount riders are using the fixed route for their outbound and return trips or are using the fixed route for the outbound trip while using the Call-A-Ride for the return trip, resulting in a fewer number of Call-A-Ride trips being requested than was estimated for the budget. In addition, when looking at the fixed route trips, 58% are discount trips and 26% are regular trips, where the split between former Dial-A-Ride users was more evenly split at 47% and 46%.

It is unclear at this time with only three months of operating data available, if these ridership patterns will remain as they are now or shift to be more in line with budget estimates as riders become more familiar with and utilize the new transit fixed route and Call-A-Ride services. Given this and the slow pace of economic recovery which may affect next fiscal year's TDA allocation, staff feels it is appropriate to request operating assistance for Morro Bay Transit as there are no critical capital needs for vehicles or communications equipment at this time.

- 2nd Priority: The bus stop information display cases project will be for the purchase of new display cases for the trolley routes so operational information and route maps showing trolley stops can be placed at each trolley stop. The current display cases are too narrow to accommodate a route map. Implementation of this project would complete a recommendation from the adopted North Coast Transit Plan to provide a route map at all stops. The estimated project cost is \$18,500 of which \$16,280 will be requested from the RTF and the remaining \$2,220 would come from the general fund for the required 12% local match or other funding source, such as Measure Q or Parking In-Lieu, identified by Council.

CONCLUSION:

Staff recommends the City Council adopt Resolution No. 61-10 authorizing submission of RTF grant applications for operating assistance and the purchase of various materials, supplies and equipment needed for operation of the Morro Bay Transit and Trolley services.

RESOLUTION NO. 61-10

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA AUTHORIZING SUBMISSION OF APPLICATIONS TO THE RURAL
TRANSIT FUND GRANT PROGRAM**

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

WHEREAS, the San Luis Obispo Council of Governments (SLOCOG) annually adopts the Federal Transit Administration (FTA) Section 5311 formula funds Program of Projects (POP); and

WHEREAS, SLOCOG began the Rural Transit Fund (RTF) program with Resolution 02-16 on December 5, 2002 by programming FTA Section 5311 funds to the San Luis Obispo Regional Transit Authority (RTA); and

WHEREAS, RTA has agreed to use these Federal funds for operating support and SLOCOG has agreed to exchange a similar amount of TDA funds for use in the RTF program; and

WHEREAS, SLOCOG, RTA, and other rural transit operators worked together to develop a process to exchange FTA Section 5311 formula funds with Transportation Development Act (TDA) funds to create the Rural Transit Fund, including Policies and Procedures to govern the RTF program; and

WHEREAS, the Policies and Procedures developed ensure that all funds will be used solely for rural transit projects consistent with the original intent of the FTA Section 5311 program; and

WHEREAS, there is \$520,000 available for competitive distribution with project applications for the 2011/2012 RTF cycle due December 3, 2010.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the Public Services Director, or his duly appointed representative, is authorized to submit applications to the Rural Transit Fund for the following projects: operating assistance for the Morro Bay Transit and purchase of trolley stop information display cases.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of November, 2010 on the following vote:

AYES:
NOES:
ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Kessling, City Clerk



AGENDA NO: B-2

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and Council **DATE:** November 3, 2010

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Consideration of Award of Request for Proposals No. MB 10-T1 for Operation and Management of Morro Bay Transit (MBT) and Trolley Services

PUBLIC WORKS ADVISORY BOARD (PWAB) AND EVALUATION COMMITTEE RECOMMENDATION:

The PWAB and evaluation committee recommend the City Council consider the proposals received and award Request for Proposals (RFP) No. MB 10-T1 to MV Transportation (MV) for the operation and management of Morro Bay Transit (flex fixed route and Call-A-Ride) and trolley services.

MOTION: I move that the City Council award Request for Proposals No. MB 10-T1 to MV Transportation.

FISCAL IMPACT:

With contract award to MV, the cost to operate and manage the MBT and trolley services would be as follows:

Morro Bay Transit	2011	2012	2013
Monthly management fee	\$ 4,493.00	\$ 4,522.00	\$ 4,625.00
Vehicle service hour fee	\$ 21.11	\$ 21.32	\$ 21.64
Annual management fee	\$ 53,916.00	\$ 54,264.00	\$ 55,500.00
Annual VSH	\$ 54,886.00	\$ 55,432.00	\$ 56,264.00
Total Annual Cost	\$ 108,802.00	\$ 109,696.00	\$ 111,764.00

*VSH - vehicle service hour fee estimated based on 2,600 hours of service
Current rates: \$4,758 monthly management fee and \$23.35 VSH fee

Trolley	2011	2012	2013
Monthly management fee	\$ 1,899.00	\$ 1,933.00	\$ 1,978.00
Vehicle service hour fee	\$ 21.11	\$ 21.32	\$ 21.64
Annual management fee	\$ 11,394.00	\$ 11,598.00	\$ 11,868.00
Annual VSH	\$ 31,665.00	\$ 31,980.00	\$ 32,460.00
Total Annual Cost	\$ 43,059.00	\$ 43,578.00	\$ 44,328.00

*VSH - vehicle service hour fee estimated based on 1,500 hours of service
Current rates: \$2,256 monthly management fee and \$23.35 VSH fee

Prepared By: J. Burlingame

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Compensation paid to MV would be in the form of a fixed monthly management fee and a variable fee based on vehicle service hours (VSH). It should be noted that the VSH to be paid for MBT and trolley services would be based on actual service hours operated.

MBT service is funded with Transportation Development Act (TDA) funds. The TDA provides two major sources of funding for public transportation: the Local Transportation Fund (LTF) and the State Transit Assistance fund (STA). These funds are for the development and support of public transportation needs that exist in California and are allocated to areas of each county based on population, taxable sales and transit performance.

The City currently uses 100% of TDA funds allocated for local transit uses for MBT. The City's TDA allocation that is available for transit operations for FY 2010/2011 is \$203,469, which includes fuel, maintenance, utilities, auditor, marketing, City overhead and service contractor. The adopted FY 10/11 budget for contractor compensation is \$114,498. There will be an estimated 5% decrease in contractor cost for MBT with award to MV.

The trolley is funded solely from the general fund. The adopted FY 10/11 budget for contractor compensation is \$47,607. There will be an estimated 9% decrease in contractor cost for the trolley with award to MV, thereby reducing the general fund used for the trolley.

SUMMARY:

The current six month extension agreement with MV for operation and management of the MBT and trolley services the Council awarded in May 2010 expires December 31, 2010. Staff developed a RFP and draft agreement for dissemination on September 10, 2010 with proposals due October 8, 2010.

A notice was placed in the Tribune, Los Angeles Times, the California Association for Coordinated Transportation website, and City website advertising the RFP. A copy of the RFP specifications and notice was sent to eight (8) transportation providers. A pre-proposal conference was held on September 22, 2010 and representatives from five (5) transportation providers were in attendance.

Two proposals were received by the October 8 due date and reviewed by an evaluation committee who made a recommendation to the PWAB and Council regarding award of the RFP.

Proposals were received from MV and the San Luis Obispo Regional Transit Authority (RTA). The new contract commencing on January 1, 2010 will be for three years with the possibility of five (5) one-year extensions. A copy of the RFP that was distributed and the proposals from MV and RTA are available for review on the City's website (www.morro-bay.ca.us/transit) and are available for public review at the Public Services office upon request.

The PWAB considered the RFP proposals at its October 27, 2010 meeting and concurred with the evaluation committee's recommendation to award the RFP to MV Transportation.

DISCUSSION:

A three-member evaluation committee comprised of one local transit manager from the City of Atascadero, one PWAB member and City staff reviewed the two proposals in relation to the RFP requirements. The committee rated each proposal using criteria outlined in the RFP and an average rating was calculated. This and a review of the cost proposal was discussed by the evaluation committee to determine if interviews would be necessary. Out of a possible score of 100 points, MV scored an average of 91 and RTA scored 60.

Low scoring for RTA was due to insufficient information provided in the proposal to conduct a full

evaluation and the cost proposal being more than one third higher than that proposed by MV. In addition, RTA's cost proposal would require the use of more than 100% of the TDA allocated for MBT after fuel, maintenance, utilities, auditor, marketing and City overhead are added for operations thereby requiring general funds to make up the difference (which are not available) or a reduction in services.

In the past, interviews have been held when the scoring between the top two or three proposals are the same or within a few points of each other or if the cost proposals are close. Neither was the case in this instance and it was determined by the evaluation committee that interviews would not be necessary. The evaluation committee recommended the City award the contract to MV.

Proposers were required to submit a range of information in three main categories: technical, organizational/management, and financial.

- Technical information such as description of proposed services, staffing plan, screening/selection policies, safety and incentive programs, training program, customer service, accounting, and reporting were reviewed for the proposers understanding of the service requirements.
- Organizational and management information such as experience, organizational structure, management/personnel policies, and accounting/reporting were reviewed for the qualification and experience of the organization with similar types of projects with public agencies, and the approach to the project, including demonstration of capability to perform demand response and fixed route services requested in the RFP.
- Financial information such as financial statements, insurance, resource allocation and proposed monthly/hourly rates were reviewed for financial stability of the proposers and reasonableness of proposed costs.

Technical

With regard to technical ability, MV demonstrated an understanding of the transit services requested, and provided detailed information regarding its staffing plan, screening and selection process, safety and incentive program, driver training program, and customer service. The proposed project manager for MV will be responsible for the dispatching duties, road supervision and training activities and this is reflected in the budget with no additional costs for dispatchers, trainers and road supervisors. The evaluation committee felt that MV could perform the transit services requested and the cost proposed is less than what the City currently pays for these services.

With regard to technical ability for RTA, the evaluation committee felt RTA's proposal, based on the information provided, lacked sufficient information to make a determination as to whether or not it has the technical ability to provide the transit services requested.

- Staffing: Proposal listed management team names with number of years in transportation and with RTA but no information on the experience and qualifications for these individuals. In addition, there was no detail on job duties and responsibilities in relation to the proposed transit services. The proposal listed an Operations Road Supervisor who makes up more than 27% of the proposed annual cost, but no information as to who this person is, what his/her experience is and what this position will be doing for MBT and trolley services. The proposal states this position would be dedicated to North Coast service, but since it does not include Full Time Equivalent information as requested for this position, it is unclear if this position is solely for MBT and trolley services or for other services on the north coast as well such as South Bay Dial-A-Ride, Cambria Trolley and RTA Route 12.

The proposal stated there would be no project manager proposed, however, the cost proposal includes salary and benefits for a project manager who makes up more than 10% of the annual cost with no information on who this person is, what his/her experience is and what this position will be doing for MBT and trolley services.

- Driver training and retraining: Proposal did not detail what kind of training drivers receive, how much classroom and behind the wheel training, or what curriculum is covered. There was no

information on when retraining occurs and what type of retraining is to take place. There was no information provided on the person listed as handling training, what her experience is and whether she is Department of Transportation certified as is required. In addition, maintenance employees were mentioned several times however, the City maintains the transit vehicles.

- **Screening and selection:** Proposal does not detail what criteria will be acceptable/unacceptable in a prospective driver's DMV record (number of points, DWI/DUI) or criminal record to be considered for hiring. Also, proposal states a candidate must successfully complete a driving test after training, but does not list here or in the training section what driver training activities are to occur (see above regarding driver training).
- **Drug and alcohol testing:** Proposal did not detail its drug and alcohol testing program so it is unclear when testing is to occur; is there pre-employment testing, random testing, suspicion testing or testing after an accident?
- **Accidents:** Proposal did not detail what procedures are followed when an accident occurs, including how and when the City is notified and under what circumstances retraining is required.
- **Vehicle cleaning:** Proposal states cleaning will be done by its Utility Workers, but no detail was provided on whether vehicles are cleaned at their facility in San Luis Obispo which puts more miles on the vehicle and uses more fuel to travel back and forth from their facility, or at the City's Corporation Yard. In addition, there was no detail on the daily, weekly and post 3,000 mile/45 day inspection cleaning activities would be performed.
- **Daily vehicle inspection:** Proposal did not detail the daily vehicle inspection procedures and how vehicle issues are reported to the City's mechanic. Without detail provided on the duties for drivers, dispatchers and the road supervisor, it is unclear who would be responsible for coordinating with the City mechanic regarding maintenance and repair activities.
- **Fare counting/handling:** Proposal did not detail procedures for how fares are handled, counted and deposited in light of the fact that the proposal indicates services are operated out of RTA's facility in San Luis Obispo and is to not have a local Morro Bay office. Without detail provided on the duties for drivers, dispatchers and the road supervisor, and with no local office, it is unclear who would be responsible for transporting fares to the facility in San Luis Obispo and when this would occur.
- **Dispatching procedures:** Proposal states dispatching to be done at RTA's facility in San Luis Obispo and there is a line item in the cost proposal for dispatching, but there is no detail on how Call-A-Ride trips are scheduled and transmitted to the driver for each day of service. In addition, there is no information as to whether there is a dispatcher on the weekends when the trolley is in service or how long the dispatching day is (current is 2 hours each day).

Organization and Management

With regard to organizational and management, both MV and RTA demonstrate experience with fixed route, paratransit and trolley service, although RTA does not have specific flex (deviated) fixed route experience. RTA took service in-house in the summer of 2009, operating transit service for one year, where in prior years the transit services offered by RTA were contracted out to a private company for day to day operation and maintenance.

Financial

With regard to financial information, financial statements for both MV and RTA were reviewed by the Administrative Services Director and it was determined that both companies have the financial capability to operate and manage the MBT and trolley services.

Both MV and RTA provided a loss experience statement for the past three years. While RTA provided three years of loss experience data, it should be noted that RTA has operated transit

services itself for one of those years, taking services in-house last summer, with the prior two years were contracted out for the transit services day to day operations.

The RFP stated that Proposal Forms from Section XI and XII were to be submitted with the proposal and included: proposal certification form, budget breakdown forms for each type of service with a monthly budget breakdown for each service, job classification and wage scale form and disadvantaged business enterprise (DBE) participation form. MV submitted these forms, while RTA did not. RTA submitted a cost proposal with an annual breakdown of cost for both MBT and trolley combined.

Proposal Certification Form

This form is required by proposers who certify that they agree to provide the services as indicated in the RFP and related contract at the monthly and vehicle service hour fees listed on the form. Below is the proposed monthly management fee and vehicle service hour fee for MBT and trolley for MV. RTA did not submit this form as required, but did provide an annual cost for both MBT and trolley combined.

Morro Bay Transit	2011	2011
	MV	RTA
Monthly management fee	\$ 4,493.00	Did not submit
Vehicle service hour fee	\$ 21.11	submit
Annual management fee	\$ 53,916.00	Did not submit
Annual VSH	\$ 54,886.00	submit
Total Annual Cost	\$ 108,802.00	\$ -

Trolley	2011	2011
	MV	RTA
Monthly management fee	\$ 1,899.00	Did not submit
Vehicle service hour fee	\$ 21.11	submit
Annual management fee	\$ 11,394.00	Did not submit
Annual VSH	\$ 31,665.00	submit
Total Annual Cost	\$ 43,059.00	\$ -

Morro Bay Transit	2012	2012
	MV	RTA
Monthly management fee	\$ 4,522.00	Did not submit
Vehicle service hour fee	\$ 21.32	submit
Annual management fee	\$ 54,264.00	Did not submit
Annual VSH	\$ 55,432.00	submit
Total Annual Cost	\$ 109,696.00	\$ -
% change over previous year	1%	

Trolley	2012	2012
	MV	RTA
Monthly management fee	\$ 1,933.00	Did not submit
Vehicle service hour fee	\$ 21.32	submit
Annual management fee	\$ 11,598.00	Did not submit
Annual VSH	\$ 31,980.00	submit
Total Annual Cost	\$ 43,578.00	\$ -
% change over previous year	1%	

Morro Bay Transit	2013	2013
	MV	RTA
Monthly management fee	\$ 4,625.00	Did not submit
Vehicle service hour fee	\$ 21.64	submit
Annual management fee	\$ 55,500.00	Did not submit
Annual VSH	\$ 56,264.00	submit
Total Annual Cost	\$ 111,764.00	\$ -
% change over previous year	2%	

Trolley	2013	2013
	MV	RTA
Monthly management fee	\$ 1,978.00	Did not submit
Vehicle service hour fee	\$ 21.64	submit
Annual management fee	\$ 11,868.00	Did not submit
Annual VSH	\$ 32,460.00	submit
Total Annual Cost	\$ 44,328.00	\$ -
% change over previous year	2%	

As RTA submitted a cost proposal with an annual cost for MBT and trolley services combined, below is a comparison of MV and RTA's annual proposed costs. MV's cost proposal is more than one third less than RTA's.

Total Annual Cost for MBT & Trolley	MV	RTA	Cost Difference	% Difference
2011	\$ 151,861.00	\$ 201,088.00	\$ 49,227.00	32%
2012	\$ 153,274.00	\$ 206,603.00	\$ 53,329.00	35%
2013	\$ 156,092.00	\$ 212,698.00	\$ 56,606.00	36%
Total 3 Yr. Cost	\$ 461,227.00	\$ 620,389.00	\$ 159,162.00	35%

MV's proposal included two different discounts. The first is a 0.5% discount for payment within 10 days after receipt and acceptance of the monthly invoice. The second is a cost saving option whereby a 0.5% discount is offered annually if the City were to make progress payments each month on the

1st and 16th as this would eliminate the interest cost from their budget.

In addition, MV also included an Unconditional Satisfaction Guaranteed Warranty where the City could terminate the agreement for any reason if dissatisfied and MV would return the past 12 months profit to the City.

There were no discounts offered by RTA in its proposal.

Budget Breakdown Form – Monthly Fixed Cost Elements

These forms detail the monthly fixed cost elements of the cost proposal for MBT and trolley services.

MB Transit Category	2011		2012		2013	
	MV	RTA	MV	RTA	MV	RTA
Project Manager Salary	\$ 2,283.00		\$ 2,340.00		\$ 2,399.00	
Project Manager Fringes	\$ 422.00		\$ 432.00		\$ 443.00	
Road Supervisor Salary	\$ -		\$ -		\$ -	
Road Supervisor Fringes	\$ -		\$ -		\$ -	
Other Wages: MV bus washing	\$ 35.00		\$ 36.00		\$ 36.00	
Other Fringes:	\$ 7.00		\$ 7.00		\$ 7.00	
Hiring Expenses	\$ -	RTA did	\$ -	RTA did	\$ -	RTA did
Training Expenses	\$ 31.00	not submit	\$ 31.00	not submit	\$ 31.00	not submit
Safety Expenses	\$ 14.00	required bid	\$ 15.00	required bid	\$ 15.00	required bid
Driver Uniforms	\$ -	forms so	\$ -	forms so	\$ -	forms so
Non-Driver Uniforms	\$ -	there is no	\$ -	there is no	\$ -	there is no
Telephone	\$ 98.00	monthly	\$ 101.00	monthly	\$ 104.00	monthly
Office Supplies	\$ 37.00	fixed cost	\$ 38.00	fixed cost	\$ 39.00	fixed cost
Insurance: Liability	\$ 88.00	breakdown	\$ 88.00	breakdown	\$ 88.00	breakdown
Insurance: Collision	\$ 432.00	between	\$ 445.00	between	\$ 457.00	between
Insurance: WC	\$ 143.00	Morro Bay	\$ 147.00	Morro Bay	\$ 150.00	Morro Bay
Performance Bond	\$ 18.00	Transit and	\$ 18.00	Transit and	\$ 18.00	Transit and
Accounting	\$ -	Trolley	\$ -	Trolley	\$ -	Trolley
Management Fee/Profit	\$ 262.00		\$ 265.00		\$ 270.00	
Other: Corp. G&A Expense	\$ 481.00		\$ 486.00		\$ 494.00	
Other: Business License	\$ 14.00		\$ 15.00		\$ 15.00	
Other: Interest Expense	\$ 102.00		\$ 49.00		\$ 49.00	
Other: Depreciation	\$ 15.00		\$ -		\$ -	
Other: Bush Wash Supplies	\$ 10.00		\$ 10.00		\$ 10.00	
Total Monthly Expenses	\$ 4,492.00	\$ -	\$ 4,523.00	\$ -	\$ 4,625.00	\$ -

Trolley Category	2011		2012		2013	
	MV	RTA	MV	RTA	MV	RTA
Project Manager Salary	\$ 979.00		\$ 1,003.00		\$ 1,028.00	
Project Manager Fringes	\$ 181.00		\$ 185.00		\$ 190.00	
Road Supervisor Salary	\$ -		\$ -		\$ -	
Road Supervisor Fringes	\$ -		\$ -		\$ -	
Other Wages: MV bus washing	\$ 12.00		\$ 12.00		\$ 12.00	
Other Fringes:	\$ 2.00		\$ 2.00		\$ 2.00	
Hiring Expenses	\$ -	RTA did		RTA did	\$ -	RTA did

While RTA did not submit the required monthly breakdown of fixed costs for each service type, it did provide an annual cost proposal for MBT and trolley combined. This is the only cost information provided. The proposal did not include a wage scale or full time equivalents for each job classification as required in the RFP specifications.

Category	2011	2012	2013
Driver Salary/Benefits	\$ 78,981	\$ 81,498	\$ 84,016
Project Manager Salary/Benefits	\$ 21,771	\$ 22,113	\$ 23,011
Road Supervisor Salary/Benefits	\$ 55,317	\$ 56,992	\$ 58,668
Safety & Training Salary/Benefits	\$ 4,807	\$ 4,963	\$ 5,119
Dispatch & Bus Washing Salary/Benefits	\$ 15,457	\$ 15,921	\$ 16,208
Uniforms	\$ 445	\$ 372	\$ 454
Redirected phone line to RTA dispatch	\$ 840	\$ 686	\$ 909
Liability and Physical Damage Coverage	\$ 9,569	\$ 9,569	\$ 9,569
Workers Compensation	\$ 8,351	\$ 8,637	\$ 8,918
Accounting	\$ 5,550	\$ 5,670	\$ 5,827
Total	\$ 201,088	\$ 206,421	\$ 212,699

When comparing the cost proposal for driver salary and benefits, 57% of the total cost proposal for MV goes to driver wages/benefits and 39% of RTA's total cost proposal goes to driver wages/benefits.

When comparing the cost proposal for the management team labor salary and benefits (project manager, road supervisor, trainer, dispatching), 26% of the total cost proposal for MV goes to management wages/benefits and 49% of RTA's total cost proposal goes to management wages/benefits.

Budget Breakdown Form - Hourly Cost Elements

This form details the hourly cost elements of the cost proposal for MBT and trolley services: driver wages, benefits and driver workers compensation (WC).

MB Transit Category	2011		2012		2013	
	MV	RTA	MV	RTA	MV	RTA
Drivers Wages	\$ 14.30	See note	\$ 14.36	See note	\$ 14.41	See note
Driver Fringe Benefits	\$ 4.27	See note	\$ 4.42	See note	\$ 4.53	See note
Other: Driver WC	\$ 2.54	See note	\$ 2.54	See note	\$ 2.70	See note

Job Classification and Wage Scale Form

With regard to job classification and wages for MV, the project manager is also the driver trainer, road supervisor, and dispatcher. For RTA, total annual driver wages are listed in an annual budget breakdown, but it is unclear how much drivers are paid since RTA did not provide the required wage scale or indicate how many full time equivalent drivers would be needed to provide the transit services requested.

Starting Rate New Employee

Wage Scale Position	2011		2012		2013	
	MV	RTA	MV	RTA	MV	RTA
Project Manager	\$18.82	RTA did not	\$19.29	RTA did not	\$19.77	RTA did not
Trainer	In overhead	submit required	In overhead	submit required	In overhead	submit required
Vehicle Operator	\$10.00	bid forms nor	\$10.00	bid forms nor	\$10.00	bid forms nor
Dispatcher	\$0.00	detail in	\$0.00	detail in	\$0.00	detail in
Other (MV bus washer)	\$10.00	proposal	\$10.00	proposal	\$10.00	proposal

CONCLUSION:

The difference in cost between MV and RTA over the three-year contract is \$159,162. The TDA apportionment to Morro Bay is not expected to increase much due to stagnant growth (TDA funds are distributed on a population based formula) and the recovering economy. Any additional cost to operate and manage MBT and trolley services would come from the general fund or service cuts would have to be enacted.

The cost proposal from MV is estimated to be 7% less than what the City currently pays for the same services while RTA’s cost proposal is estimated to be 24% more. In addition, RTA’s cost proposal would require the use of more than 100% of the TDA allocated for MBT after fuel, maintenance, utilities, auditor, marketing and City overhead are added for operations requiring either general funds to make up the difference (which are not available) or a reduction in services.

The PWAB and evaluation committee believes the proposal from MV exhibits the financial, technical, and organizational/management ability to perform the requested MBT and trolley services and would be in the best interest of the City. As such, the PWAB and evaluation committee recommend the Council consider the proposals received and award Request for Proposals (RFP) No. MB 10-T1 to MV Transportation.

DISCUSSION:

Because of the degradation to the water quality and the changes in regulations, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal standards to customers in the Chorro Valley basin.

In order to both provide water to the customers outside the City limits and maintain the Chorro Groundwater resource for the benefit of the customers within the City limits, major modifications to the City's infrastructure would be required. These modifications would be needed to effectively deal with the nitrate contamination while also providing disinfection of the occasional bacteriological contamination events that impact the Chorro Groundwater Basin.

In December of 2008, the California Department of Public Health inactivated all of the wells in the Ashurst well field including Well No. 9A. Until a method of providing treatment for nitrate removal or blending is in place, the City is unable to use these wells as a supply source. The degradation of water quality in the Chorro Valley, coupled with the connection of water services to the pumping line, and further complicated by more stringent regulations, will continue to strain the City's water resources until resolved.

Pursuant to City Council direction, Staff has negotiated the terms for the removal of water services to the Roandoak property. The attached Agreement will cease water service to this property and is the start to reaching agreements with the other property owners in the Chorro Valley to remove them from City Water Service.

CONCLUSION:

It is recommended that the City Council review the Agreement between Roandoak and the City of Morro Bay and approve the Agreement.

A G R E E M E N T

THIS AGREEMENT is made and entered into this ____ day of November, 2010, by and between the CITY OF MORRO BAY, a municipal corporation, hereinafter referred to as “CITY”, and ROANDOAK OF GOD, a corporation sole, hereinafter referred to as “ROANDOAK”. City and Roandoak are hereinafter referred to collectively as the “PARTIES.”

R E C I T A L S

WHEREAS, ROANDOAK is the holder of record title of Assessor’s Parcel Number 73-131-016 which is described on Exhibit “A” as Parcel 1; and

WHEREAS, ROANDOAK is the holder of record title of Assessor’s Parcel Number 73-131-020 which is described on Exhibit “A” as Parcel 2; and

WHEREAS, the CITY and ROANDOAK entered into an Agreement dated August 10, 1982 which provided for CITY’s right to extract water from existing Well 9A on Roandoak Property Parcel 2 and in exchange for the use of Well 9A, the City agreed to provide free water service to ROANDOAK Parcel 1; and

WHEREAS, on January 8, 2010, the CITY terminated the Agreement dated August 10, 1982 between the CITY and ROANDOAK, thereby relinquishing its rights to Well 9A and the requirement to provide free water service to ROANDOAK; and

WHEREAS, it is the mutual desire of the undersigned PARTIES to disconnect Parcel 1 from City water services and to provide a well system to service Parcel 1 under the terms and conditions provided herein and an Agreement has been reached relative to supplying water from a well and the cost of supplying said water; and

WHEREAS, it is the intention and purpose of the undersigned PARTIES that the well and water distribution system shall be used and operated to provide an adequate supply of water for Parcel 1, for the domestic consumption of the occupants of said properties, and to assure the continuous and satisfactory operation and maintenance of the well and water distribution system, in accordance with the provisions hereinafter set forth, for the benefit of the present and future owners, their heirs, successors and assigns of the properties connected thereto; and

WHEREAS, ROANDOAK is in need of a well system to service Parcel 1 the said well system is intended by the PARTIES hereto to be of adequate capacity to supply Parcel 1 described herein with water from a well for all domestic uses based upon the historical water use on Parcel 1.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The CITY agrees to furnish the labor, materials, and equipment necessary to install a water well, and its pump, pumphouse, and connecting pipelines at a location to be determined by the PARTIES on Parcel 1 for the sole benefit of Parcels 1 as set forth in the Well Driller Specifications and Invoice attached hereto as Exhibit "A". The CITY shall be responsible for all costs associated with the installation of the water well and appurtenances as set forth in Exhibit "A". In addition, CITY agrees to install a Point of Use Reverse Osmosis (RO) system for Parcel 1 as set forth in the RO Specifications and Invoice attached hereto as Exhibit "B".
2. After the completion of the installation of the water well, RO system and appurtenances, CITY shall have no other obligation or liability to ROANDOAK with respect to the well, RO system and appurtenances and the service of water to Parcel 1 and ROANDOAK shall assume all ownership and responsibility for said well, RO system and appurtenances and be responsible for any and all operation and maintenance of said well, RO system and appurtenances. Any and all warranties from the Well Driller and RO Installer shall endure to the benefit of ROANDOAK.
3. After the completion of the installation of the water well, RO system and appurtenances, CITY shall grant to ROANDOAK a utility easement across the City Assessor's Parcel Number 73-131-017 between Parcel 1 and 2.
4. ROANDOAK agrees to save and hold the CITY, its personnel and officials harmless from all costs, expenses, losses and damages, including costs of defense, incurred as a result of any acts or omissions of the CITY's personnel relating to the installation of the water well, appurtenances, RO system services, and implementation of this agreement.
5. In addition, each of the provisions hereof shall operate as covenants running with the land for the benefit of the Property and each Parcel thereof and shall inure to the benefit of all owners of the Parcels thereof, their successors and assigns in interest, and shall apply to and bind each successive owner of each Parcel, their successors and assigns in interest.
6. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
7. This Agreement constitutes the entire agreement of the PARTIES with respect the subject matter of this Agreement and supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
8. If any part of this Agreement is held, determined or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

9. This Agreement shall not create any right or interest in any non-party or any member of the public as a third party beneficiary.

CITY OF MORRO BAY
A Municipal Corporation

DATE: _____, 2010

BY: _____
MAYOR

ROANDOAK OF GOD
A Corporation Sole

DATE: _____, 2010

BY: _____



AGENDA NO: C-1

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 1, 2010
FROM: Tim Olivas, Police Chief
SUBJECT: Review of Annual Report and Approval of the Business License renewal for the “Family Fun Zone” Arcade located at 725 Embarcadero Suite 105.

RECOMMENDATION:

Staff recommends the City Council approve the renewal of the business license for the “Family Fun Zone” Arcade with the existing conditions listed in Resolution No. 53-09 and Minor Use Permit (UPO-286 & AD0-051).

MOTION:

I move the business license be renewed with the existing conditions for the “Family Fun Zone” Arcade located at 725 Embarcadero Suite 105.

FISCAL IMPACT:

Not applicable

SUMMARY:

A records check was conducted for Police Department “Calls For Service” related to the Arcade at 725 Embarcadero. No calls for service were recorded for incidents related to the Arcade’s operation. The Harbor Department and Public Services Department also reported they had no incidents that would give cause for the Arcade business license to be suspended or revoked.

BACKGROUND:

On October 6, 2010, the Council adopted Resolution No.53-09, in conformance with Morro Bay Municipal Code 5.04.330, approving a Business License for Rose’s Landing “Family Fun Zone” Arcade located at 725 Embarcadero with conditions. A copy of the resolution is attached for your review.

Prepared By: Tim Olivas

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Pursuant to Morro Bay Municipal Code Section 5.04.330, the application for the annual renewal of the business license shall be considered at a public hearing, with a report from the Chief of police as to compliance with conditions of approval and any law enforcement problems experienced in the past year.

DISCUSSION:

The location of the Family Fun Zone arcade was listed on the original business license application as 725 Embarcadero with no specific suite number. The Arcade was originally located in Suite 103 along the northern side of the building. In April 2010, it came to our attention that the Arcade had been moved from Suite 103 to Suite 105 along the southern side of the building without a required Minor Use Permit (MUP). The business owner considered Suite 105 as a better business location for the Arcade and began the process of moving the Arcade when the current tenant vacated Suite 105.

The owner of the business believed the Arcade could be moved to another suite within the same building because there had been no specific suite number listed on the application. The owner was contacted and he agreed to close the Arcade until the appropriate MUP was obtained from the City. One of Staff's concerns with the Arcade's new location was that it allowed access to a permitted outdoor alcohol area through the south facing doors. As part of the MUP process, the owner agreed that no alcohol would be served in the outdoor patio area during the Arcade's hours of operation.

CONCLUSION:

This annual report does not reflect any incidents or violations associated with the "Family Fun Zone" Arcade located at 725 Embarcadero Suite 105 that would materially affect the public health, safety or welfare.

RESOLUTION NO. 53-09

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
APPROVING A BUSINESS LICENSE APPLICATION FOR AN ARCADE
IN CONFORMANCE WITH MORRO BAY MUNICIPAL CODE 5.04.330
AT 725 EMBARCADERO ROAD**

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

WHEREAS, Doug Redican applied for a business license for a “Family Fun Zone” video arcade located at 725 Embarcadero; and

WHEREAS, pursuant to the Morro Bay Municipal Code, the license application shall be submitted to the City Council for its action and that the Police Chief shall cause to have taken, fingerprints of all business supervisors and employees of the arcade and to prepare a confidential background investigation to be assessed in a report to the City Council; and

WHEREAS, after review by the Police Department, the following conditions are recommended:

1. Interior lighting within the premises shall be adequate enough to allow clean view of the interior of the establishment from the exterior doorway.
2. No furniture shall be placed in the premises that would encourage loitering
3. The hours of operation shall be limited to 11:00 a.m. to 10:00 p.m.
4. There must be at least one approved manager on location at Rose’s Landing who will have the responsibility of supervising the arcade. The approved manager(s) must have their fingerprints and background investigation completed by the Police Department as required by the Municipal Code Section 5.05.330 prior to assuming those duties.
5. A closed circuit television/security camera monitoring system will be installed and operation at all times during business hours. Such system will consist of a minimum amount of cameras to adequately cover the premises.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that a business license, with the above conditions, is approved for the Rose’s Landing Family Fun Zone arcade located at 725 Embarcadero.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay that this action supports new business in Morro Bay and is in conformance with the goals set by the Morro Bay City Council during their goal-setting workshop held in February 2009, specifically “develop ways to retain existing businesses and attract new ones”.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 12th day of October 2009 by the following roll call vote:

AYES: Borchard, Smukler, Winholtz, Peters

NOES: None

ABSENT: Grantham

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT BAUER, CITY CLERK



AGENDA NO: D-1

MEETING DATE: November 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 1, 2010

FROM: Andrea K. Lueker, City Manager

SUBJECT: Discussion of the Visitors Center Including the 2009/10 Financial Review, Percentage of Funding from the Morro Bay Tourism Business Improvement District (TBID) and Representation on the Board

RECOMMENDATION

Staff recommends the City Council review the staff report and provide further direction on three issues with the Visitors Center: 1) financial review of the 2009/2010 fiscal year; 2) funding of the Visitors Center from the TBID Assessment; and 3) representation on the Chamber Board for Visitors Center oversight. Staff has provided several options for the City Council to consider, in terms of further direction.

MOTION: Option 1

I move the City Council do the following:

- A. Accept the Financial Review with the following recommendations on salary distribution_____.
- B. Approve ___% of funding (\$_____) from the TBID, beginning with the month of_____.
- C. Recommend to the Chamber of Commerce that the City of Morro Bay have a designated board position (voting/non-voting) held by a City executive or management staff person.

Option 2

I move the City Council do the following:

- A. Accept the Financial Review with no recommendations.
- B. Approve ___% of funding (\$_____) from the TBID, beginning with the month of_____.
- C. Recommend to the Chamber of Commerce that the City of Morro Bay have a designated board position (voting/non-voting) held by a City executive or management staff person.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Option 3

I move the City Council:

- A. Direct staff, due to the change in Executive Directors and Board members, to meet with the new Chamber Executive, review the past Visitor Center profit and loss statement with the new Chamber Executive Director, discuss further plans based on the new Executive Director's plan, and report back to City Council in 60 days.
- B. Approve ___% of funding (\$_____) from the TBID, beginning with the month of_____.
- C. Recommend to the Chamber of Commerce that the City of Morro Bay have a designated board position (voting/non-voting) held by a City executive or management staff person.

FISCAL IMPACT

Unknown at this time; General Fund savings will be recognized based on percent of TBID contribution to the Visitors Center.

BACKGROUND

On June 28, 2010 during the annual review of the Visitors Center Agreement, the City Council amended the Agreement to include language regarding a financial review of the Visitors Center operations at the end of the 2009/10 fiscal year. In September 2010, the Chamber provided this information to the City Administrative Services Director, and she performed a financial review.

Also during that same City Council meeting, the Council discussed placing a measure on the November 2010 ballot, approving an increase in the City's Transient Occupancy Tax (TOT). The City Council discussed the "give and take" between placing this item on the ballot or changing the TBID assessment from 2% (which went into effect in June 2010) back to 3% (which had been collected from June 2009 through May 2010). During that discussion, the City Council was presented with the recommendation from the TBID Board that was passed on June 24, 2010. The TBID Board's recommendation was that the City forgo efforts to increase the TOT, but agree to move forward with increasing the TBID assessment from 2% to 3%. The TBID Board's motion also included funding the Visitors Center at 33%, as soon as the TBID assessment rate was changed from 2 to 3%, and proceeds were realized from that change.

A third topic, which has been raised several times during past City Council discussions of the Visitors Center, was representation from City staff on the Chamber Board for oversight of the Visitors Center operations.

DISCUSSION

Financial Review

As directed by the City Council and included in the Visitors Center Agreement, the City's Administrative Services Director Susan Slayton performed a detailed financial review at the end of the 2009/10 fiscal year on the Visitors Center profit and loss statement. Visitors Center staff presented the materials to City staff in early September, and staff then followed up with Rochelle Bento of the Visitors Center for further clarification. On September 24th, Ms. Slayton and I met with Stuart McElhinney (Chamber Board President), Don Doubledee (Interim Chamber of Commerce CEO), Susan Harris (Chamber Board Treasurer), and Greg Kaufman (Chamber Board member) to discuss the analysis that Ms. Slayton had completed on the profit and loss statement. The three areas that she had identified for discussion included:

1. Salary distribution;
2. Sharing of common area costs; and
3. Distribution of the copier lease (between Chamber and Visitors Center)

During our meeting, these items were reviewed, and Chamber members/staff indicated that the sharing of fixed costs, such as rent, copier and utilities were divided on an 80% (City) /20% (Chamber) basis. The approximate breakdown of all costs is as follows:

\$104,000	Salaries/benefits/taxes
\$ 1,500	Credit Card Charges
\$ 13,000	Rent
\$ 1,700	Insurance
\$ 4,000	Telephone
\$ 5,100	Utilities
\$ 14,000	Copier Lease, Equipment & Supplies
\$ 1,000	Computer Supplies
\$ 5,500	Postage
\$ 1,500	Other Office Expenses
\$ 3,000	Reimbursable
\$ 3,000	Taxes
\$ 3,600	Billboard
\$160,900	Approximate total

In the review of salary/benefits/taxes distribution, City staff was concerned that the City was paying for 60% of the total salary/benefits/taxes of all Chamber staff members (8 total). That item was discussed at the meeting, and Chamber members/staff were asked to review those figures and return to the City with further analysis. After review, the figures revealed that the City funds were paying 50% of the Event Coordinators salary/benefits/taxes and 60% of all other employees, including the Executive Director. While the amount of funding for salaries is similar to the budget prepared, there is some concern about the funding of all positions, specifically funding 50% of the Event Coordinator. After City Council review, the Council may decide to further stipulate how funds are spent and/or have staff work with Visitors Center staff on salary distribution.

Funding from the TBID

The TBID Board discussed the funding of the Visitors Center at a special meeting held on June 24, 2010. The motion from that meeting was a recommendation that 33% of the Visitors Center funding (approximately \$50,000) be provided from the percentage collected through the assessment of lodging in Morro Bay. The TBID's discussion was held prior to the City Council's discussion on June 28, 2010, where they agreed to forgo efforts to seek an increase in the TOT on the November 2010 ballot. At the June 28, 2010 City Council meeting, the Council talked about the recommendation from the TBID Board for 33% of the funding, as well as other amounts (specifically 40% was discussed). However, at that time, the City Council did not take any further action, as they wanted to make sure the assessment percentage for the TBID was successfully increased from 2% to 3%. At this time the City Council can move forward with a decision on the funding percentage from the TBID, as the percentage successfully was changed from 2-3% and collection of the increased assessment begins this month.

Another part of this issue that bears mentioning is that the TBID Board briefly discussed the funding of the Visitors Center at their October 21, 2010 meeting, and questioned staff as to any Council decision on the percentage of funding. Staff indicated that the Council had not made a decision, but that the issue would be coming forward in the near future. The TBID Board then asked to have their recommendation of the TBID funding of 33% of the Visitors Center returned to the TBID agenda for reconsideration at the November 18, 2010 meeting. The discussion revolving around the request for reconsideration appeared more focused on the TBID Board having representation on the Chamber Board, or some other sort of representation that would provide them some oversight of the Visitors Center. Staff has informed the TBID Board, through e-mail correspondence, that this topic is coming forward to Council prior to the “reconsideration” discussion scheduled for their November 18th meeting.

Any financial assistance that is allocated by the TBID for the Visitors Center will directly reduce the amount of money that is paid by the General Fund. At 33%, the General Fund will experience a savings of \$50,322 ($\$152,490 \times .33 = \$50,232$). At 40%, the General Fund will save \$60,996.

Representation on the Chamber Board

In several past discussions, the City Council has raised and talked about the concept of a City representative sitting on the Chamber Board. This is in light of the significant funding the City provides for the operation of the Visitors Center.

CONCLUSION

There are a number of issues included in this staff report in regard to the operation/funding of the Visitors Center. As the City Council is aware, in the past few months there have been significant personnel changes with the Chamber Executive and Events Coordinator, and as of the writing of this staff report, there has been no final decision with either position. In light of this situation, it may be important to allow the Chamber and Visitors Center some time to “re-group” before major changes are suggested or made.



AGENDA NO.: D-2
Meeting Date: 11/08/10

THIS ITEM HAS

BEEN PULLED FROM

THE AGENDA

DISCUSSION:

Cal Sense site controllers are an integral component of the Morro Bay’s park irrigation systems, and have been for over a decade. Upgrades to these systems would enable these stand alone site controllers to be linked via radio with input devices such as evapotranspiration and rain gauges to gather and utilize real time data to optimize irrigation events.

The City of Morro Bay has been testing the proposed Cal Sense hardware and software upgrades at City Park since March 2010. The City Park test has demonstrated positive results with optimal system reliability. The actual results from this test were used to calculate potential savings at the other locations. The Parks scheduled for upgrades include City Park, Monte Young, Tidelands, Lila Keiser, Cloisters, and Del Mar.

The Recreation and Parks Commission reviewed staffs request at their regular meeting on October 26, 2010. The RPC agreed the proposed project would be beneficial and an appropriate use of Park Fee Funds. It was motioned and unanimously carried to recommend approval by the City Council.

CONCLUSION:

The Cal Sense systems are currently in use throughout the City owned parks. The systems are accurate, durable, and user friendly components of the maintenance infrastructure. The proposed upgrades have undergone rigorous and thorough testing by staff. This is a sound investment with a calculated return on investment of approximately 10 months.



AGENDA NO: D-4

MEETING DATE: 11/08/10

Council Report

TO: CITY COUNCIL

DATE: NOVEMBER 3, 2010

FROM: BETTY WINHOLTZ, COUNCIL MEMBER

SUBJECT: DISCUSSION ON THE STATUS OF THE CURRENTLY ACKNOWLEDGED TREE COMMITTEE AND WHETHER TO MAKE IT OFFICIAL

RECOMMENDATION:

Discuss what official role, if any, a tree committee should have.

FISCAL IMPACT:

Discussion involves no fiscal impact.

SUMMARY:

Over the last two years, an unofficial, meaning not city council appointed, group of residents known as the tree committee has been recognized by city council and used by staff. Their influence has brought changes to the City's public appearance and visual resources by changing the public physical environment. Due to their increasing influence, a discussion on the membership of and status this group enjoys would be appropriate.

BACKGROUND:

More than ten years ago for a period of some time, the City had an officially-appointed Tree Committee. When the Public Works Advisory Board (PWAB) was configured, the Tree Committee's responsibilities were subsumed under it. Two years ago, Council Member Smukler was elected to the City Council. He sought advice from professionals--arborists and landscapers--within the town to address the City Council adopted idea of having an urban forest. Interested lay people, including at least one representative from Morro Bay Beautiful, a non-profit, were invited to become part of the group.

Prepared By: B. Winholtz

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Over the last two Arbor Day celebrations, the tree committee has been instrumental in choosing what and where to plant trees. Between Arbor Days, the committee with City staff approval has chosen and replanted trees in the public right-of-ways of the downtown business district. Most recently, the committee was involved with re-vegetation project at the Community Center and Library.

DISCUSSION:

Persons with influence to change public space--streetscape, public parking lots--should be officially recognized by the City Council, the representatives of the people and stewards of their resources. The Public Services Director and the Recreation and Parks Director are indirectly hired by the City Council via the City Manager to manage public space. As well, it is desirable to have citizen input into how the City is to look visually. Since the tree committee is unofficial, it is in essence self-appointed. There is no definition of who can be a member, how many can be members, what sort of balance to membership there should be, who/what is represented, or what kind of quorum is maintained.

There are at least three options:

1. Make the tree committee official in ensure broad representation.
2. Make the tree committee a standing sub-committee of PWAB ensuring membership and oversight.
3. Acknowledge the tree committee as the Council does the Morro Bay Bike Club with its ability to influence through recommendation that may be accepted or altered by the City Council.

CONCLUSION:

Discuss and give direction.