

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 – TUESDAY, SEPTEMBER 13, 2011

**CLOSED SESSION – TUESDAY, SEPTEMBER 13, 2011
CITY HALL CONFERENCE ROOM - 4:00 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.

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

**THIS MEETING WILL ADJOURN TO THE
JOINT CITY COUNCIL/PLANNING COMMISSION MEETING
THAT WILL BEGIN AT 5:00 P.M. AND WILL BE
LOCATED AT THE VETERANS' MEMORIAL HALL
209 SURF STREET, MORRO BAY, CALIFORNIA.**

**PUBLIC SESSION – TUESDAY, SEPTEMBER 13, 2011
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 24 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 THE MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 23, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO 2011/2012 ABANDONED WATERCRAFT ABATEMENT FUND CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 63-11.

A-3 CONSIDERATION OF APPROVAL FOR A SUBLEASE ON A PORTION OF LEASE SITE 110-112/110W-112W AND 111.5W, LOCATED ADJACENT TO 1185 EMBARCADERO, BETWEEN GREAT AMERICAN FISH COMPANY, INC. AND VIRG'S LANDING, INC.; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 64-11.

A-4 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING RATE-SETTING AS A WATER CONSERVATION TOOL; (ADMINISTRATION)

RECOMMENDATION: Direct staff to send a letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports entitled "Rate-Setting as a Water Conservation Tool".

A-5 CONSIDERATION OF AN ADVISORY BOARD MIXER; (ADMINISTRATION)

RECOMMENDATION: Direct staff to arrange an Advisory Board Mixer in late January/early February 2012.

A-6 APPOINTMENT OF ALTERNATE MEMBER TO THE AIR POLLUTION CONTROL DISTRICT; (MAYOR)

RECOMMENDATION: Appoint the Mayor as the alternate member to the Air Pollution Control District.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 65-11 APPROVING THE ADOPTION OF THE TERMS AND CONDITIONS OF EMPLOYMENT FOR THE SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 620, AND THE CITY OF MORRO BAY; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 65-11.

B-2 ORDINANCE NO. 570 AMENDING THE CITY OF MORRO BAY MUNICIPAL CODE TITLE 13 PUBLIC UTILITIES, CHAPTER 13.04 WATER SERVICE AND RATES, SECTION 13.04.070 APPLICATION FOR REGULAR SERVICE - TO REQUIRE IDENTIFICATION - INTRODUCTION AND FIRST READING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve introduction and first reading of Ordinance No. 570 by number and title only.

B-3 ORDINANCE NO. 571 AMENDING THE CITY OF MORRO BAY MUNICIPAL CODE TITLE 3 REVENUE AND FINANCE, CHAPTER 3.30 UNCLAIMED MONEY AND PROPERTY, SECTION 3.30.080 PROCEEDS TO BE DEPOSITED IN GENERAL FUND TO READ DISPOSITION OF PROCEEDS—INTRODUCTION AND FIRST READING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve introduction and first reading of Ordinance No. 571 by number and title only.

B-4 ORDINANCE NO. 572 REPEALING CHAPTER 2.28 OF THE MORRO BAY MUNICIPAL CODE RELATED TO THE PLANNING COMMISSION AND IMPLEMENTING INSTEAD THE PLANNING COMMISSION BY-LAWS; FIRST READING AND INTRODUCTION; (CITY ATTORNEY)

RECOMMENDATION: Approve introduction and first reading of Ordinance No. 572 by number and title only.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 AUTHORIZATION TO FILE A NOTICE OF JOINER WITH THE CALIFORNIA PUBLIC UTILITIES COMMISSION PROTESTING THE APPLICATION FILED BY PACIFIC GAS AND ELECTRIC IN REGARD TO THE OPT-OUT PROGRAM FOR CUSTOMERS WHO OBJECT TO SMARTMETER INSTALLATION; (CITY ATTORNEY)

RECOMMENDATION: Authorize the City Attorney to file a Notice of Joiner with the California Public Utilities Commission protesting the Application filed by Pacific Gas and Electric in regard to the “Opt-Out Program” for customers who object to SmartMeter installation.

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 DURING NORMAL BUSINESS HOURS OR AT THE SCHEDULED MEETING.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.

AGENDA NO: A-1

MEETING DATE: 09/13/11

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

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessling	City Clerk
	Janeen Burlingame	Management Analyst
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT – there was no Closed Session report.

PUBLIC COMMENT

James Bueno, Morro Bay High Football Coach and varsity football team members offered to support the community and asked the community to come out to the football games this season; they presented Council with t-shirts supporting the team as the 12th man.

Harbor Patrol Supervisor Becka Kelly presented a Certificate of Appreciation to Scott Baksic for his efforts in upgrading and maintaining the Harbor Department's beach wheelchair used by disabled people at no charge to enjoy the coastline, and also used in beach rescues. She also thanked Mobility Masters for their assistance in supplying all the parts needed at their cost to upgrade the wheelchair.

Robert Davis, representative of the San Luis Obispo Bike Club, announced the 40th Annual Lighthouse Bike Ride will be held on September 24th and will go between Piedras Blancas and Cuesta College. He said the Bike Ride is held to raise funds for local high school and college scholarships and to support local charities.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

Mr. Davis stated this year the Bike Club is donating more than \$55,000 that will go towards scholarships but also Morro Bay Police Department Community Volunteers and the Morro Bay 4th of July Committee for bike valet parking at the bike parade. He said they also support the Central Coast Mountain Bikers who build and maintain trails in Morro Bay and Montana de' Oro State Parks.

Annie Clapp, owner of the Chablis, announced the different events held on the Chablis. She said she and her husband also own the Morro Bay Coffee Company which features fresh baked pastries.

Tom Martin, owner of Morro Bay Garbage Service, announced "Clean Up Week" will be held on the week of September 12th - 16th.

Betty Winholtz addressed Item D-2 (Resolution 62-11 Amending the City of Morro Bay Advisory Boards Handbook and By-Laws) stating the high expectations noted on page 6, "Knowledge of the Community Marketplace, Process, Objectives, and Laws", may discourage people from applying to an Advisory Board; this paragraph should be rewritten or removed. She also addressed Item D-1 (Resolution No. 59-11 Adopting Revisions to the Master Fee Schedule) stating this item should have been scheduled as a public hearing; she referred to page 6 noting the appeal fee of \$250 should be set as a one-time fee; under the Harbor Department, the annual parking fee of \$100 at Tidelands – she said this fee defeats the purpose and encourages people to stay for long periods of time. Ms. Winholtz addressed Item A-4 (Ratification of Council Action on June 28, 2011 Pertaining to Resolution 45-11 Establishing a Three Year Moratorium for the Payment of Development Impact Fees for Commercial and Mixed Use Projects Within a Commercial Zone District) stating the Development Impact Fees as proposed is going to impact City services and infrastructure in a negative way.

John Solu announced that in the month of June, Morro Bay had the highest increase in occupancy in San Luis Obispo County. He also expressed disappointment with the distribution of negative flyers to tourists relating to sea otter awareness.

Garry Johnson also expressed disappointment with the flyers that were distributed regarding sea otter awareness. He referred to Item A-5 (Proclamation Declaring September 25 – October 1, 2011 as "Wildlife Awareness Week") which covers not only sea otters but all wildlife in Morro Bay.

John Barta addressed the upcoming Sign Ordinance Workshop which he will not be able to attend; he requested Council consider introducing the presentation that he prepared on the Sign Ordinance from his past term on the Planning Commission at this Workshop.

Susan Stewart, Chair of the Community Promotions Committee, gave an update on the Committee's activities.

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Craig Schmidt announced the upcoming Visitor Center Open House and Workshop scheduled for September 7th and 8th, and the 5th Annual Avocado/Margarita Festival scheduled for September 17th.

Roger Ewing stated the City Council should not have abandoned the recognition of the Sea Otter Awareness Proclamation. He said tourism is based on admiring the bay and its living life.

Mayor Yates closed the hearing for public comment.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF THE MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 9, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 60-11 ADOPTING THE CITY OF MORRO BAY TRAVEL POLICY; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 60-11.

A-3 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 June 28, 2011 request for \$14,525 in Public, Education and Government Access funds for the purchase equipment for the Morro Bay High School video production studio.

A-4 RATIFICATION OF COUNCIL ACTION ON JUNE 28, 2011 PERTAINING TO RESOLUTION 45-11 ESTABLISHING A THREE YEAR MORATORIUM FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR COMMERCIAL AND MIXED USE PROJECTS WITHIN A COMMERCIAL ZONE DISTRICT; (CITY ATTORNEY)

RECOMMENDATION: Ratify Council action of June 28, 2011 pertaining to Resolution 45-11 which established a three year moratorium on development impact fees for commercial and mixed use projects within a commercial zone district.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

A-5 PROCLAMATION DECLARING SEPTEMBER 25 – OCTOBER 1, 2011 AS
“WILDLIFE AWARENESS WEEK”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Mayor Yates pulled Items A-2 and A-5 from the Consent Calendar; Councilmember Smukler pulled Item A-4.

MOTION: Councilmember Borchard moved the City Council approve Items A-1 and A-3 of the Consent Calendar. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

A-2 RESOLUTION NO. 60-11 ADOPTING THE CITY OF MORRO BAY TRAVEL POLICY; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton directed Council to two amendments to the Morro Bay Travel Policy: 1) under Section B – (General Provisions) 8. ... (for the current reimbursement rate, visit www.irs.gov, and search for mileage 2010~~XX~~); and 2) under Section B – (Meals) 7. A per diem allowance has been added as follows: 20% breakfast; 30% lunch; 50% dinner, and it is subject to receipts.

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

A-4 RATIFICATION OF COUNCIL ACTION ON JUNE 28, 2011 PERTAINING TO RESOLUTION 45-11 ESTABLISHING A THREE YEAR MORATORIUM FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR COMMERCIAL AND MIXED USE PROJECTS WITHIN A COMMERCIAL ZONE DISTRICT; (CITY ATTORNEY)

Councilmember Smukler stated he would be voting in opposition to this item due to his concerns with the length and broadness of the moratorium.

MOTION: Councilmember Johnson moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler voting no. (4-1)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

A-5 PROCLAMATION DECLARING SEPTEMBER 25 – OCTOBER 1, 2011 AS
“WILDLIFE AWARENESS WEEK”; (ADMINISTRATION)

Councilmember Smukler requested to add paragraph #3 as follows:

WHEREAS, our actions and lifestyle choices have positive and negative effects on ecosystems and wildlife; and

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

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF THE PLANNING COMMISSION’S DECISION FOR A
TEMPORARY USE PERMIT TO ALLOW USE OF AN EXISTING DOCK
FOR SPORT AND COMMERCIAL FISHING FOR A PERIOD OF SIX
MONTHS (GAFCO/VIRG’S); (PUBLIC SERVICES)

Councilmember Leage stepped down due to a conflict of interest.

Public Services Director Rob Livick stated the applicant, owner of Great American Fish Company (GAFCO), has applied for an Administrative Temporary Use Permit for Virg’s Sport Fishing Company to locate their operation at the GAFCO’s lease site. During the 10-day comment and review period, a letter in opposition was received by the Public Services Department from neighboring business owners. The owners were concerned with the impacts that the project may have on parking for both the Embarcadero lease site parking lot and the Front Street parking lot. The opposition feels that patrons of the Virg’s Landing will utilize the parking stalls located directly in front of other businesses and due to the length of time they are gone while out fishing and using the parking stalls for the entire business day. On June 15, 2011 the Temporary Use Permit was heard by the Planning Commission at a public hearing. At this meeting it was the decision of the Planning Commission to approve the permit subject to Findings and Conditions of Approval. On June 23, 2011, the City of Morro Bay received an appeal on the permit filed by Leonard Willhite of 1124 Front Street, a neighboring business. The basis of his appeal is that the approval of UP0-319 was based on misinformation and Commissioner tampering. Mr. Willhite’s appeal makes this declaration but does not provide any documentation to substantiate this claim. Without documentation supporting this claim there is no basis to determine whether this claim has merit and warrant granting an appeal.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

Mr. Livick recommended the City Council deny the appeal and uphold the Planning Commission's approval of Temporary Use Permit #UP0-319, subject to the Findings and Conditions of Approval.

Leonard Willhite, appellant, stated his objection is with the application for the permit. He said the parking lot on Front Street is being over-burdened with parking from those going out on the boats while the lot across the street on the Embarcadero is not being used. He expressed opposition to the \$250 appeal fee that he had to pay. Mr. Willhite stated he has worked out an agreement with Virg's and said the City Council can allow their permit with conditions.

Cathy Novak, representing the applicant, stated after 57 years in the same location, Virg's moved their operations and since Morro Bay has a limited number of docks that can accommodate passengers and not interfere with the core of the Embarcadero, Virg's sought out a site that would be the least impactful and teamed up with GAFCO. The first concern of the appeal was in regards to whether this temporary use is subject to Measure D or if it is a continuation of a historic use and therefore allowed under Measure D. There has never been any intention to abandon the sport fishing use at GAFCO but over the years commercial fishing boats have been given priority for the dock space. Since GAFCO has had traditional uses with both commercial fishing and sport fishing operations, the Planning Commission determined that this proposed use is consistent with Measure D. The second concern of the appeal was in regards to parking. The Planning Commission determined this is a "historic use" and therefore, there is no intensification of the use and no new parking is required because it has already been provided for at the highest use. As for previous parking arrangements in contrast with today, there shouldn't be any significant changes. Virg's has made a concerted effort now and in the past to control parking. Virg's sends a person down to the parking lot to make sure people don't park in the lot in front of GAFCO and also directs them towards the northern end of the Front Street lot to leave room for the businesses at the south Front Street area. While any additional use of the parking lot may appear to be an impact on the businesses at the southern end, Ms. Novak proposed a possible solution to keep those spaces free from the all-day use by marking the south end spaces as four hour parking. She also noted the motel has overnight guests and suggested the possibility of using cones or something in that order. In conclusion, Ms. Novak stated that maintaining a sport fishing fleet is an integral part of Morro Bay's identity since it is a working harbor. Virg's works in concert with many other businesses in town by putting together promotional packages and bringing visitors to town.

Mayor Yates opened the hearing for public comment.

MINUTES - MORRO BAY CITY COUNCIL
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Betty Winholtz stated since the appellant and applicant worked out an equitable solution, the Council should consider refunding the appellant his filing fee of \$250. She said Council received a letter from one business owner that addressed legal concerns regarding permitting that should be addressed. Ms. Winholtz stated equity between businesses and parking issues also need to be addressed.

Roger Ewing expressed support of this appeal; however, he applauds the mutual agreement that took place between the applicant and appellant. He also agrees the appeal filing fee should be refunded to the appellant. Mr. Ewing addressed fairness to all businesses, which he does not believe happened in this case.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler stated he supports refunding the appeal filing fee to the appellant. He said he hopes some of the responsibilities of the agreement between the applicant and appellant falls upon the lease holder and not on the Front Street businesses.

Mayor Yates stated there are proposed plans for parking on Front Street in the future. He said the return of the appeal fee in this case is a unique request.

Councilmember Johnson stated this business has been on the Embarcadero for 30+ years and the Public Services Department should work out the parking. She said she does not support returning the appeal filing fee.

Councilmember Borchard stated she agrees with Councilmember Smukler that there needs to be shared responsibility on the impact of the parking. She said the appellant should have mentioned the agreement he made with the applicant during the Public Comment period instead of filing an appeal, paying the appeal filing fee, and wasting staff time. Councilmember Borchard stated she is apprehensive to refunding the appeal filing fee due to setting precedence.

MOTION: Mayor Yates moved the City Council deny the appeal and uphold the Planning Commission's approval of Temporary Use Permit #UP0-319, subject to the Findings and Conditions of Approval; and, refund the appeal filing fee of \$250 to the appellant. The motion was seconded by Councilmember Borchard and carried with Councilmember Leage abstaining. (4-0-1)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

B-2 RESOLUTION NO. 61-11 APPROVING MORRO BAY GARBAGE SERVICE
BASE YEAR RATE ADJUSTMENT APPLICATION REQUESTING AN
INCREASE TO SOLID WASTE COLLECTION RATES; (PUBLIC
SERVICES)

Management Analyst Janeen Burlingame stated the City Council adopted Resolution 48-01 approving the Garbage, Recycling and Greenwaste Franchise Agreement for collection service effective January 1, 2002 and setting the initial rates for collection for residential and commercial customers. On June 21, 2011 the City received from Morro Bay Garbage Service (MBGS) a Base Year Rate Adjustment Application with a request for an increase to the solid waste rates. Based on the calculations in the rate setting manual, the increase to solid waste rates would be 8.68%. However, MBGS felt that given the “fragile business climate” that a large increase may not be palatable and has proposed an alternative set of increases that over the next three years would eventually capture the 8.68%. Ms. Burlingame recommended the City Council adopt Resolution No. 61-11 approving Morro Bay Garbage Service’s Base Year Rate Adjustment Application and the resulting rate schedule contained therein.

Mayor Yates opened the hearing for public comment.

Betty Winholtz stated there is no incentive in the proposal to reduce waste. She said there should also be more education on reducing waste involved in this program.

Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 61-11 approving Morro Bay Garbage Service’s Base Year Rate Adjustment Application and the resulting rate schedule contained therein. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 RESOLUTION NO. 59-11 ADOPTING REVISIONS TO THE MASTER FEE
SCHEDULE; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton stated staff has prepared a resolution for the annual adoption of the proposed Master Fee Schedule for the 2011/12 fiscal year. She recommended the City Council review the proposed draft Schedule, make any revisions necessary, and adopt Resolution No. 59-11.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

Mayor Yates stated he will not vote in support of this Master Fee Schedule because it is nickel and diming and he does not support increasing Public Safety fees.

MOTION: Mayor Yates moved to deny the Master Fee Schedule for the 2011/12 fiscal year. The motion was seconded by Councilmember Leage.

Councilmember Smukler stated he will vote in opposition to this motion because he wants to avoid not approving any increases where the Fund becomes out of balance and then larger increases are necessary; and, minor increases are more palatable.

Mayor Yates stated Council should ask for the Master Fee Schedule to be brought back without it being an automatic annual report.

VOTE: The motion failed with Councilmembers Borchard, Johnson and Smukler voting no. (2-3)

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 59-11 with the amendment to maintain the appeal filing fee at a fixed fee of \$250. The motion was seconded by Councilmember Smukler and carried with Councilmember Leage and Mayor Yates voting no. (3-2)

D-2 RESOLUTION 62-11 AMENDING THE CITY OF MORRO BAY ADVISORY
BOARDS HANDBOOK AND BY-LAWS; (CITY ATTORNEY)

City Attorney Robert Schultz stated pursuant to City Council direction, staff has reviewed the Advisory Board Handbook and By-Laws and made corrections, deletions and amendments to more clearly define how each Advisory Board is currently working. In addition, staff has added By-Laws for the Planning Commission. If these are approved, staff will return with an Ordinance to delete Morro Bay Municipal Code 2.28 removing the Planning Commission from the Morro Bay Municipal Code. Mr. Schultz recommended the City Council adopt Resolution 62-11 which will update the City's Advisory Board Handbook and By-Laws and create By-Laws for the Planning Commission and allow for the streamlining of the City's Municipal Code.

Councilmember Smukler referred to special meetings and asked if they are considered a "consecutive meeting" in regards to absences.

Mayor Yates requested a motion to include amendments on pages 18 and 21 of the Advisory Board Handbook (Absence from Meetings) to read: "Absence of a Board Member from two (2) consecutive meetings or three (3) meetings in any consecutive 12-month period ..."

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011

MOTION: Councilmember Borchard moved the City Council adopt Resolution 62-11 updating the City's Advisory Board Handbook, with the amendments to pages 18 and 21 (Absence from Meetings), and By-Laws and creating By-Laws for the Planning Commission to allow for the streamlining of the City's Municipal Code. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize the consideration of an advisory board mixer; Council concurred.

Councilmember Smukler requested to agendize a discussion on Smart Meter installations in Morro Bay; Council concurred.

Councilmember Smukler requested to agendize a discussion on Morro Rock improvements; Council concurred.

Councilmember Smukler requested to agendize a discussion on Morro Rock trash can service; Council concurred.

Mayor Yates requested to agendize a discussion on appointing an alternate to the Air Pollution Control District Board; Council concurred.

ADJOURNMENT

The meeting adjourned at 8:20 p.m.

Recorded by:

Bridgett Kessling
City Clerk



AGENDA NO: A-2

MEETING DATE: 9/13/11

Staff Report

TO: Honorable Mayor and City Council

DATE: August 30, 2011

FROM: Harbor Operations Manager

SUBJECT: Resolution Authorizing the City of Morro Bay to Enter Into 2011/2012 Abandoned Watercraft Abatement Fund Contract with the Department of Boating and Waterways

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution #63-11 authorizing the Harbor Operations Manager to execute the attached \$7,200 Abandoned Watercraft Abatement Fund (AWAF) contract agreement #11-214-502 with the Department of Boating and Waterways (DBW) for assistance with demolition of abandoned/derelect vessels and hazards to navigation.

FISCAL IMPACT:

Approval of this \$7,200 grant agreement will provide funding for demolition of approximately four vessels. City is required to provide a 10% funding match, or \$720, which is budgeted for in the Harbor Fund.

BACKGROUND:

The AWAF was established in 1997 and provides funds to public agencies to remove, store, and dispose of abandoned, wrecked, or derelict vessels or other submerged objects from navigable waterways which pose a hazard to navigation or the environment. To date the Harbor Department has received and expended over \$40,000 in AWAF funds.

DISCUSSION:

Staff will prioritize vessels in need of abatement and contract-out the work accordingly. Approximately four small to medium-sized vessels can be demolished within the scope of the \$7,200 grant, supplemented with the required 10% match from existing budgeted Harbor funds.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

CONCLUSION:

It is recommended that the City Council adopt Resolution #63-11, and authorize the Harbor Operations Manager to execute the grant and to act as the City's authorized Agent for the grant agreement.

RESOLUTION NO. 63-11

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO 2011/2012
ABANDONED WATERCRAFT ABATEMENT FUND CONTRACT WITH THE
DEPARTMENT OF BOATING AND WATERWAYS**

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

WHEREAS, City of Morro Bay (City) applied for a grant from the Department of Boating and Waterways (DBW) under the Abandoned Watercraft Abatement Fund (AWAF) program; and

WHEREAS, DBW awarded a grant of \$7,200 under AWAFF to the City for removal of derelict/abandoned vessels and hazards to navigation; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the City of Morro Bay is hereby authorized to enter into AWAFF Contract #11-214-502 in the amount of \$7,200 for removal of derelict/abandoned vessels and hazards to navigation.

BE IT FURTHER RESOLVED, that Harbor Operations Manager Eric Endersby is hereby authorized to act as the City's agent in regards to all aspects of the grant contract agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of September, 2011 on the following vote:

AYES:

NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Bridgett Kessler, City Clerk



AGENDA NO: A-3

MEETING DATE: 9/13/2011

Staff Report

TO: Honorable Mayor and City Council

DATE: 9/13/11

FROM: Harbor Business Manager

SUBJECT: Consideration of approval for a sublease on a portion of Lease Site 110-112/110W-112W and 111.5W, located adjacent to 1185 Embarcadero, between Great American Fish Company, Inc. and Virg's Landing, Inc.

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution #64-11 approving sublease of a portion of Lease Site 110-112/110W-112W and 111.5W, located adjacent to 1185 Embarcadero, between Great American Fish Company, Inc. and Virg's Landing, Inc.

FISCAL IMPACT:

None

BACKGROUND:

Most current leases allow for administrative approval of subleases. However, the lease agreement for Lease Site 110-112/110W-112W and a portion of 111.5W requires City Council approval of any proposed sublease. The lease agreement also states that approval of assignment/sublease shall not be unreasonably withheld.

Virg's Landing Inc. had operated on another waterfront Lease Site for over 40 years and in March their sublease for that area was not continued. Virg's Landing offices are now on Market Street and they requested a Temporary Use Permit (TUP) from the City to operate from the dock at Great American Fish Company, located at 1185 Embarcadero.

The TUP was approved by the Planning Commission on June 14, 2011. An appeal of that approval was filed and was heard by the City Council at their August 23, 2011 meeting. The appeal was denied, in most part because the appellant and the applicant had worked out the parking issue, which was the main reason for the appeal.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Now that the TUP is finalized, staff is bringing the sublease agreement before the City Council for approval as required by the lease agreement for Lease Site 110-112/110W-112W and a portion of 111.5W. The TUP will be in effect for six months and allows for an extension of 4 months.

The applicant has provided all the necessary paperwork and paid the processing fee. The Tenant, Great American Fish Company, is in compliance with all terms and conditions of the master lease agreement.

CONCLUSION:

The lease agreement for Lease Site Lease Site 110-112/110W-112W and a portion of 111.5W requires City Council approval of any sublease of the premises. The master tenant is in compliance with the terms of the lease agreement, and the tenant and proposed sublessee have completed the required paperwork and paid the sublease application fee. Staff recommends adoption of Resolution #64-11 approving a sublease agreement for a portion of Lease Site 110-112/110W-112W and a portion of 111.5W between Great American Fish Company, Inc. and Virg's Landing Inc.

RESOLUTION NO. 64-11

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

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

WHEREAS, the City of Morro Bay is the lessor of certain property on the Morro Bay waterfront described as Lease Site 110-112/110W-112W and a portion of 111.5W; and

WHEREAS, Great American Fish Company, Inc. is the lessee of said property; and,

WHEREAS, Great American Fish Company, Inc. has requested approval of a sublease agreement with Virg's Landing, Inc. for a portion of Lease Site 110-112/110W-112W and a portion of 111.5W; and

WHEREAS, the lessees have completed the application form, paid the sublease application fee and provided background information on the proposed sublessee. The Consent to Sublease agreement has been executed by Great American Fish Company, Inc. and Virg's Landing, Inc., and a copy of the sublease agreement has been provided to the City; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that approval of a sublease agreement with Virg's Landing, Inc. for a portion of Lease Site 110-112/110W-112W and a portion of 111.5W is hereby approved and that the Mayor is hereby authorized to execute the Consent to Sublease document.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of September, 2011 on the following vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-4

MEETING DATE: September 13, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 7, 2011

FROM: Andrea K. Lueker, City Manager

SUBJECT: Request to Approve a Response to the Grand Jury Regarding Rate Setting as a Water Conservation Tool

RECOMMENDATION

Staff recommends the City Council direct staff to send the attached letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports Entitled "Rate Setting as a Water Conservation Tool".

FISCAL IMPACT

Not applicable.

BACKGROUND

On June 8, 2011, the City received a report prepared by the San Luis Obispo County Grand Jury entitled "Rate Setting as a Water Conservation Tool" (Attachment "A"). The report makes the following findings:

1. Morro Bay has not revised its water rate schedule since 1994.
2. Paso Robles, Avila Beach CSD and San Simeon CSD have uniform water rates that do not increase unit cost as consumption increases.
3. Only Atascadero MWC bills show rate tiers, tier consumption and tier charges.
4. Water meters are not used for all urban development outside of cities served by a water company.
5. Apartment buildings in the 7 cities and urban areas outside of the cities typically do not have water meters that register indoor water use for individual units.
6. Residential sewer providers that base charges on volume of water consumed do not clearly indicate on their bills that water volume affects sewer charges, with the exception of the City of San Luis Obispo.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The report makes the following recommendations:

1. Morro Bay should review its water rate schedule.
2. Paso Robles, Avila Beach CSD and San Simeon CSD should consider adopting tiered water rates that target high volume users..
3. Arroyo Grande, Grover Beach, Morro Bay, Pismo Beach, San Luis Obispo, Cambria CSD, Heritage Ranch CSD, Los Osos CSD, Nipomo CSD, Oceano CSD, San Miguel CSD and Templeton CSD should consider revising water bills to show rate tiers, water usage for each tier and the charge for each tier.
4. The County should consider adopting an ordinance for urban development outside of cities serviced by a water company, which would require that new developments be metered and that existing developments be metered upon ownership transfer.
5. The cities and County should consider adopting an ordinance that would require new apartment buildings to have meters that register indoor water used by individual units. To reduce costs, meters could be a type intended only for use by apartment building owners, instead of those supplied by water providers for water service hook-ups.
6. Arroyo Grande, Grover Beach, Morro Bay, Avila Beach CSD, Cambria CSD, Heritage Ranch CSD, and San Simeon CSD should consider revising sewer bills to show that water usage affects sewer charges.

The report specifically requires the Morro Bay City Council to submit a response to Findings 1,3,5 and 6 and Recommendations 1,3,5 and 6 to the Presiding Judge of the San Luis Obispo Superior Court by September 14, 2010

DISCUSSION

This Grand Jury report originated from an investigation examining the pricing of residential water services in the County and the disclosure of pricing on bills to determine if they promote water conservation. The Grand Jury report includes a limited review of sewer service pricing related to volume of water used as well as a limited review of whether or not a link between water usage and sewer charges is disclosed on the customer bills.

Under Penal Code Section 933.05, the City is required to indicate one of the following responses to the findings:

1. The respondent agrees with the finding; or
2. The respondent disagrees partially or wholly with the findings and why.

Furthermore, as to each Grand Jury recommendation, the responding party shall report one of the following actions:

- a. The recommendation has been implemented, with a summary regarding the implemented actions.
- b. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- c. The recommendation requires further analysis.
- d. The recommendation will not be implemented because it is not warranted or is not reasonable and an explanation why.



City of Morro Bay

Morro Bay, CA 93442
(805) 772-6200

September 14, 2011

Presiding Judge Charles S. Crandall
Superior Court of California
1050 Monterey Street
San Luis Obispo, CA 93408

Re: Grand Jury Report entitled “Rate-Setting as a Water Conservation Tool”

Dear Judge Crandall:

On behalf of City Council of the City of Morro Bay, thank you for the information provided by the Grand Jury in the report entitled “Rate Setting as a Water Conservation Tool”. This report was presented and reviewed by the City Council at their meeting held on September 13, 2011. After carefully considering the report and its findings and recommendations, the City Council offers the following responses:

Findings:

Grand Jury Finding #1: Morro Bay has not revised its water rate schedule since 1994.

City Response: *The City Council agrees with this statement.*

Grand Jury Finding #3: Only Atascadero MWC bills show rate tiers, tier consumption and tier charges.

City Response: *The City Council agrees with this statement.*

Grand Jury Finding #5: Apartment buildings in the 7 cities and urban areas outside of the cities typically do not have water meters that register indoor water use for individual units.

City Response: *The Council does not agree with this statement as this is currently allowed in the City of Morro Bay.*

Grand Jury Finding #6: Residential sewer providers that base charges on volume of water consumed do not clearly indicate on their bills that water volume affects sewer charges, with the exception of the City of San Luis Obispo.

City Response: *The City Council agrees with this statement.*

CITY MANAGER
595 Harbor Street

ADMINISTRATIVE SERVICES
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
595 Harbor Street

POLICE DEPT.
850 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way

Presiding Judge Charles S. Crandall
Superior Court of California
September 14, 2011
Page Two

Recommendations:

Grand Jury Recommendation #1: Morro Bay should review its water rate schedule.

City Response: *The City Council will be reviewing water rates in the near future.*

Grand Jury Recommendation #3: Arroyo Grande, Grover Beach, Morro Bay, Pismo Beach, San Luis Obispo, Cambria CSD, Heritage Ranch CSD, Los Osos CSD, Nipomo CSD, Oceano CSD, San Miguel CSD and Templeton CSD should consider revising water bills to show rate tiers, water usage for each tier and the charge for each tier.

City Response: *The City Council will consider this issue when water rates are reviewed.*

Grand Jury Recommendation #5: The cities and County should consider adopting an ordinance that would require new apartment buildings to have meters that register indoor water used by individual units. To reduce costs, meters could be a type intended only for use by apartment building owners, instead of those supplied by water providers for water service hook-ups.

City Response: *The City Council will consider revision of the ordinance when the next building code is adopted.*

Grand Jury Recommendation #6: Arroyo Grande, Grover Beach, Morro Bay, Avila Beach CSD, Cambria CSD, Heritage Ranch CSD, and San Simeon CSD should consider revising sewer bills to show that water usage affects sewer charges.

City Response: *The City Council will consider this issue when sewer rates are reviewed.*

Please let the City know if you have any further questions or would like additional information.

Sincerely,

William Yates
Mayor

RECEIVED

AUG 18 2011

City of Morro Bay
Public Services Department



GRAND JURY

June 8, 2011

Confidential

Andrea Lueker City Manager
Morro Bay City Council
595 Harbor
Morro Bay CA 93442

Dear Ms. Lueker:

The San Luis Obispo County Grand Jury has completed the attached report titled "**Rate Setting as a Water Conservation Tool.**" This copy of the report is being provided to you two days in advance of its public release, as required by California Penal Code §933.05 (f), which states:

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Please check the Required Responses section of the report for the timing of your response as required by the Penal Code. Sections 933 through 933.05 of the Penal Code are attached for your reference. Also attached is a form for your responses to its findings and recommendations.

Please keep in mind that this report must be kept confidential until its public release by the Grand Jury.

Respectfully,

Handwritten signature of Lee Stephens in cursive.

Lee Stephens, Foreperson
2010/2011 Grand Jury

Enclosures

cc: Rob Schultzy, Rob Livick, Dylan Wade

RATE SETTING AS A WATER CONSERVATION TOOL

INTRODUCTION/PURPOSE

The State of California (State) is subject to periodic drought conditions. The Central Coast and San Luis Obispo County (County) are among the drought-prone areas. The State advocates a number of water conservation plans, among which is a method of pricing water and sewer services using rates that will encourage conservation.

This Grand Jury investigation examines the pricing of residential water services in the County and the disclosure of pricing on bills to determine if they do, in fact, promote water conservation.¹ The Grand Jury report includes a limited review of sewer service pricing related to volume of water used. The report also includes a limited review of whether or not a link between water usage and sewer charges is disclosed on customer bills.

ORIGIN

This investigation was initiated by the Grand Jury.

PROCEDURE

The Grand Jury reviewed pricing of water service by most public providers within the County to determine if rate structures are designed to promote water conservation. Providers included in this report are six of the County's seven cities, the Atascadero Mutual Water Company (MWC),

¹ Conservation can result in reduced revenue to cover fixed costs. However, without conservation there could be greater costs for additional water and infrastructure.

and nine community services districts (CSDs). The Grand Jury also reviewed a comprehensive sampling of customer bills to determine how effectively customers are notified of potential cost savings when using less water. The effectiveness of pricing methods in achieving conservation was examined, as well. Finally, the Grand Jury reviewed information related to sewer service pricing.

This Grand Jury investigation included review of:

- Best Management Practices of the California Urban Water Conservation Council (CUWCC)
- Water and sewer rate structures and sample bills
- Water rate studies
- Various reports and data supplied by providers and the CUWCC
- Information from the internet and news articles

BACKGROUND

In 1977, the California Public Utilities Commission, which is responsible for consumer pricing of services by utilities,² responded to drought conditions with emergency actions that included distribution by utilities of water conservation kits. California's passage of the 1983 Water Management Planning Act required urban water suppliers with more than 3,000 customers to implement water management plans for conserving water.

A 2009 amendment to the California Water Code (SB7) ties State water grants and loans to providers for facility upgrades to implementation of recommended Best Management Practices. Pricing of water and sewer services according to the volume of water consumed can affect customer decisions about conservation, according to the CUWCC.

² Utilities are privately owned companies serving 200 or more customers. Water utilities within San Luis Obispo County are: Golden State Water Company- serving parts of Nipomo Mesa, Los Osos and Edna Valley; Rural Water Company- serving part of Nipomo Mesa; Nacimiento Water Company- serving Oak Shores.

The CUWCC has formed partnerships among urban water agencies and other entities to increase efficient use of water statewide.³ Providers enter into a Memorandum of Understanding to implement, when feasible, CUWCC's Best Management Practices. One of the 14 Best Management Practices⁴ is retail pricing, including tiered water rates, which encourages water conservation. In addition to CUWCC encouragement of conservation pricing, setting prices based on water volume consumed is specifically highlighted by the Public Utilities Commission as a way to encourage water conservation.

Conservation of water resources is mandated by the State (SB 7) to achieve per capita urban water reduction of 20% by 2020, a goal reflected in the County's General Plan Conservation Element. One of the Conservation Element Policies, WR 4.2, is to "Support water-pricing structures to encourage conservation by individual water users . . ." The Conservation Element, adopted in 2010, cautions that water resources in the County are at a critical juncture as demand approaches sustainable supplies.

DISCUSSION

Retail Conservation Pricing⁵

Water service pricing and billing methods designed to foster conservation are based on customer awareness of the link between increased cost and increased consumption, especially if the cost escalates in a tiered fashion as more water is consumed. Similarly, sewer rates based on water consumption can motivate conservation. The amount of water piped into a building is the

³ The cities, community services districts and mutual water company surveyed for this Grand Jury investigation which reported memberships in the CUWCC are: Cities of Paso Robles, Pismo Beach and San Luis Obispo; CSDs for Cambria, Nipomo and Templeton; Atascadero MWC. Some local providers that do not belong to the CUWCC have, nonetheless, implemented its best management practices.

⁴ The CUWCC's Best Management Practices are: retail conservation pricing of water and sewer; conservation practices for utilities; residential plumbing retrofits; water surveys for efficient usage; leak detection and repair; water metering; landscape conservation and incentives; high-efficiency clothes washer incentives; public information programs; school education programs; non-residential conservation programs; designate conservation coordinator; water waste prohibition; residential ultra-low flow toilet replacement.

⁵ Conservation pricing means charging for services based on water volume consumed.

amount piped out for sewer disposal, minus water for outside use. The CUWCC recommends that both water supplied and water disposed of be priced according to volume of water consumed. CUWCC assumes that the incentive to conserve water is greater when both water and sewer are volume priced.

The focus of this report is on water service pricing with a concentration on residential customers. Residential customers, overall, consume the majority of urban water.

Water Rate Structures

According to the CUWCC (Best Practice 11), *“Conservation pricing provides economic incentives (a price signal) to customers to use water efficiently. Because conservation pricing requires a volumetric rate, metered water service is a necessary condition of conservation pricing.”*

CUWCC staff advises that, while a uniform rate structure which prices each unit of water the same promotes conservation, because higher usage means higher cost, a tiered rate structure which escalates pricing as total volume increases, is preferable for achieving conservation.

Rate structures usually contain a base rate, sometimes referenced as a capacity fee, for the fixed costs of providing service. The base rate is charged whether or not water is used during the billing cycle. Base rates can be uniform or vary by category of customer. Some rate structures include a fixed quantity of water in the base rate with a charge for excess usage.

Water providers rely on rate studies to develop rate structures that meet various goals. These goals typically involve a secure supply of water affordable to customers, financial stability for the provider and incentives for customers to conserve.

Local Water Rate Structures

The table below describes the water rate structures for all surveyed providers. All have rate structures that are volume-based. Most rate structures have tiered pricing; a few have a uniform volume rate.

WATER RATE STRUCTURES

Water Provider	Residential	Notes
Cities		
ARROYO GRANDE	base + 4 tiers	
ATASCADERO MWC	base + 4 tiers base + 5 tiers, SF	Base includes minimum water volume 5 th tier, added during drought, has been retained
GROVER BEACH	base + 4 tiers	
MORRO BAY	base + escalating scale	Base includes minimum water volume Rates unchanged since 1994
PASO ROBLES (2)	base + volume	Base expected to be eliminated soon
PISMO BEACH	base + 2 tiers, SF base + volume, MF	
SAN LUIS OBISPO	(1) 3 tiers	
Community Services Districts		
AVILA BEACH (2)	base + volume	Base includes minimum water volume
CAMBRIA	base + 9 tiers	Base includes minimum water volume
HERITAGE RANCH	base + 2 tiers	Base includes minimum water volume
LOS OSOS	base + 4 tiers	
NIPOMO	base + 2 tiers	
OCEANO	base + 2 tiers	
SAN MIGUEL	base + 3 tiers	Base includes minimum water volume
SAN SIMEON (2)	base + volume	
TEMPLETON	base + 4 tiers	Base includes minimum water volume

SF- Single Family Residential

MF- Multi-Family Residential

(1) No Base Rate

(2) No tiers

In 2009, the MWC added a rate tier that targets high users among single family residential customers, its largest customer category. This tier addressed the fact that 25% of single family customers accounted for 57% of total water demand in the peak consumption summer months.⁶ Although not reflected in the above table, both Atascadero MWC and Cambria CSD temporarily increased rates during the drought.

Water rate structures are reviewed by providers with varying frequency. Some are adopted with automatic annual rate increases spanning several years. The rate schedule for the City of Morro Bay is the least current of providers surveyed, unchanged since 1994.

Water Bills

It would seem logical that water conservation due to tiered pricing is most effective when customers are aware of how water services are priced and can readily understand the cost benefit of reducing water use. Such awareness can be promoted by billing methods that highlight the higher unit costs experienced as usage increases. Also, information about sewer charges based on water volume would illuminate the potential savings available through reducing water usage.

Of the providers surveyed, Atascadero MWC employs a billing system that most actively encourages conservation. Water bills show the base rate, tier rates, tier volume usage, and tier charges. Arroyo Grande shows water rate tiers on most of its bills and, although its system does not compute tier usage, this can be done by customers based on the data furnished. Other providers using water rate tiers do not show them on bills. In addition, those providers of both water rates and water volume-based sewer rates do not indicate this on bills, with the exception of the City of San Luis Obispo.⁷

⁶ The provider's data management capabilities include water demand by number of lots of various sizes to facilitate implementation of State requirements for conserving landscape water.

⁷ Residential sewer service provided by Arroyo Grande, Grover Beach, Morro Bay, San Luis Obispo, Avila Beach CSD, Cambria CSD, Heritage Ranch CSD, and San Simeon CSD is based on volume of water consumed. Atascadero, Paso Robles, Pismo Beach, Nipomo CSD, Oceano CSD, San Miguel CSD, and Templeton CSD do not base residential sewer rates on water volume.

While an ideally informative water bill would be customized to show customers the potential cost saving from avoiding higher tier usage, doing so involves computer software capabilities that may not be available or affordable. Determining the data capability of providers is outside the scope of this investigation.

The following table highlights features of water bills and categorizes these features as informative or not informative.

WATER BILLS

	Not Informative	Informative
Cities		
ARROYO GRANDE	Water tier consumption not shown	Shows water tiers for residential Compares current & past usage
ATASCADERO MWC		Shows tier rates, usage and charges Compares current and past usage monthly water conservation tip
GROVER BEACH	Water tiers and tier consumption not shown	12 months usage history
MORRO BAY	No reference to rate scale	
PASO ROBLES		12 months usage history monthly conservation message
PISMO BEACH	Water tiers and tier consumption not shown	12 months history
SAN LUIS OBISPO	Water tiers and tier consumption not shown	Compares current and past usage
Community Services Districts		
AVILA BEACH CSD	Rate for water not shown	
CAMBRIA CSD	Water tiers and tier consumption not shown	Compares current and past usage
HERITAGE RANCH CSD	Water consumption not shown Water tiers and tier consumption not shown	12 months usage history
LOS OSOS CSD-water only	Water tiers and tier consumption not shown	12 months usage history
NIPOMO CSD	Water tiers and tier consumption not shown Message box unused	Compares current and past usage Message box
OCEANO CSD	Water consumption not shown Water tiers and tier consumption not shown	12 months usage history
SAN MIGUEL CSD	Water tiers and tier consumption not shown	
SAN SIMEON CSD	Rate for water not shown	
TEMPLETON CSD	Water tiers and tier consumption not shown	Compares current and past usage

Gauging Effectiveness of Conservation Water Pricing

The State's experience during the drought periods that plagued California in the 1980s showed that doubling the price of water drove overall household consumption down by one third; but, households earning under \$20,000 cut consumption by one half while those earning more than \$100,000 reduced use by only 10%.⁸

In response to the most recent drought conditions, some water providers, such as Arroyo Grande, implemented extensive water conservation incentives and imposed stringent conservation requirements. A success rate of around 20% reduction in water usage was reported. However, this overall success rate does not measure the success of individual conservation measures. Thus, the specific success of the water rates vis-à-vis the total effort is not known. The effect of conservation pricing was not evaluated prior or subsequent to the drought by Arroyo Grande and other providers.

There is one probable exception to the unknown effectiveness of conservation pricing: During the drought, the City of San Luis Obispo did not experience a water shortage because it has several sources of water, including an expanding use of reclaimed water. Also, City water conservation programs had been ongoing for many years prior to the drought. In 2008, the City established water conservation sewer pricing for single family residential customers, at which time these customers had average water use of eight units. In each of the next two years, the water use was reduced by one unit, for a total reduction of 25%.⁹ The Utility Conservation representative for the City attributes the reduced water use to water conservation pricing of sewer service, together with information provided to customers about the opportunity to reduce the cost by reducing water use.

⁸ Newsweek, 10/18/10, pp 46, 47

⁹ Among the surveyed providers, San Luis Obispo uses a unique sewer rate structure for single-family residential customers. Each has an annual water "cap" or base that is determined by the customer's water usage averaged over a three-month winter period when usage is typically lowest. This cap establishes the annual sewer base rate, effective each July. Volume above this base is charged at a uniform rate. At the end of summer, owners of single family residences are advised by the City to reduce landscape irrigation and are informed that the average water use over a three-month period in the winter will affect their monthly sewer charge for a year. Single family residential bills indicate the connection between sewer charges and water use.

Water Meters

The CUWCC emphasizes that conservation pricing is dependent on water meters. The Grand Jury learned that the 176 water customers of S & T Mutual Water Company in the Los Osos area have no water meters. This company is among at least 125 small water companies, defined as having 15-199 connections, in the County that lack meters for individual connections.¹⁰

The Grand Jury additionally learned that apartment buildings typically have only one master water meter for the building and a separate landscape meter, instead of having meters for individual apartment units. Without residents knowing how much water they consume or having to pay according to usage, there is no incentive to conserve on the basis of potential cost savings. Metering individual apartment units of new buildings could add considerably to construction costs and retrofitting meters would be even more costly. Water providers charge several thousand dollars for a meter to cover hook-up and other administration costs. Metering individual units would likely result in increased costs to tenants. An additional consideration is that apartment tenants have more turnover than residents of other types of housing and, therefore, collections for apartment unit water bills would probably be more difficult.

There is an alternative to individual apartment units being metered for hook-up to a water service provider. Relatively inexpensive flow meters can be purchased independent of a water provider and unconnected to a water service for billing. The purpose of this additional metering would be to enable apartment building owners to determine the actual water usage of individual units, in order to bill the tenants. An expected outcome would be conserved water by tenants to reduce their costs, with a result that metered apartments could have a competitive rental advantage. Owners of buildings with individually metered units would have an option of charging tenants for the actual water they consume.

No County ordinance requires water meters for urban development outside of cities that are served by a water company. Also, no ordinance of either the County or the seven cities requires

¹⁰ Effective 6/30/11, the State requires metering of source wells for systems serving 15 or more connections.

individual apartment units within a building to have metered water usage. However, parallel County ordinances promote water conservation for urban development outside of cities:

- For Los Osos, retrofits of water fixtures upon change of property ownership and retrofits for existing development to offset water use for new development are required
- For Nipomo, retrofits of water fixtures upon change of property ownership and low water use landscaping standards for new development are required

CONCLUSION

A few water service providers have not incorporated tiered pricing into their rate structures. Of those providers using tiered rates, only two indicate tiers on customer bills and only one shows usage by tiers. Thus, water bills are underutilized for promoting conservation.

Several sewer service providers base charges on volume of water used, but only one clearly indicates this on customer bills. Therefore, sewer bills are also underutilized for promoting water conservation.

Additional opportunities for water conservation exist through metering of both small water system customers and individual apartment units.

FINDINGS & RECOMMENDATIONS

FINDING 1: Morro Bay has not revised its water rate schedule since 1994.

RECOMMENDATION 1:

Morro Bay should review its water rate schedule.

FINDING 2: Paso Robles, Avila Beach CSD, and San Simeon CSD have uniform water rates that do not increase unit cost as consumption increases.

RECOMMENDATION 2:

Paso Robles, Avila Beach CSD, and San Simeon CSD should consider adopting tiered water rates that target high volume users.

FINDING 3: Only Atascadero MWC bills show rate tiers, tier consumption and tier charges.

RECOMMENDATION 3:

Arroyo Grande, Grover Beach, Morro Bay, Pismo Beach, San Luis Obispo, Cambria CSD, Heritage Ranch CSD, Los Osos CSD, Nipomo CSD, Oceano CSD, San Miguel CSD, and Templeton CSD should consider revising water bills to show rate tiers, water usage for each tier and the charges for each tier.

FINDING 4: Water meters are not used for all urban development outside of cities served by a water company.

RECOMMENDATION 4:

The County should consider adopting an ordinance for urban development outside of cities served by a water company, which would require that new development be metered and that existing developments be metered upon ownership transfer.

FINDING 5: Apartment buildings in the seven cities and urban areas outside of the cities typically do not have water meters that register indoor water use for individual units.

RECOMMENDATION 5:

The cities and County should consider adopting an ordinance that would require new apartment buildings to have meters that register indoor water used by individual units. To reduce costs, meters could be a type intended only for use by apartment building owners, instead of those supplied by water providers for water service hook-ups.

FINDING 6: Residential sewer providers that base charges on volume of water consumed do not clearly indicate on their bills that water volume affects sewer charges, with the exception of the City of San Luis Obispo

RECOMMENDATION 6:

Arroyo Grande, Grover Beach, Morro Bay, Avila Beach CSD, Cambria CSD, Heritage Ranch CSD, and San Simeon CSD should consider revising sewer bills to show that water usage affects sewer charges.

REQUIRED RESPONSES

The Board of Supervisors of San Luis Obispo County is required to respond to Findings 4 and 5 and Recommendations 4 and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Department of Planning and Building of San Luis Obispo County is required to respond to Findings 4 and 5 and Recommendations 4 and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **August 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The City of Arroyo Grande is required to respond to Findings 3, 5 and 6 and Recommendations 3, 5 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Atascadero Mutual Water Company is required to respond to Finding 5 and Recommendation 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The City of Grover Beach is required to respond to Findings 3, 5 and 6 and Recommendations 3, 5 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The City of Morro Bay is required to respond to Findings 1, 3, 5 and 6 and Recommendations 1, 3, 5 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The City of Paso Robles is required to respond to Findings 2 and 5 and Recommendations 2 and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The City of Pismo Beach is required to respond to Findings 3 and 5 and Recommendations 3 and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The City of San Luis Obispo is required to respond to Findings 3 and 5 and Recommendations 3 and 5. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Avila Beach Community Services District is required to respond to Findings 2 and 6 and Recommendations 2 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Cambria Community Services District is required to respond to Findings 3 and 6 and Recommendations 3 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Heritage Ranch Community Services District is required to respond to Findings 3 and 6 and Recommendations 3 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Los Osos Community Services District is required to respond to Finding 3 and Recommendation 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Nipomo Community Services District is required to respond to Finding 3 and Recommendation 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Oceano Community Services District is required to respond to Finding 3 and Recommendation 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The San Miguel Community Services District is required to respond to Finding 3 and Recommendation 3. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The San Simeon Community Services District is required to respond to Findings 2 and 6 and Recommendations 2 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The Templeton Community Services District is required to respond to Findings 3 and 6 and Recommendations 3 and 6. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 14, 2011**. Please provide a paper copy and an electronic version of all responses to the Grand Jury, as well.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Charles S. Crandall Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

The email address for the Grand Jury is: GrandJury@co.slo.ca.us



AGENDA NO: A-5

MEETING DATE: September 13, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 7, 2011

FROM: Andrea K. Lueker, City Manager

SUBJECT: Consideration of an Advisory Board Mixer

RECOMMENDATION

Staff recommends the City Council direct staff to arrange an Advisory Board Mixer in late January/early February 2012.

FISCAL IMPACT

Approximately \$500-600.

DISCUSSION

Years ago, the City hosted a social/educational event for newly appointed and existing Advisory Board and Commission members. Previous events have been held after the new members were appointed and included information about each Board and Commission along with refreshments. Staff would suggest the Advisory Board Mixer be held in late January/early February, mid-week, early evening, at either the Veterans Hall or Morro Bay Community Center. The event cost would be minimal with the funding fitting within the existing City Council's budget. Staff is happy to move forward with the planning of this event, should the City Council provide that direction.

Prepared By: _____ **Dept Review:** _____

City Manager Review: _____

City Attorney Review: _____



AGENDA NO: A-6

MEETING DATE: 9/13/11

Council Report

TO: CITY COUNCIL DATE: SEPTEMBER 8, 2011
FROM: MAYOR YATES
**SUBJECT: APPOINTMENT OF ALTERNATE MEMBER TO THE AIR
POLLUTION CONTROL DISTRICT**

RECOMMENDATION

Appoint the Mayor as the alternate member to the Air Pollution Control District.

DISCUSSION

Morro Bay is the only city in the County that does not have an alternate member on the Air Pollution Control District. It is my understanding this is a mayoral appointment, and would like to appoint myself as the alternate. I bring this forth for council blessing.



AGENDA NO: B-1
MEETING DATE: 09/13/11

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 1, 2011
FROM: Andrea K. Lueker, City Manager
SUBJECT: Resolution No. 65-11 Approving the Adoption of the Terms and Conditions of Employment for the Service Employees International Union, Local 620, and the City of Morro Bay

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 65-11, which establishes the compensation and working conditions for the SEIU, Local 620 employees of the City of Morro Bay for the term of September 13, 2011 through June 30, 2012.

FISCAL IMPACT

This Resolution reflects no increased costs to the City; there are no salary increases for the term of this Resolution.

The cost savings to the City are as follows:

1. A fiscal year equivalent of 2% additional contribution will be made by the employees for the employee portion of PERS:
 - a. Total of 3% of the 8% employee-portion will now be paid by the existing SEIU employees (PERS miscellaneous);
 - b. New hires in the SEIU unit (PERS miscellaneous) will pay the entire 7% employee-portion of PERS;
 - c. Total of 2% of the 9% employee-portion will now be paid by existing SEIU employees (PERS sworn safety – Harbor Patrol Officer); and
 - d. New hires in the SEIU unit (PERS sworn safety – Harbor Patrol Officer) will pay 7% of the 9% employee-portion of PERS.
2. A 2% reduction in Employer-Paid Member Contribution (EPMC):
 - a. City was paying 8% for existing SEIU employees (PERS miscellaneous), which will reduce to 5%, and 0% for new hires; and
 - b. City was paying 9% for existing SEIU employees (PERS sworn safety – Harbor Patrol Officer), which will reduce to 7% , and 2% for new hires;
3. No additional contributions to health care banks; and

Prepared By: A. Lueker Dept Review: _____
City Manager Review: _____
City Attorney Review: _____

4. All new hires will be included in new second-tier retirement formulas:
 - a. 3% @ 55 for PERS sworn safety (Harbor Patrol Officers);
 - b. 2% @ 60 for PERS Miscellaneous employees; and
 - c. At the time of retirement, final compensation for both 2nd Tiered formulas will be calculated as the average of the highest 36 consecutive months.

SUMMARY

Resolution No. 65-11, which establishes the compensation and working conditions for the SEIU employees for the period of September 13, 2011 through June 30, 2012, adds no additional benefits for the SEIU Group. The Resolution does include: 1) a 2% contribution made by the existing SEIU employees (PERS miscellaneous) toward the employee-portion of PERS for a total of 3%, and 2% paid by the SEIU employees (PERS sworn safety - Harbor Patrol Officers); 2) a 2% reduction in the Employer-Paid Member Contribution (EPMC), lowering the City obligation to 5% for existing SEIU employees (PERS miscellaneous) and 7% for existing SEIU employees (PERS sworn safety - Harbor Patrol Officers); 3) no additional contributions to health care banks; 4) all new hires will be included in new second-tier retirement formulas, which will be 3% @ 55 for SEIU employees (PERS sworn safety - Harbor Patrol Officers) and 2% @ 60 for SEIU employees (PERS miscellaneous) plus final compensation, at time of retirement for both 2nd Tiered formulas, calculated as the average of the highest 36 consecutive months; and 5) all new hires in the SEIU unit (PERS miscellaneous) will pay 100% of the PERS employee member contribution, and all newly-hired SEIU employees (PERS sworn safety - Harbor Patrol Officers) will pay 7% of the 9% employee member contribution.

DISCUSSION

The contract with the SEIU employees expired on June 30, 2011. Contract negotiations began February 3, 2011, with the final of 5 meetings held on July 21, 2011. Unable to come to any mutual settlement, Impasse was declared by SEIU. Per the City's Impasse Procedures, SEIU waived the initial meeting with the City Manager, and requested to move directly to a meeting with the State-appointed Mediator. On August 26th, the State Mediator met with the SEIU Local 620 Chief Negotiator, Mike Woods, the SEIU Local 620 negotiation team, the City's Chief Negotiator, Bill Avery, and Human Resources Analyst Jamie Boucher. No agreement was able to be reached, and as a result, staff is presenting to the City Council Resolution No. 65-11, requesting unilateral adoption of the compensation and working conditions for the SEIU, Local 620 employees for the period of September 13, 2011 to June 30, 2012, consistent with the direction provided by the City Council.

The SEIU final proposal and the City's last, best, and final offer are attached for your review.

Attachments:

- Last, best and final offer by the City of Morro Bay, dated July 21, 2011
- SEIU offer made July 21, 2011
- Resolution 65-11
- Terms and Conditions (revisions only)

LAST, BEST AND FINAL PROPOSAL
CITY OF MORRO BAY
TO
SEIU LOCAL 620

July 21, 2011

- Term = 12 months
- Salary = no change for term of agreement
- Health = City contribution frozen for term of agreement
- Deferred compensation = current practice
- New hire retirement = 2% @ 60, 36 months final compensation, new hires pay 7% employee contribution
- Current employees to pay 2% of employee retirement contribution – fiscal year equivalent percentage to be adjusted based on date of implementation
- Certification pay = current practice
- Standby – call out = current practice
- Contracting out - notice and opportunity to meet and confer on impact if contracting out results in layoff: T/A
- Current employees/promotions – not considered new hires: T/A
- Salary survey – City will update 2011 benchmark survey by end of MOU term. City will survey an additional 2 classifications as selected by Union.

**Proposal
SEIU Local 620
To
City of Morro Bay**

July 21, 2011

Article 7-Term: Two Years

Article 18-Wages & Incentives: 3% per year of the term of the contract

Article 18-Wages & Incentives: Wastewater Treatment Plant Operator to receive \$75 for certificate issued by California State Water Resources Control Board.

Article 15-Health Benefits: The City will pay 100% of the cost for employee only Medical, Dental and Vision insurance. The City will pay 50% of any increases to the Employee +1, and Employee +family Medical, Dental and Vision insurance.

Article 18-Wages & Incentives: City to pay \$300 per year matching funds into employee Deferred Compensation program.

Article 19-Special Pay Practices: 19.2.1 Call Back; Change call back to 1 hour.

Article 14-Retirement Benefits: New Hire Retirement (two-tier) 2% @55 thirty six (36) months highest average compensation New Hire to pay 7% of employee contribution.

Article 14-Retirement Benefits: No change to current employees (status quo).

Article 8-Renegotiations: The City will provide the Union with a full salary survey (all positions) by February 28, 2013.

RESOLUTION NO. 65-11

RESOLUTION APPROVING THE ADOPTION OF THE TERMS AND CONDITIONS OF EMPLOYMENT FOR THE SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 620, AND THE CITY OF MORRO BAY

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

WHEREAS, the Memorandum of Understanding between the City of Morro Bay (City) and the Service Employees International Union (SEIU), Local 620, expired on June 30, 2011; and

WHEREAS, the City representatives and representatives of the SEIU, Local 620, have been meeting and conferring in accordance with Section 3500 of the California Government Code since February 3, 2011; and.

WHEREAS, the City's bargaining representatives submitted the City's Last, Best and Final offer to the SEIU, Local 620, on July 21, 2011 ; and

WHEREAS, on July 21, 2011, the SEIU, Local 620, rejected the City's Last, Best, and Final offer; and

WHEREAS, on August 26, 2011, the SEIU, Local 620, waived the Impasse Meeting with the City Manager, and agreed to proceed to the mediation; and

WHEREAS, mediation was unsuccessful; and

WHEREAS, the City's bargaining representatives and the City Manager hereby recommend approval and adoption of the City's Last, Best and Final offer.

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

1. The forgoing recitals are true and correct, and incorporated in their entirety herein by reference.
2. Resolution No. 65-11 is approved, thereby adopting the attached terms and conditions of employment for the term of September 13, 2011 through June 30, 2011 for the SEIU, Local 620, of the City of Morro Bay.
3. This Resolution shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 13th day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

**TERMS AND CONDITIONS OF EMPLOYMENT
FOR the SERVICE EMPLOYEES INTERNATIONAL UNION
OF THE CITY OF MORRO BAY**

The following terms and conditions of employment shall be in effect from **September 13, 2011 through June 30, 2012**, for employees represented by the Service Employees International Union, Local 620. The following sections of the expired MOU between the City and Union are modified as follows:

ARTICLE 3 – RECOGNITION

3.1 Pursuant to Resolution No. 74-69, the Employer-Employee Relations Resolution of the City of Morro Bay and applicable state law, Service Employees International Union Local 620 (hereafter "UNION") was designated by the City of Morro Bay (hereafter "CITY") City Council as the exclusive representative of City employees in the Miscellaneous Employees Unit (hereafter "UNIT"). The UNIT is comprised of the following classifications:

Account Clerk I
Account Clerk II
Administrative Technician
Administrative Utilities Technician
Assistant Planner
Associate Planner
Building Inspector
Engineering Technician I
Engineering Technician II
Engineering Technician III
Facility Maintenance Worker
Harbor Business Coordinator
Harbor Patrol Officer
Harbor Patrol Officer Supervisor
Housing Programs Coordinator
Maintenance Leadworker (Facilities, Parks, Streets)
Maintenance Worker I (Facilities, Parks, Streets)
Maintenance Worker II (Facilities, Parks, Streets)
Maintenance Worker III (Facilities, Parks, Streets)
Mechanic
Office Assistant II
Office Assistant III
Office Assistant IV
Permit Technician
Recreation Supervisor - Sports
Recreation Supervisor - Youth
Wastewater Treatment Plant Operator In-Training
Wastewater Treatment Plant Operator I
Wastewater Treatment Plant Operator II
Wastewater Treatment Plant Operator II/Lab Analyst
Wastewater Treatment Plant Supervisor
Wastewater Collection System Leadworker

Wastewater Collection System Operator I
 Wastewater Collection System Operator II
 Wastewater Collection System Operator III
 Wastewater Collection System Supervisor
 Water Distribution System Leadworker
 Water Distribution System Operator I
 Water Distribution System Operator II
 Water Distribution System Operator III
 Water Distribution System Supervisor
 Water System Operator I
 Water System Operator II
 Water System Operator III
 Water System Supervisor

ARTICLE 8 - RENEGOTIATIONS

8.1 In the event either party wants to renegotiate a successor Agreement, such party shall serve upon the other, during the period **December 1, 2011 to January 15, 2012**, its written request to begin negotiations, as well as its full and entire written proposals amending this agreement.

8.2 The parties agree that, except by mutual agreement, no new subjects may be introduced into the process after the third (3rd) negotiations meeting.

8.3 Upon receipt of such written notice and proposals, negotiations shall begin no later than **February 29, 2012**.

8.4 **The CITY will update the 2011 benchmark salary survey prior to June 30, 2012. City will survey an additional two (2) classifications as selected by UNION.**

ARTICLE 13 – SICK LEAVE

13.2 Based on individual utilization of paid sick leave in the preceding calendar year, employee may convert unused accumulated sick leave into paid vacation leave once during the following fiscal year, pursuant to the formula below:

<u>Maximum Conversion</u>	<u>Sick Leave To</u>	<u>Vacation Leave</u>
<u>Sick Leave Utilization</u>		
0 hours	96 hours	48 hours
.25 to 8 hours	72 hours	36 hours
8.25 to 16 hours	48 hours	24 hours
16.25 to 25 hours	24 hours	12 hours
Over 25 hours	0	0

At least 160 hours shall remain in employee’s sick leave bank after any conversion is authorized.

ARTICLE 14 - RETIREMENT BENEFITS

14.1 **For existing UNION employees, the CITY shall contribute five (5) percent for PERS Miscellaneous employees and seven (7) percent for Harbor Patrol Officers of an employee's salary on behalf of the employee to the Public Employees Retirement System (hereinafter referred to as PERS). The employees' 2% (Miscellaneous) or 2% (sworn safety) PERS retirement contribution will be adjusted based on a fiscal year equivalent based on the date of implementation.**

14.2 **For existing UNION employees, the CITY contribution will be the employee's actual PERS obligation to a maximum of five (5) percent for PERS Miscellaneous employees and seven (7) percent for sworn safety employees.**

14.3 These amounts paid by the CITY are employee contributions and are paid by the CITY to partially satisfy the **existing** employee's obligation to contribute to PERS.

14.4 **For SEIU miscellaneous employees hired on or after the date of the implementation of the PERS Contract Amendment regarding 2-Tier Retirement Formulas and Final Compensation for PERS Miscellaneous Employees, the employee will pay 100% of the PERS employee member contribution.**

14.5 **For SEIU sworn safety employees hired on or after September 17, 2011, the employee will pay 7% of the PERS employee member contribution.**

14.6 An employee has no option to receive the contributed amounts directly instead of having them paid by the CITY to PERS on behalf of the employee.

14.7 UNION understands and agrees that employees bear the risk of payment of any increases in the employee contribution above the current percentage made by action of the PERS or the state legislature.

14.8 Parties agree that CITY payment of PERS contributions are made based upon tax treatment currently permitted by the State Franchise Tax Board and the IRS.

14.9 Should current tax treatment change, the UNION and the employee shall hold harmless the CITY, its officers and agents from any and all claims or costs of any type including but not limited to liability for back taxes, arising out of this agreement to pay part of the employee's PERS contribution.

14.10 Should current tax treatment change, the UNION shall have the opportunity to meet and confer regarding any such changes.

14.11 The CITY agrees to continue providing **existing** PERS Miscellaneous employees in this unit with the following PERS optional benefits (**existing employees promoted to another position within the City will not be considered new hires with respect to retirement formulas**):

- 14.11.1 2.7% at 55 plan
- 14.11.2 Sick Leave Credit Option (Section 20965)
- 14.11.3 Military Service Credit (Section 21024)
- 14.11.4 Single Highest Year
- 14.11.5 1959 Survivor Benefit, Level 4
- 14.11.6 Reporting the Employer Paid Member Contribution (EPMC) as special compensation (Section 20691)

14.12 For miscellaneous employees hired on or after the date of the implementation of the PERS Contract Amendment regarding 2-Tier Retirement Formulas and Final Compensation for PERS Miscellaneous employees, the CITY will provide a retirement benefit program through Public Employees Retirement System (PERS) with the following PERS optional benefits:

14.12.1 2% @ 60 plan (21353)

14.12.2 Sick Leave Option (Section 20965)

14.12.3 Final Compensation Average 36 consecutive highest months (20037)

14.12.4 Military Service Credit (21024)

14.12.5 1959 Survivor Benefit 4th Level (21574)

14.13 The CITY agrees to provide existing PERS Safety employees (Harbor Patrol Officers) in this unit with the following PERS optional benefits(existing employees promoted to another position within the City will not be considered new hires with respect to retirement formulas):

14.13.1 Highest Single Year Compensation (Section 20042)

14.13.2 Sick Leave Credit (Section 20965)

14.13.3 1959 Survivor Benefit (Section 21580)

14.13.4 3% @ 50 Retirement Formula (Section 21362.2)

14.13.5 3rd Level Survivor Benefit (Section 21573)

14.13.6 Military Service Credit (Section 21204)

14.13.7 4th Level Survivor Benefit (Section 21574)

14.13.8 Reporting the Employer Paid Member Contribution (EPMC) as special compensation (Section 20691)

14.14 For PERS Safety employees (Harbor Patrol Officers) hired on or after September 17, 2011 the CITY will provide a retirement benefit program through Public Employees Retirement System (PERS) the retirement benefits set forth in 14.12 above will be modified and reads as follows.

14.15.1 36 consecutive months final compensation

14.15.2 Sick Leave Credit effective 6-24-89 (Section 20965)

14.15.3 4th Level Survivor Benefit (Section 21574)

14.15.4 1959 Survivor Benefit effective 6-24-89 (Section 21580)

14.15.5 Military Service Credit effective 6-9-98 (Section 21024)

14.15.6 3% @ 55 Retirement Formula

14.15.7 Pre-Retirement Optional Settlement 2 Death Benefit

14.15.8 Reporting the Employer Paid Member Contribution (EPMC) as special compensation (Section 20691)

14.16 If the State Legislature adopts a two-tier PERS retirement program applicable to unit members, then all unit members employed after the effective date of such PERS changes shall be placed in a new retirement plan or one selected by the CITY. Current employees at the time of plan adoption will have a one-time option to enter the new plan; enrollment period to be selected by CITY.

14.17 For existing employees, effective with the payroll period beginning September 17, 2011, the CITY shall commence reporting the Employer Paid Member Contribution (EPMC) to PERS as special compensation, at a rate of five (5) percent for SEIU Miscellaneous employees and seven (7) percent

for SEIU Sworn Safety employees (Harbor Patrol Officers).

14.18 For PERS Safety employees (Harbor Patrol Officers) hired on or after September 17, 2011 the CITY shall commence reporting the Employer Paid Member Contribution (EPMC) to PERS as special compensation at a rate of two (2) percent.

ARTICLE 15 - HEALTH BENEFITS

15.1 HEALTH INSURANCE

15.1.1 Employees of this UNIT shall participate in the PERS medical insurance plans on a cafeteria style basis, with the CITY contributing the PERS minimum (currently \$108/month) to the active employee's medical insurance and \$1.00/month or the amount required by PERS to retiree medical insurance. Any costs in excess of these contribution rates shall be paid by the employee and retiree.

15.1.2 UNIT employees receive a cafeteria plan contribution (including the amount required by PERS in 15.1.1 above) as follows:

- Employee only - up to \$715/month or cost of insurance, whichever is less
- Employee + 1 – up to \$947/month or cost of insurance, whichever is less
- Employee + family - up to \$1050/month or cost of insurance, whichever is less

15.1.3 Effective January 1, 2009 cash-back was eliminated except as provided herein. Employees receiving cash-back in December 2008 shall continue to receive the same amount for the term of this agreement except that if a cash-back employee changes the structure of their insurance (add dependents, delete dependents, drop insurance with the CITY, change carriers, etc.) cash-back is not an option. Cash-back will be eliminated for employees during the open enrollment period in 2010 for calendar year 2010, and in subsequent years, if said employees are required (because of eliminated plans) to change carrier. In the event an employee receiving cash-back is forced to make a plan change because the CITY changes plans and/or ceases to contract with PERS for insurance, that employee will maintain cash-back.

15.1.4. Any increases in health insurance will be borne by the employee.

15.2 DENTAL AND VISION INSURANCE:

15.2.1 During the term of this Agreement, the CITY shall offer dental/life and vision insurance and each employee shall be required to carry both dental/life and vision insurance for self. Life Insurance is provided at \$20,000 per employee. The following rates are effective January 1, 2011.

	<u>VISION</u>	<u>DENTAL</u>	<u>LIFE</u>	<u>TOTALS</u>
Employee Only	\$ 8.63	\$ 37.76	\$5.68	\$ 52.07
Employee +1	\$17.26	\$106.39	\$5.68	\$129.33
Employee +2	\$22.29	\$106.39	\$5.68	\$134.36

Employee will be responsible for the following monthly amounts for dental/life and vision beginning with the pay period including January 1, 2011:

Employee Only	\$2.32
Employee + 1	\$7.75
Employee + 2	\$8.22

CITY will pay the remaining premium for dental/life and vision.

15.3 Any coverage made available to future retirees beyond COBRA time requirements shall be paid for by the retiree.

ARTICLE 18 – WAGES AND INCENTIVES

18.1 **Salaries shall remain unchanged for the term of this agreement.**

Maintenance of Benefits. Except as modified herein, the City agrees to maintain all terms and conditions set forth in the Memorandum of Understanding between the City of Morro Bay and SEIU Local 620, which expired June 30, 2011.



AGENDA NO: B-2
MEETING DATE: 9/13/11

Staff Report

TO: Honorable Mayor and City Council **DATE:** August 23, 2011

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Ordinance No. 570 Amending the City of Morro Bay Municipal Code Title 13 Public Utilities, Chapter 13.04 Water Service and Rates, Section 13.04.070 Application for regular service - To Require Identification – Introduction and First Reading

RECOMMENDATION:

Staff recommends that the City Council review Ordinance No. 570, accept public comment on this issue, and then move for the introduction and first reading of Ordinance No. 570 by number and title only, amending the Morro Bay Municipal Code Title 13, Chapter 13.04, Section 13.04.070 entitled *Application for regular service* to require the presentation of a valid State-issued driver's license, State-issued identification card, military identification card, passport or possibly other valid picture identification card, which supports our Federal Trade Commission *Identity Theft Prevention Program* adopted with Resolution 27-09, as well as update the practice of accepting methods of application requests other than letters.

DISCUSSION:

Chapter 13.04 *Water Service and Rates*, Section 070 *Application for regular service* states "Each applicant for water service shall be required to sign an application form provided by the water department or make application letter showing the date of application, location of premises to be served, mailing address, date applicant desires service, and such other information as may be required." The "other information" phrase has been called into question by applicants who wish to refrain, some vehemently so, from providing personal identification, such as a social security and/or driver's license number. Not receiving this information is problematic, as it hinders our ability to properly identify the person signing up for service, as well as making it nearly impossible to collect on delinquent accounts. In June 2009 per the Federal Trade Commission's requirement, Council adopted Resolution 27-09, implementing the City's *Identity Theft Prevention Program*. This Program requires staff to visually inspect the photo id of utility customer applicants to verify the

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

identity of the person transacting business with us. To more clearly define this requirement, staff is recommending an amendment to Section 13.04.070 to add “*A valid State-issued driver’s license, State-issued identification card, military identification card or passport must be presented by the applicant before service will be activated. If the applicant does not possess any of the above forms of identification, alternative valid photo identification (e.g., current school id) may be accepted.*”

Additionally, staff would like to update this Section to update the comments about applications submitted by letter. The new language will state that applications submitted via methods other than personal appearance when applying for water utility service (e.g., facsimile, e-mail) will be accepted, but must be accompanied by the applicant’s driver’s license/identification card or passport. The “*alternative valid photo identification*” statement above will also be included in this section.

Finally, the last paragraph in this Section states “*An application fee shall accompany each application or letter of application.*” Current practice is to allow the application fee to be included in the first water utility bill. Staff would like to update this to state “*For first-time water utility customers, an application fee shall accompany each application, or the applicant may request that the application fee be included in the first water utility bill.*”

CONCLUSION:

Staff recommends that Council review Ordinance No. 570, accept public comment on this issue, and move for the first reading and introduction, by number and title only, of the attached Ordinance.

ORDINANCE NO. 570

**ORDINANCE OF THE CITY COUNCIL OF THE CITY MORRO BAY TO AMEND
THE CITY OF MORRO BAY'S MUNICIPAL CODE TITLE 13 PUBLIC UTILITIES,
CHAPTER 13.04 WATER SERVICE AND RATES, SECTION 13.04.070 APPLICATION
FOR REGULAR SERVICE – TO REQUIRE IDENTIFICATION**

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

The City Council of the City of Morro Bay does ordain Title 13 *Public Utilities*, Chapter 13.04 *Water Service and Rates*, Section 13.04.070 *Application for regular service* of the Municipal Code be amended as follows:

WHEREAS, Title 13 of the Morro Bay Municipal Code sets forth policies and procedures for public utilities; and

WHEREAS, the City desires to clarify the process described in Section 13.04.070 *Application for regular service* to specify the required presentation of defined, valid photo identification, and update the accepted methods for applying for water utility service; and

WHEREAS, the City of Morro Bay needs to amend Section 13.04.070 in order to make this change; and

WHEREAS, following the Public Hearing, and upon consideration of the testimony of all persons, the City Council of the City of Morro Bay does ordain Section 13.04.070 be amended as follows:

*13.04.070. Application for regular service. Each applicant for water service shall be required to sign an application form provided by the water department, ~~or make application by letter~~ showing the date of application, location of premises to be served, mailing address, date applicant desires service, and such other information as may be required. A **valid state-issued driver's license, state-issued identification card, military identification card or passport must be presented by the applicant before service will be activated. If the applicant does not possess any of the above forms of identification, alternative valid photo identification (e.g., current school id) may be accepted.***

~~Letter-~~Applications transmitted via methods other than personal appearance when applying for water service (e.g., facsimile, e-mail) will be honored to furnish service as requested, and must be accompanied by a copy of the applicant's state-issued driver's license, state-issued identification card, military identification card or passport. If the applicant does not possess any of the above forms of identification, alternative valid photo identification (e.g., current school id) may be accepted.

For first time utility customers, Aan application fee shall accompany each application ~~or~~

letter of application or the applicant may request that the application fee be included in the first water utility bill.

INTRODUCED at the regular meeting of the City Council held on the 13th day of September 2011, by motion of Councilmember _____ and seconded by Councilmember _____.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, on the _____ day of _____, 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: B-3

MEETING DATE: 9/13/11

Staff Report

TO: Honorable Mayor and City Council **DATE:** August 15, 2011

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Ordinance No. 571 Amending the City of Morro Bay Municipal Code Title 3 Revenue and Finance, Chapter 3.30 Unclaimed Money and Property, Section 3.30.080 Proceeds to be deposited in general fund to read Disposition of proceeds – Introduction and First Reading

RECOMMENDATION:

Staff recommends that the City Council review Ordinance No. 571, accept public comment, and then move for the introduction and first reading of Ordinance No. 571, by number and title only, amending the Morro Bay Municipal Code Title 3, Chapter 3.30, Section 3.30.080 entitled *Proceeds to be deposited in general fund* to exempt Enterprise Funds.

BACKGROUND:

The Harbor Enterprise Fund frequently has abandoned/unclaimed vessels and/or property that it has to manage until such time has passed to enable them to place the vessel/property up for auction. Between the knowledge of abandonment and time of auction, Harbor staff invests a significant amount of time and funds in locating the owner, establishing the abandonment and storing the vessel/property, but the City of Morro Bay Municipal Code Chapter 3.30 *Unclaimed Money and Property*, Section 080 *Proceeds to be deposited in general fund* doesn't allow them to keep what little money they recover.

DISCUSSION:

Chapter 3.30 *Unclaimed Money and Property*, Section 080 *Proceeds to be deposited in general fund* states "After such auction is completed, the proceeds of the auction shall be delivered to the director of finance for deposit in the general fund." This means that all auction money, including that generated by Enterprise Funds, is to be turned in and deposited in the General Fund. Staff feels that in the case of Enterprise Funds, the money should be returned to the Enterprise Fund, not the General Fund, to compensate for their efforts. Staff is suggesting an amendment to the title of

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Section 080 to read *Disposition of proceeds*, and state “*After such auction is completed, the proceeds of the auction shall be delivered to the Finance Department for deposit. All auction monies generated by Enterprise Fund activities shall remain with the applicable Enterprise Fund.*”

CONCLUSION:

Staff recommends that Council review Ordinance No. 571, accept public comment, then move for first reading and introduction, by number and title only, of the attached Ordinance.

ORDINANCE NO. 571

**ORDINANCE OF THE CITY COUNCIL OF THE CITY MORRO BAY TO AMEND
THE CITY OF MORRO BAY'S MUNICIPAL CODE TITLE 3 REVENUE AND
FINANCE, CHAPTER 3.30 UNCLAIMED MONEY AND PROPERTY, SECTION
3.30.080 PROCEEDS TO BE DEPOSITED IN GENERAL FUND TO READ
DISPOSITION OF PROCEEDS**

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

The City Council of the City of Morro Bay does ordain Title 3 *Revenue and Finance*, Chapter 3.30 *Unclaimed Money and Property*, Section 3.30.080 *Proceeds to be deposited in general fund* of the Municipal Code be amended as follows:

WHEREAS, Title 3 of the Morro Bay Municipal Code sets forth policies and procedures for unclaimed money and property; and

WHEREAS, the City desires to clarify the process described in Section 3.30.080 *Proceeds to be deposited in general fund* to exempt Enterprise Funds' auction proceeds; and

WHEREAS, the City of Morro Bay needs to amend Section 3.30.080 in order to make this change; and

WHEREAS, following the Public Hearing, and upon consideration of the testimony of all persons, the City Council of the City of Morro Bay does ordain Section 3.30.080 be amended as follows:

3.30.080. ~~Proceeds to be deposited in general fund~~Disposition of proceeds. After such auction is completed, the proceeds of the auction shall be delivered to the ~~director of finance~~Finance Department for deposit in the general fund. All auction monies generated by Enterprise Fund activities shall remain with the applicable Enterprise Fund.

INTRODUCED at the regular meeting of the City Council held on the 13th day of September 2011, by motion of Councilmember _____ and seconded by Councilmember _____.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, on the ____ day of _____, 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: B-4

MEETING DATE: September 13, 2011

Staff Report

TO: Honorable Mayor and City Council

DATE: September 7, 2011

FROM: Rob Schultz, City Attorney

SUBJECT: Ordinance No. 572 Repealing Chapter 2.28 of the Morro Bay Municipal Code Related to the Planning Commission and Implementing Instead the Planning Commission By-Laws; First Reading and Introduction.

RECOMMENDATION:

Per Council direction, staff recommends Council accept public comment and then move for introduction and first reading of Ordinance No.572, by number and title only, repealing and deleting Morro Bay Municipal Code Chapter 2.28.

FISCAL IMPACT:

None.

DISCUSSION:

On August 23, 2011, the City Council adopted Resolution 62-11 amending the Advisory Boards Handbook and By-Laws to more clearly define how each Advisory Board is currently working. In addition, the City Council added By-Laws for the Planning Commission that contains the establishment, duties and responsibilities of the Planning Commission. With the addition of Planning Commission By-Laws to the Advisory Board Handbook, Chapter 2.28 of the Morro Bay Municipal Code is unnecessary, superfluous, and redundant.

Ordinance No. 572 will delete Morro Bay Municipal Code Chapter 2.28. All requirements for the establishment, duties and responsibilities for the Planning Commission are now contained the Planning Commission By-Laws.

CONCLUSION:

Approval of Ordinance 572 will streamline the City's Municipal Code. We recommend Council review and move for first reading and introduction of Ordinance 572 by number and title only.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

ORDINANCE NO. 572

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY REPEALING CHAPTER 2.28 OF THE
MORRO BAY MUNICIPAL CODE RELATED TO THE
PLANNING COMMISSION AND IMPLEMENTING INSTEAD
THE PLANNING COMMISSION BY-LAWS**

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

WHEREAS, Chapter 2.28 of the Morro Bay Municipal Code sets forth the establishment, duties and responsibilities of the Planning Commission; and

WHEREAS, on August 23, 2011 the City Council of the City of Morro Bay adopted Resolution 62-11 thereby amending and updating the Advisory Boards Handbook and creating By-Laws for the Planning Commission; and

WHEREAS, the adoption of Resolution 62-11 and creation of By-Laws for the Planning Commission has resulted in Chapter 2.28 being unnecessary, superfluous, obsolete and redundant; and

WHEREAS, it is in the best interest of the City to consolidate and streamline provisions in the City's Municipal Code that are unnecessary, superfluous, obsolete and redundant; and

WHEREAS, the repeal of Morro Bay Municipal Code Chapter 2.28 will repeal all language related to the Planning Commission that is unnecessary, superfluous, obsolete and redundant; and

WHEREAS, a public hearing was scheduled for September 13, 2011, for consideration of this Ordinance and appropriate public notices were given.

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

Chapter 2.28 of the Morro Bay Municipal Code is hereby repealed.

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, with the names of the City Council members voting for and against the same, in a newspaper of general circulation published in the City of Morro Bay.

INTRODUCED at a regular meeting of the City Council of the City of Morro Bay held on the 13th day of September 2011, by motion of Councilmember _____ and seconded by Councilmember _____.

PASSED AND ADOPTED by the City Council of the City of Morro Bay on the ____ day of _____, 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney



AGENDA NO: D-1

MEETING DATE: September 13, 2011

Staff Report

TO: Honorable Mayor and City Council

DATE: September 8, 2011

FROM: Rob Schultz, City Attorney

SUBJECT: Authorization to File a Notice of Joiner with the California Public Utilities Commission Protesting the Application filed by Pacific Gas and Electric in Regard to the Opt-Out Program for Customers who object to SmartMeter Installation

RECOMMENDATION:

Staff recommends that the City Council authorize the City Attorney to file a Notice of Joiner with the California Public Utilities Commission protesting the Application filed by Pacific Gas and Electric in regard to the "Opt-Out Program" for customers who object to SmartMeter installation.

FISCAL IMPACT:

None. Joining in the Protest will have no fiscal impact on the City but the City Attorney will spend additional time preparing the Joiner and tracking the CPUC "Opt-Out" process.

BACKGROUND:

The California Public Utilities Commission (CPUC) is the agency charged with regulating utility companies in California including the activities of PG&E; local governments do not have any direct regulatory control over utility companies. Much interest has been expressed in recent months regarding an undertaking by PG&E to install "Smart Meters" at their residential customer's homes. A number of residents have called the City Attorney's office and spoke with the City Council regarding the installation of SmartMeters and how to decline or "Opt-Out" of the installation of the SmartMeter at their home.

After thousands of complaints about SmartMeters from people who consider the radiation from cell phones, computers and other wireless devices to be a health threat, and approximately 30 other local governments (including Morro Bay) called for a moratorium on PG&E's SmartMeters, the CPUC ordered PG&E to propose a way for customers to "Opt Out" of receiving the SmartMeters.

On March 24, 2011, PG&E submitted a proposal to the CPUC to give residential customers the option to have the radios in their SmartMeters turned off, with an associated one-time charge of \$135 to \$270, and an ongoing monthly fixed charge of \$14 to \$20. The CPUC is expected to rule on the PG&E plan within the next few months.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

DISCUSSION:

Recently, the Town of Fairfax and the Alliance for Human and Environmental Health, a west Marin coalition, filed a formal protest with the CPUC, challenging PG&E's opt-out plan for SmartMeters. The Protest is attached hereto. Marin County, Mendocino County, Lake County, the City of Capitola, the CPUC's Division of Ratepayer Advocates, EMF Safety Network, and TURN have formally joined the Protest.

The Protest urges the CPUC to challenge the PG&E opt-out proposal based on legal, fiscal, and technology grounds. The Protest includes Ordinances and Resolutions of four California Counties and seven Cities and Towns in PG&E service territory, including Morro Bay, all of which have called for moratoriums of this program until impacts on public health, data privacy, law enforcement, and other community concerns are evaluated.

The Protest urges the CPUC (1) to establish an opt-out program that recognizes the right of local government bodies to exercise such an opt-out on behalf of their constituents pursuant to their legal authority; (2) to immediately order PG&E to comply with validly adopted ordinances and resolutions prohibiting further SmartMeter installations pending a CPUC decision in this case; and (3) to investigate and correct the overstated costs PG&E claims should be paid for opting out and establishing reasonable means of meter data reporting for customers that have opted out individually or collectively.

In addition, the County of San Luis Obispo and the County of Santa Barbara approved submitting a letter to the California Public Utilities Commission endorsing the idea that if a person wishes to "opt out" or have an existing SmartMeter removed, that it should be done at no cost to the rate payer. As stated above, the fee for opting out is somewhere around \$250.00 upfront and \$20.00 per month thereafter. The City of San Luis Obispo has also drafted a letter urging the California Public Utilities Commission (CPUC) to have a "no cost, opt-out" provision.

CONCLUSION:

Regardless of whether one is personally concerned about the health issues associated with SmartMeters, it seems only fair that customers who are concerned about wireless radiation should have a choice to opt out from this program for free. Therefore, Staff recommends that the City Council authorize the City Attorney to file a Notice of Joiner with the CPUC protesting the Application filed by PG&E in regard to the "Opt-Out Program" for customers who object to SmartMeter installation.