

# City of Morro Bay

## City Council Agenda

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### *Mission Statement*

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

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**REGULAR MEETING – JANUARY 11, 2010**

**CLOSED SESSION – JANUARY 11, 2010  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

**CS-1 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.**

Discussions regarding Personnel Issues related to the reorganization of City Maintenance.

**CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY**

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

- Property: Lease Site 86/86W; 801 Embarcadero  
Negotiating Parties: City and Caldwell  
Negotiations: Lease Terms and Conditions.

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

**PUBLIC SESSION – JANUARY 11, 2010  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE  
PLEDGE OF ALLEGIANCE  
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS  
CLOSED SESSION REPORT

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

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

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

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

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE DECEMBER 14, 2009 CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 CITY COUNCIL ANNUAL REGULAR MEETING SCHEDULE FOR 2010;  
(ADMINISTRATION)

**RECOMMENDATION: Receive for information.**

A-3 REVIEW AND APPROVE RESOLUTION NO. 01-10 AUTHORIZING THE APPLICATION FOR PROPOSITION 84, STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM OF 2008 AND NATURE EDUCATION FACILITIES GRANT PROGRAM FUNDS FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

**RECOMMENDATION: Adopt Resolution No. 01-10.**

A-4 RESOLUTION DECREASING THE PARKING IN-LIEU FEES FOR 600 MORRO BAY BOULEVARD TO \$4,000 PER SPACE; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution No. 02-10.**

A-5 AUTHORIZATION TO FILL THE ADMINISTRATIVE/HOUSING PROGRAMS COORDINATOR POSITION; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize Staff to fill the Administrative/Housing Programs Coordinator vacancy.**

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 ADOPTION OF ORDINANCE NO. 553 ADDING SECTION 3.08.105 TO THE MORRO BAY MUNICIPAL CODE ESTABLISHING A LOCAL BUSINESS PREFERENCE PROGRAM; (CITY ATTORNEY)

**RECOMMENDATION: Approve first reading and introduction of Ordinance No. 553 by number and title only.**

B-2 2009 ANNUAL WATER REPORT; (PUBLIC SERVICES)

**RECOMMENDATION: Review the 2009 Annual Water Report, and direct staff accordingly.**

B-3 TERMINATION OF AGREEMENT BETWEEN ROANDOAK AND THE CITY OF MORRO BAY; (CITY ATTORNEY)

**RECOMMENDATION: Direct Staff to terminate the Agreement between Roandoak and the City of Morro Bay.**

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 DISCUSSION ON WATER QUALITY TESTING IN MORRO BAY'S DRINKING WATER; (PUBLIC SERVICES)

**RECOMMENDATION: Review the report and attachments, and direct Staff accordingly.**

D-2 REVIEW OF 2009 TROLLEY SEASON PERFORMANCE; (PUBLIC SERVICES)

**RECOMMENDATION: Receive report for information.**

D-3 EVALUATION FOR CONSISTENCY WITH CITY COUNCIL POLICIES AND PROCEDURES REGARDING A LETTER SENT TO THE CALIFORNIA COASTAL COMMISSION DATED DECEMBER 8, 2009; (CITY COUNCIL)

**RECOMMENDATION: Review City Council Policies and Procedures regarding letters being sent by the Mayor and/or Council Members.**

D-4 APPOINTMENT OF VICE-MAYOR TO SERVE A ONE-YEAR TERM; (ADMINISTRATION)

**RECOMMENDATION: Based on City Council Policies and Procedures, appoint Councilmember Smukler to serve a one-year term as Vice-Mayor effective January 2010.**

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

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

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

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

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – DECEMBER 14, 2009  
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

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

**CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS:** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Property: 781 Market Street and the Corner of Pacific Street and Market Street.  
Negotiating Parties: George Salwasser and the City of Morro Bay.

Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:45 p.m.

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

The meeting adjourned at 5:45 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009  
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Janeen Burlingame	Management Analyst
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	Rob Livick	City Engineer
	Tim Olivas	Police Commander
	Mike Pond	Fire Chief
	Christine Rogers	Housing Programs Coordinator
	Susan Slayton	Administrative Services Director
	Dylan Wade	Utilities/Capital Projects Manager
	Kathleen Wold	Senior Planner
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

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

PUBLIC COMMENT

Hank Roth expressed his appreciation towards the volunteers for their help with the Caroling Cop Cars Program.

Robert Davis, Morro Bay Citizens Bike Committee, stated the San Luis Obispo Council of Governments called for a current list of Unmet Bike Needs be presented at their meeting on December 2, 2009. Mr. Davis listed the items of Unmet Bike Needs presented to the Council of Governments for the City Council's information.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009

Priscilla Handley, United States Census Bureau representative for San Luis Obispo County, stated she is working in conjunction with the San Luis Obispo Council of Governments to support the upcoming Census operations for 2010. She stated the U.S. Census Bureau is still hiring for the 2010 Census.

Peter Candela, Morro Bay Chamber of Commerce, announced upcoming events.

Doug Claussen, Morro Dunes RV Park, expressed the need for financial assistance for the City's Police Department. He also addressed Item B-4 (Discussion and Direction Regarding Placing a Measure on the June 2010 General Election Ballot Approving an Increase of the City's Transient Occupancy Tax) and said the City should not increase the TOT more than 1% due to the challenging economy.

Claire Grantham announced there will be free public H1N1 shot clinics at the San Luis Obispo, Paso Robles and Grover Beach Public Health Departments on Tuesday, December 15<sup>th</sup>.

Gerald Luhr stated he would be available to answer questions regarding Item D-4 (Discussion on Options for Funding the Cal Poly Visioning Project for the Downtown Area).

John Barta stated he is interested in Council's discussion on Item C-2 (Status Report on the Floor-Area-Ratio (Far) Formula to Projects from May to October 2009).

Joan Solu expressed support for Item D-4 noting it would be fabulous for the City's downtown area.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF NOVEMBER 9, 2009, AND THE SPECIAL MEETING OF NOVEMBER 30, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve minutes as submitted.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009

A-2 RESOLUTION NO.57-09 APPOINTING THE CITY TREASURER AND CITY ENGINEER; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 57-09 appointing Susan Slayton as the City Treasurer and Robert Livick as the City Engineer.**

A-3 AUTHORIZATION TO SURPLUS AND SELL FIRE ENGINE #5381; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Designate Fire engine #5381 as surplus property, and request the Administrative Services Director sell the vehicle and remove it from the City's fleet.**

A-4 RESOLUTION TO APPROVE INTERIM LEASE AGREEMENT FOR LEASE SITE 96/96W LOCATED AT 945 EMBARCADERO - WHALE'S TAIL; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 58-09.**

A-5 RESOLUTION TO APPROVE AMENDMENT #4 TO THE LEASE AGREEMENT FOR LEASE SITE 87-88/87W-88W LOCATED AT 833 EMBARCADERO - OUTRIGGER RESTAURANT; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 59-09.**

A-6 APPROVAL OF RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO ABANDONED WATERCRAFT ABATEMENT FUND CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 60-09 authorizing the City to enter into an Abandoned Watercraft Abatement Fund contract with the Department of Boating & Waterways.**

A-7 RESOLUTION AUTHORIZING AND DELEGATING AUTHORITY TO THE UTILITIES/CAPITAL PROJECTS MANAGER FOR THE PURSUIT OF A PROPOSITION 84 WATER TREATMENT GRANT; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution No. 61-09.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009

A-8 RESOLUTION AUTHORIZING STAFF TO SUBMIT THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM APPLICATION TO THE CALIFORNIA ENERGY COMMISSION FOR GRANT FUNDS TO EXECUTE THE PROPOSED IMPROVEMENTS IDENTIFIED IN THE CALIFORNIA ENERGY COMMISSIONS ENERGY AUDIT LETTER REPORT; (RECREATION & PARKS)

**RECOMMENDATION: Adopt Resolution No. 62-09 allowing the City to accept grant monies for the execution of the improvements identified in the California Energy Commission Energy Audit Letter Report.**

A-9 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

**RECOMMENDATION: Receive for information.**

Councilmember Winholtz pulled Item A-2 from the Consent Calendar; Mayor Peters pulled Item A-5 and Councilmember Smukler pulled Item A-8.

**MOTION:** Councilmember Borchard moved the City Council approve the Consent Calendar with the exception of Items A-2, A-5 and A-8. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-2 RESOLUTION NO.57-09 APPOINTING THE CITY TREASURER AND CITY ENGINEER; (ADMINISTRATIVE SERVICES)

Councilmember Winholtz asked if this request would affect the evaluation process.

City Attorney Robert Schultz responded it would not affect the administrative process.

Councilmember Winholtz stated she would like to update this ordinance next year.

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

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009

A-5 RESOLUTION TO APPROVE AMENDMENT #4 TO THE LEASE AGREEMENT FOR LEASE SITE 87-88/87W-88W LOCATED AT 833 EMBARCADERO - OUTRIGGER RESTAURANT; (HARBOR)

Mayor Peters stated the California Coastal Commission approved the proposed conference center for Lease Site 87-88/87W-88W. She noted Burt Caldwell has stated he would like to start construction by the end of next year and requested the City Council consider extending the lease site extension for 6 months with two 3-month extensions thereafter.

MOTION: Mayor Peters moved the City Council approve extending the lease agreement for Lease Site 87-88/87W-88W for six (6) months with two 3-month extensions thereafter. The motion was seconded by Councilmember Grantham. The motion failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

MOTION: Councilmember Borchard moved the City Council adopt Resolution No 59-09 approving Amendment #4 to extend the existing Lease Agreement one year for Lease Site 87-88/87W-88W located at 833 Embarcadero. The motion was seconded by Councilmember Winholtz and carried with Mayor Peters voting no. (4-1)

A-8 RESOLUTION AUTHORIZING STAFF TO SUBMIT THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM APPLICATION TO THE CALIFORNIA ENERGY COMMISSION FOR GRANT FUNDS TO EXECUTE THE PROPOSED IMPROVEMENTS IDENTIFIED IN THE CALIFORNIA ENERGY COMMISSIONS ENERGY AUDIT LETTER REPORT; (RECREATION & PARKS)

Councilmember Smukler requested staff review the Energy Efficiency Program for public information.

MOTION: Councilmember Smukler moved the City Council approve Item A-8 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

Mayor Peters called for a break at 6:53 p.m.; the meeting resumed at 7:03 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 DISCUSSION ON FISCAL YEAR 2009/10 TRANSPORTATION DEVELOPMENT ACT FUNDING CUT TO TRANSIT AND CONSIDERATION OF MORRO BAY DIAL-A-RIDE SERVICE OPTIONS; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated the Transportation Development Act (TDA) provides two sources of funding for transportation programs. The first, the Local Transportation Fund (LTF), is derived from 1/4 cent of each 7.75 cents collected in retail sales taxes. The second, State Transit Assistance (STA) is derived from the statewide sales tax on vehicle fuel. Annually SLOCOG apportions TDA funds based on estimates provided by the State; these funds include LTF and STA (the Governor's adopted budget eliminated STA funds in fiscal year 2009/10.) There are essentially two options available to the City to combat the loss in transit funding for this fiscal year: 1) find alternative revenue sources in the amount of the funding loss, or 2) implement service cuts if alternative funding cannot be identified to compensate for all or part of the funding shortfall. Ms. Burlingame recommended the City Council: 1) approve use of up to 10% of the City's awarded American Recovery and Reinvestment Act (ARRA) 5311 grant and revenue from the sale of the 1985 trolley to compensate for the TDA funding cut to the City's 2009/2010 fiscal year transit allocation; 2) approve using general accumulation funds to retain existing levels of Dial-a-Ride service for fiscal year 2009/2010 only if the ARRA 5311 grant and revenue from the trolley sale in recommendation #1 do not make up the entire cut to the City's fiscal year 2009/2010 TDA allocation; or 3) if recommendations 1 and 2 are not approved, approve reducing Monday through Friday Morro Bay Dial-a-Ride service days by six (6) hours each day to be effective between January 15, 2010 and June 30, 2010 to compensate for the TDA funding cut to the City's 2009/2010 fiscal year transit allocation.

Mayor Peters opened the hearing for public comment.

The following people expressed support for maintaining the current Dial-a-Ride services: Peter Candela, Susan Brown, Rita Tomack, Vicki Landis, Camille Watkins and Levi Tyler.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated this is a compassionate service and should be fully funded out of the Accumulation Fund.

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Councilmember Smukler stated he agrees this service should be maintained at the current level. He said he would like the Public Works Advisory Board take charge in considering the future of this program; perhaps consider a “Friends of Public Transportation” program.

Councilmember Winholtz stated she supports maintaining this service at its current level.

Councilmember Borchard agrees that the Public Works Advisory Board should consider the future funding of this program and how to increase ridership. She said she supports staff recommendation #1 approving the use of up to 10% of the City’s awarded American Recovery and Reinvestment Act 5311 grant and proceeds from the sale of the 1985 trolley to compensate for the TDA funding cut to the City’s 2009/10 fiscal year transit allocation.

Mayor Peters stated she agrees the City should maintain the current Dial-a-Ride service.

**MOTION:** Councilmember Winholtz moved the City Council: 1) approve using general accumulation funds to retain existing levels of Dial-a-Ride service for fiscal year 2009/10 only if the American Recovery and Reinvestment Act 5311 grant and revenue from the trolley sale do not make up the entire cut to the City’s fiscal year 2009/10 TDA allocation; and 2) forward to the Public Works Advisory Board for their consideration. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

**B-2 CONSIDERATION OF PARTICIPATION IN A COUNTYWIDE AB 811 CONTRACTUAL ASSESSMENT PROGRAM (CALIFORNIAFIRST) TO FINANCE ENERGY EFFICIENCY IMPROVEMENTS AND DISTRIBUTED RENEWABLE ENERGY; (PUBLIC SERVICES)**

Housing Programs Coordinator Christine Rogers stated the CaliforniaFIRST Program is being instituted by California Communities, a joint powers authority sponsored by the League of California Cities and the California State Association of Counties, to allow owners of property in participating cities and counties to finance renewable energy, energy efficiency and water efficiency improvements on their property. If a property owner chooses to participate, the improvements will be financed by the issuance of bonds by California Communities. California Communities will levy “contractual assessments” on the owner’s property to repay the portion of the bonds issued to finance the improvements on that property. San Luis Obispo County has initiated action to participate in the program and is considering formal adoption of the resolutions to participate in the program later this month. As requested, the City Manager has sent a letter to the California Energy Commission expressing the City’s interest in participating

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in the program by the November 20<sup>th</sup> deadline. The program also requires the adoption of a resolution of participation by the City Council prior to January 18, 2010. The general advantage of the program is that the City can work through the overall State program and that the majority of the program administration would be covered by outside resources. The City already has an ambitious energy conservation component to its affordable housing rehabilitation program, but this is only available to households that income-qualify. Ms. Rogers recommended the City Council adopt Resolution No. 63-09 authorizing the City of Morro Bay to become a participating member agency in the CaliforniaFIRST Program and direct staff to continue the process to implement the CaliforniaFIRST Program within the City.

Mayor Peters opened the hearing for public comment.

Margaret Ambersavage, Central Coast Chapter of the United States Green Building Council, stated their organization fully supports AB811. She said this energy and efficiency program would implement solar and other renewable energy sources to reduce our carbon footprint.

Gerald Luhr stated this is an excellent program which the County requires an energy performance audit. He asked if that would also be included in the City's program. Mr. Luhr recommended the City Council approve participation in this program.

Mayor Peters closed the public comment hearing.

**MOTION:** Councilmember Smukler moved the City Council adopt Resolution No. 63-09 authorizing the City of Morro Bay to become a participating member agency in the CaliforniaFIRST Program and direct staff to continue the process to implement the CaliforniaFIRST Program within the City. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

**B-3 ADOPTION OF RESOLUTION NO. 65-09 APPROVING THE REAL ESTATE AGREEMENT FOR THE SALE OF CITY-OWNED PROPERTY AT 781 MARKET AND THE CITY-OWNED PROPERTY AT THE CORNER OF PACIFIC AND MARKET IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)**

City Attorney Robert Schultz stated the City obtained ownership of the property located at the Northeast corner of Market Avenue and Pacific Street in 2001. The real property is a ±14,387 square foot parcel currently improved with an asphalt-paved 40-space automobile parking lot. The property was purchased for \$500,000 using parking in-lieu funds. The City will need to reimburse the parking in-lieu fund \$500,000 unless the funds

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REGULAR MEETING – DECEMBER 14, 2009

are reallocated to another project. The City obtained ownership of the property located at 781 Market Street in 2002. The real property is a ±6,769 square foot parcel and is currently improved with a vacant masonry building previously used as a restaurant. General Fund monies were used for the purchase of the property. The purchase of the property at 781 Market Street was part of a purchase that also included the property at 714 Embarcadero. Since 2002, the City has unsuccessfully issued a series of RFP's to develop the properties into a hotel/conference center. The buyer, George Salwasser, has accepted the terms and conditions of the Real Estate Agreement and will purchase the property at 781 Market Street and at the corner of Pacific and Market for \$1,500,000.00. Mr. Schultz recommended the City Council approve the Real Estate Agreement and adopt Resolution No. 65-09 approving the sale of City-owned property located at 781 Market Street and at the corner of Pacific and Market Street for \$1,500,000.00.

Mayor Peters opened the hearing for public comment.

John Mayers expressed support of the sale of this property; however, he does not agree with the structuring of the proposed transaction which seems to greatly favor the investor. He said the City should not get into the banking business and should move forward with a clean sale with another investor.

John Barta addressed the sale of the parking lot and noted the funds should be reimbursed to the in-lieu parking fund.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz stated she is going to support the sale of this property because the City has had this property up for sale in both good and poor economic times and has not been able to sell it, and the City needs to cut its losses and move forward. Councilmember Winholtz stated she would like this money to be used to build a bathroom downtown.

Councilmember Grantham stated the City will benefit by the Lift Station purchased by the buyer of the property, and he supports moving forward with the sale of this property.

Councilmember Smukler stated he also supports the sale of this property since the buyer has liquid assets to be able to focus on rehabilitating the property. He said he is hoping to reinvest these funds in community development projects.

Councilmember Borchard expressed her support on the sale of the property. She noted a correction on Item 23 in Resolution No. 65-09 that the City will not be responsible for the proposed Lift Station.

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Mayor Peters stated she is ambivalent to selling this property because she would prefer to maintain it as lease property in order for the City to have constant income.

**MOTION:** Councilmember Borchard moved the City Council adopt Resolution No. 65-09 approving the Real Estate Agreement for the sale of City-Owned Property at 781 Market and the City-Owned Property at the Corner of Pacific and Market in Morro Bay, California, with the amendment to Item #23 in the contract stating that the City will not be responsible for any operation and maintenance of the Lift Station, and will negotiate the hours of operation only. The motion was seconded by Councilmember Grantham and carried with Mayor Peters voting no. (4-1)

**B-4 DISCUSSION AND DIRECTION REGARDING PLACING A MEASURE ON THE JUNE 2010 GENERAL ELECTION BALLOT APPROVING AN INCREASE OF THE CITY'S TRANSIENT OCCUPANCY TAX (TOT); (CITY ATTORNEY)**

City Attorney Robert Schultz stated at the June 23, 2009 meeting, City Council directed staff to draft enabling documents to submit a tax measure increasing the City's Transient Occupancy Tax (TOT) on the June 8, 2010 ballot for voter approval as part of the General Municipal Election. TOT at a rate of 10% per rental is currently collected by all entities renting lodging for 30 days or less. Those taxes are remitted monthly to the City, and that revenue stream accounts for approximately 18% of the General Fund's revenues before transfers in. TOT is the second largest revenue source to the City (property tax is the largest.) In order to increase TOT, the City must hold an election at the same time that an election is held where members of the City Council will be elected. In addition, pursuant to State law, any increase of the tax rate must first be approved by a 2/3 vote (4 members) of the City Council and then a majority vote of the City's voters who vote at a regular Municipal Election. Mr. Schultz recommended the City Council discuss and direct staff regarding placing a measure on the June 8, 2010 ballot increasing the Transient Occupancy Tax from 10% to 12%. The deadline for submittal of such a measure to the County is February 24, 2010.

Mayor Peters opened the hearing public comment.

The following people expressed opposition to placing a measure on the June 2010 General Election ballot approving an increase in the City's Transient Occupancy Tax: John Solu, Mike Casola, Chris Duff, Jonni Biaggini, Peter Candela, Joan Solu, John Barta, Peter Beaman, George Leage, John Gerber, and Ken Vesterfelt.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 14, 2009

MOTION: Mayor Peters moved the City Council continue this item to the January 25, 2010 City Council meeting. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 8:43 p.m.; the meeting resumed at 8:51 p.m.

C. UNFINISHED BUSINESS

C-1 ENDING THE DECLARATION OF A WATER EMERGENCY FOR THE STATE WATER SHUTDOWN AND REPEAL OF THE MANDATORY CONSERVATION REQUIREMENT AND ADOPTION OF A STANDING WATER EMERGENCY DURING REDUCED OR NON STATE WATER DELIVERY PERIODS; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the City has four main sources of water supply, which include the State Water Project, Chorro groundwater, Morro groundwater, and a Desalination Plant. The State Water Project has become the primary source of supply. Each year the State Water Project undergoes a maintenance shutdown; during this time the primary water supply source for the City is unavailable. The contamination of our groundwater resources with nitrates, by agricultural activities in both the Morro and Chorro groundwater basins have further impacted the City's water supplies. During the State Water shutdown, or periods of greatly reduced deliveries, it is necessary to blend our groundwater sources with water from other sources to reduce nitrate levels in the distribution system. When blending high nitrate sources, having a reduction in demands helps to keep high nitrate sources of water offline which in turn keeps system nitrate levels at an acceptable level. In order to reduce water demands during critical water supply periods, the Council can declare an emergency and thereby authorize the Public Services Director to institute Mandatory Water Conservation Requirements as outlined in the municipal code. Mr. Wade recommended the City Council repeal Resolution No. 50-09 declaring a water emergency during the State Water Project annual maintenance shutdown and instituting mandatory conservation requirements. He also recommended the City Council adopt Resolution No. 64-09 declaring a water emergency during periods of time when State Water Project deliveries are below 35% and authorizing the Public Services Director to implement mandatory conservation requirements as outlined in the municipal code.

Councilmember Winholtz stated she supports going to Level B (Moderately Restricted Water Supply Conditions), which is stable especially for non-permanent residents.

MINUTES - MORRO BAY CITY COUNCIL  
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Councilmember Grantham stated he would like to receive a monthly report that shows where the City is currently and where it is projected to be in the next month in order to see problems coming.

Mayor Peters agreed with going to Level B as the City's standard water restriction, and by receiving a monthly report will be a constant reminder of how the City is doing.

Councilmember Smukler stated he supports adopting Level B as the City's standard water restrictions. He said he would also like to improve public education regarding water conservation.

Councilmember Borchard stated she supports the consistency of Level B water restrictions.

**MOTION:** Councilmember Winholtz moved the City Council adopt Resolution No. 64-09 as modified by Council wherein the Public Services Director is directed to implement Section (B) Moderately Restricted Water Supply Conditions. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

**C-2 STATUS REPORT ON THE FLOOR-AREA-RATIO (FAR) FORMULA TO PROJECTS FROM MAY TO OCTOBER 2009; (PUBLIC SERVICES)**

Public Services Director Bruce Ambo stated at the March 30, 2009 joint City Council/Planning Commission meeting, the Council directed staff to include a paragraph in the staff reports for the Planning Commission on how the floor-to-area ratios (FAR) compiled by a citizens' committee would compare on projects. There has been considerable analysis and community debate on the subject of FAR's and numerous community meetings, Planning Commission and City Council hearings dating back to 2007. In September 2007, the City Council enacted an interim urgency ordinance requiring the review and approval of a Conditional Use Permit at the Planning Commission for any residence exceeding 2,500 square feet (excluding a 400 sq. ft. allowance for the garage) in the R-1, Single Family Residential zone. This interim ordinance was again extended in September 2008, and has now lapsed. Mr. Ambo recommended the City Council receive and file this report and/or provide further direction to staff.

**MOTION:** Mayor Peters moved the City Council direct staff to return with a resolution reinstating the 2,500 square foot single family residential review level. The motion was seconded by Councilmember Winholtz and carried with Councilmember Borchard voting no. (4-1)

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MOTION: Mayor Peters moved the City Council direct staff to start the process of amending the code addressing neighborhood compatibility in single family residential areas using the non-numeric methodology that was originally recommended by staff. The motion was seconded by Councilmember Winholtz and carried with Councilmember Borchard and Councilmember Grantham voting no. (3-2)

D. NEW BUSINESS

D-1 DISCUSSION ON WATER QUALITY TESTING IN MORRO BAY'S  
DRINKING WATER; (PUBLIC SERVICES)

This item was pulled from the agenda.

D-2 UPDATE ON THE WORK PROGRAM FOR DEVELOPING A PRELIMINARY  
CLIMATE ACTION PLAN; (PUBLIC SERVICES)

Housing Programs Coordinator Christine Rogers stated the purpose of this working program is to identify all of the unfunded environmental and energy efficiency programs that are mandated by the State, establish some sort of timing and order to accomplish the implementation of them, and efficiently allocate staff resources. The work program is a living document, and must respond to frequent changes in the regulatory and environmental framework, as well the availability of pertinent data and improved methodologies. A review of the work program identifies the program activities, target dates, responsible department, outcome and progress to date. Ms. Rogers recommended the City Council receive and file this update of activities to be undertaken related to state, county, and/or local programs and updates to regulatory codes and standards.

Council received this report for information; no action was taken on this item.

D-3 DISCUSSION ON USING IN-LIEU FUNDS FOR CAPITAL PROJECT STUDIES  
SUCH AS THE HOUSING ELEMENT OR GENERAL PLAN UPDATE; (PUBLIC  
SERVICES)

Public Services Director Bruce Ambo stated this item was placed on the agenda by Councilmember Winholtz, presumably out of concern that funds from the affordable housing in-lieu fees were being spent on plans, studies and/or reports instead of affordable housing projects. The provisions for the use of affordable housing in-lieu fees are set forth in the Zoning Ordinance as follows:

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**“Section 17.50.060 B.** Fees accepted for affordable housing shall be used by the City to construct or assist in the construction of housing for rent or sale to very low, low and moderate income families or to purchase land for the purpose of affordable housing or to assist very low, low and moderate income families to afford adequate housing or for other measures to provide housing for low and moderate income families. The City may, at its option, transfer in-lieu fees to another public agency as a nonprofit housing provider for the purpose of providing affordable housing in the City of Morro Bay.”

Staff requested the City Council address the issue more globally and to look at all in-lieu funds associated with the City.

The City Council agreed to receive the in-lieu fee reduction requests on a case-by- case basis.

No further action was taken on this item.

**D-4 DISCUSSION ON OPTIONS FOR FUNDING THE CAL POLY VISIONING PROJECT FOR THE DOWNTOWN AREA; (PUBLIC SERVICES)**

City Manager Andrea Lueker stated at the March 30, 2009 Joint City Council/Planning Commission meeting, there was direction to form a sub-committee to prepare an outline/compilation of the available visioning documents that the City had generated or had been generated for the City. The sub-committee was formed with Councilmember Smukler and Planning Commissioners Luhr and Diodati. The sub-committee reviewed approximately ten such studies, containing over 30 years of information. During this period, the sub-committee met, a relationship was also forged with the Cal Poly City and Regional Planning Department “Design Studio” graduate class, and discussion ensued as to some of the opportunities that might exist to work with the City. The issue was discussed at the November 30, 2009 Joint City Council/Planning Commission meeting, and was well-received by both the City Council and the Planning Commission. At that meeting, the City Council motioned for staff to bring back options for funding the project, an approximate \$10,000 cost. Staff has identified 4 possible funding sources, including: 1) the Accumulation Fund/Reserve Fund; 2) Unallocated Measure Q funds; 3) Unrestricted CDBG funding; or 4) Council’s savings of \$16,879 (decreased health care & contingency funds). Ms. Lueker recommended the City Council evaluate the options provided for funding of the Cal Poly Visioning Project and provide further direction to staff.

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Councilmember Smukler and Gerald Luhr reviewed the information received from the studies reviewed by the sub-committee, and discussions with the Cal Poly City and Regional Planning Department regarding opportunities in working with the City of Morro Bay.

**MOTION:** Councilmember Winholtz moved the City Council approve the funding of the Cal Poly Visioning Project from the sale of the 781 Market Street property. The motion was seconded by Councilmember Smukler.

Councilmember Winholtz amended her motion to fund the Cal Poly Visioning Project from CDBG funds; Councilmember Smukler accepted the amendment to his second

**VOTE:** The motion carried unanimously. (5-0)

**D-5 REQUEST FOR A DECREASE IN THE PARKING IN-LIEU FEES FOR 600 MORRO BAY BOULEVARD; (PUBLIC SERVICES)**

Public Services Director Bruce Ambo stated the project located at 600 Morro Bay Boulevard (16-unit residential/3,330 sq. ft. commercial mixed use) is unoccupied and recently constructed. The project proponents have signed the parking in-lieu fee agreement and they are in the process of finalizing their subdivision map to record. At the November 30, 2009 Special City Council meeting, Councilmember Borchard requested a discussion on the fee reduction request. There is no procedure for reducing the parking in-lieu fees outlined in the parking in-lieu program or ordinance; therefore, staff recommends the City Council consider the request for a fee reduction, and provide direction to staff.

The City Council agreed to receive testimony from Sam Gilstrap, 600 Morro Bay, L.P.

Councilmember Winholtz stated she is not willing to reduce the fee by \$2,000 at this time.

Councilmember Grantham stated in order to bring in businesses and allow some the opportunity for home ownership; he is inclined to drop the fee significantly.

**MOTION:** Mayor Peters moved the City Council approve to reduce the parking in-lieu fee for 600 Morro Bay Boulevard to \$4,000 per space. The motion was seconded by Councilmember Grantham.

Councilmember Winholtz stated that is outrageously low; she would approve \$2,000 per space.

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Councilmember Smukler stated he is interested in lowering it, but not that high.

VOTE: The motion carried with Councilmember Smukler and  
Councilmember Winholtz voting no. (3-2)

D-6 SCHEDULE DATE FOR INTERVIEWS OF COMMISSIONER/ADVISORY  
BOARD VACANCIES; (ADMINISTRATION)

The City Council scheduled the Commission/Advisory Board interviews for February 1, 2010 at 6:00 p.m. at the Community Center in the Multi-Purpose Room.

E. DECLARATION OF FUTURE AGENDA ITEMS

Mayor Peters requested to agendize a discussion on a resolution establishing conversion from mixed use to residential; Council concurred.

Councilmember Winholtz requested to agendize a discussion on the unmet bike needs letter; Council concurred, and Councilmember Winholtz stated she would prepare the report.

Councilmember Winholtz requested to agendize a discussion on a letter of support for seismic study on nuclear power plant; Council concurred, and Councilmember Winholtz stated she would prepare the report.

Councilmember Winholtz requested extending the goal setting item to April/May 2010.

Councilmember Winholtz requested to agendize a discussion on policy guidelines on a letter sent by the Mayor regarding a City project; Council concurred.

Councilmember Borchard requested to agendize a discussion on guidelines for public area use permits; Council concurred.

Councilmember Smukler asked when the review of alternative options on bio-solids and alternative options on reclamation were scheduled for Council consideration – these items were scheduled for the January 25, 2010 City Council meeting.

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ADJOURNMENT

The meeting adjourned at 11:05 p.m.

Recorded by:

Bridgett Bauer  
City Clerk



AGENDA NO: A-2

MEETING DATE: 01/11/10

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** January 6, 2010

**FROM:** Andrea K. Lueker, City Manager

**SUBJECT:** City Council Annual Regular Meeting Schedule - 2010

## **RECOMMENDATION:**

Staff recommends the City Council adopt the proposed meeting schedule for calendar year 2010:

1. The regular meeting dates are the second and fourth Monday of each month with the exception of July 26<sup>th</sup>, November 22<sup>nd</sup> and December 27<sup>th</sup>, which are traditionally cancelled.
2. In the event the 2<sup>nd</sup> or 4<sup>th</sup> Monday falls on a recognized City holiday, the meeting be held on the following Tuesday..
3. Approve March 29<sup>th</sup> and November 29<sup>th</sup> (fifth Mondays) as the dates for joint City Council – Planning Commission meetings. Due to the proximity of the November 29<sup>th</sup> date to Thanksgiving and the lack of other 5<sup>th</sup> Mondays, the Council may want to look at 3<sup>rd</sup> Mondays for this meeting.

## **BACKGROUND:**

For the past six years, staff has proposed a schedule of meeting dates for the City Council for the new calendar year. The proposed schedule for the 2010 calendar year is very similar to the 2009 calendar with the exception of the Joint Wastewater Treatment Plant meeting dates to be determined.

A 2010 calendar is attached for your reference.

u.w.council.annual meeting schedule 10

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

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

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

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



AGENDA NO:

MEETING DATE: 01/11/2010

# STAFF REPORT

**TO:** Honorable Mayor and City Council **DATE:** 01/11/2010

**FROM:** Joe Woods, Recreation and Parks Director

**SUBJECT:** Review and Approve Resolution 01-10 Authorizing the Application for Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds for the Teen Center Master Plan.

**RECOMMENDATION:**

Staff recommends City Council review and approve Resolution 01-10, authorizing the application for Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds.

**MOTION:** I move that the City Council approve Resolution 01-10 and direct Staff to apply for Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds.

**FISCAL IMPACT:**

Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds are non matching; therefore, the City would only realize costs associated with Staff time in preparing the application. If the Grant is awarded, all expenses post award would be charged to the project.

**SUMMARY:**

Staff worked with RRM Design Group to develop the Master Plan (MP) for the Morro Bay Teen Center. Throughout the process, community groups as well as students were solicited for their input and vision for the future of our Teen Center. The Master Plan for the Teen Center was reviewed by the Recreation and Parks Commission (RPC) and adopted by City Council in 2006. City Council then directed Staff to seek funds to complete the plan. The Teen Center MP project is an eligible project as defined in Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program. Deadline to submit applications for the SPDCRP/NEFGP's first round is March 1, 2010.

**BACKGROUND/DISCUSSION:**

Prepared By: JMW

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

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

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

The City has identified the need of the Community to provide a safe and interactive place for local teenagers. In 1999, the City joined forces with the Morro Bay Lions Club to renovate 535 Harbor Street and dedicate the City's first Youth Center. Shortly after, staff received \$400,000 grant monies from MCI/World COM for the future development of a Teen Center. Staff pursued several properties which had more potential than the current location. In 2000, the City purchased 1055 Morro Street. Later, this property was sold with the proceeds going towards the purchase of 220 Atascadero Road. Prior to any improvements, the City sold 220 Atascadero Road for the acquisition of 231 Atascadero Road. The time line is continued below.

- Sept. 2002 Purchased 231 Atascadero Road property.
- Jan. 2003 Teen Center open to the Community.
- Jun. 2003 RRM is given Notice to Proceed with MB Teen Center/Skate Park project.
- Nov. 2003 Public Workshop #1 - Identification of top recreational uses and their respective design criteria as it relates to the Teen Center property.
- Apr. 2004 Public Workshop #2 - Participants engage in the Master Planning process with the goal of developing the Teen Center/Skate Park elements to reflect local interest.
- Mar. 2005 Public Workshop #3 - presentation of preliminary Teen Center/Skate Park design to the community. Community outreach and discussion for the purpose of arriving at a final design for the Teen Center.
- Jul. 2005 Recreation and Parks Commission reviews and accepts final Teen Center Master Plan. (attached)
- Mar. 2006 City Council review and approval of Teen Center Master Plan (TCMP).
- Jan. 2008 City Council identifies funding the TCMP as a priority, and directs Staff to seek funding for the project. RRM Design's cost estimate for the project is \$1,457,149.42. (Preliminary Construction Cost Opinion attached)

**CONCLUSION:**

Council has approved the Teen Center Master Plan and identified the project as a mid-range priority during the goal setting workshop in 2008. Staff has identified a funding source in which the project is eligible and is non-matching in contributions. The Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant program seems to be ideal for accomplishing the goals of the Teen Center Master Plan.

**RESOLUTION NO. 01-10**

**RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF MORRO BAY, CALIFORNIA APPROVING THE  
APPLICATION FOR PROPOSITION 84, STATEWIDE PARK DEVELOPMENT  
AND COMMUNITY REVITALIZATION PROGRAM OF 2008 AND NATURE  
EDUCATION FACILITIES GRANT PROGRAM FUNDS FOR THE TEEN  
CENTER MASTER PLAN**

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

**WHEREAS**, the State Department of Parks & Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said application to the State; and

**WHEREAS**, the Applicant will enter into a Contract with the State of California to complete the grant scope project;

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

Approves the filing of an application for the Teen Center Master Plan Project, and

1. Certifies that said Applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the Project; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration guide; and
4. Delegates the authority to the Recreation and Parks Director as agent to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, and payment requests, which may be necessary for the completion of grant scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Resolution No. 01-10  
Page Two

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 11<sup>th</sup> day of January 2010, on the following vote:

AYES:

NOES:

ABSENT:

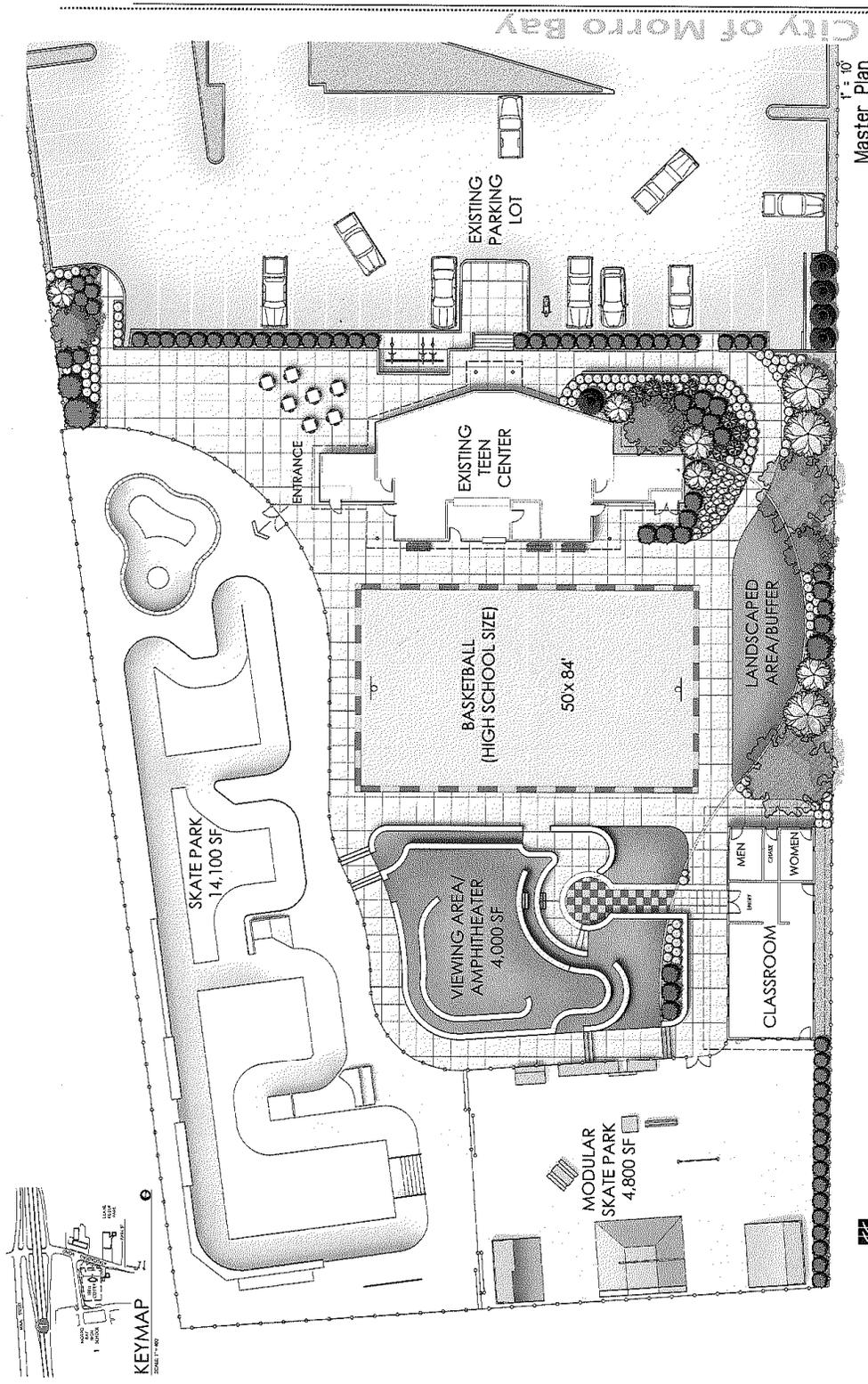
ATTEST:

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JANICE PETERS, Mayor

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JAMIE BOUCHER, Deputy City Clerk



CITY OF MORRO BAY

1" = 10'  
Master Plan



Morro Bay Skate Park  
JULY, 2006

1403613

**rrm design group**  
creating environments people enjoy

**Warmhouding**  
ARCHITECTS

1000 W. MAIN ST. SUITE 100  
MORRO BAY, CA 94032  
TEL: 805.925.1100 FAX: 805.925.1101  
WWW.WARMHOUDING.COM

**AGENDA NO: A-4**

**MEETING DATE: 01/11/10**

**RESOLUTION NO. 02-10**

**RESOLUTION DECREASING THE PARKING IN-LIEU FEES FOR  
600 MORRO BAY BOULEVARD TO FOUR THOUSAND DOLLARS PER SPACE**

**THE CITY OF MORRO BAY  
City of Morro Bay, California**

**WHEREAS**, the City Council has adopted a Parking Management Plan and Morro Bay Municipal Code Section 17.44.020, which authorizes the establishment of Parking In-Lieu Fees by Resolution of the Council; and

**WHEREAS**, In-Lieu Parking Fees were established, codified as Morro Bay Municipal Code Section 17.44.020 A.7, as a means through which public parking can be provided where it is unfeasible to provide such parking as part of on-site development projects; and

**WHEREAS**, in compliance with the Parking Management Plan and Morro Bay Municipal Code Section 17.44.020, the City Council on September 26, 2005 passed and adopted Resolution 37-05 establishing Parking In-Lieu Fees at \$15,000 per parking space; and

**WHEREAS**, in order to enhance the economic strength and physical appearance of the downtown area and recognizing that payment of Parking In-Lieu Fees could exceed an amount the typical business or new development could afford, the City Council on June 23, 2008 passed and adopted Resolution 39-08 reducing the Parking In-Lieu Fee to \$2,000 per space in the Downtown Area for five years; and

**WHEREAS**, project permits for 600 Morro Bay Blvd. were issued on March 5, 2007 and Staff determined and calculated the Parking In-Lieu Fees at \$15,000 per space; and

**WHEREAS**, on December 14, 2009, the City Council considered a request from the owner of the property at 600 Morro Bay Blvd. to reduce the Parking In-Lieu Fees to \$2,000 per space and determined a fair and equitable amount to be \$4,000 per space.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, that the Parking In-Lieu Fee of \$4,000 per space is hereby established for the project at 600 Morro Bay Blvd. in the Downtown Area for five years.

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

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
JANICE PETERS, Mayor

\_\_\_\_\_  
JAMIE BOUCHER, Deputy City Clerk



AGENDA NO: A-5

MEETING DATE: 1/11/10

## Staff Report

**TO:** Mayor and Councilmembers

**DATE:** January 5, 2010

**FROM:** Bruce Ambo, Public Services Director

**SUBJECT:** Authorization to Fill Administrative/Housing Programs Coordinator Position

**RECOMMENDATION:**

It is recommended that the City Council authorize staff to fill the Administrative/Housing Programs Coordinator vacancy.

**MOTION:** I move that the City Council authorize staff to fill the Administrative/Housing Programs Coordinator vacancy.

**FISCAL IMPACT:**

This is a grant-funded position. Funding for this position is mainly derived from Community Development Block Grant (CDBG), CalHOME and HOME program funds. There will be no additional financial impact on the General Fund resulting from this action.

**BACKGROUND:**

The City Council instituted a hiring freeze when the FY 04-05 budget was adopted. The policy set forth in the hiring freeze requires Council approval for the filling of any new or vacant positions while the freeze is in effect. In summary, this position has the additional duties of administering the grant funded housing rehabilitation program portfolio (CDBG, HOME and now CalHOME). These grant related duties are in addition to the basic level of administrative responsibilities this position holds for running the general administrative functions of the entire Public Services Department (Administration, Corporation Yard, Waste Water Treatment Plant), including clerical support, backup and supervision, front counter plan/permit intake, business licenses, personnel records, payroll, purchasing, budget administration, gas consumption reporting, water and collections systems monitoring and reporting, noticing/posting agendas and coordinating and taking minutes of the Planning Commission, Public Works Advisory Board, and Morro Bay/Cayucos Joint Power Agreement meetings.

Prepared by: _____	Dept. Review: _____
City Manager Review: _____	



AGENDA NO: **B-1**

MEETING DATE: 1/11/10

## Staff Report

**TO:** Honorable Mayor and City Council **DATE:** January 6, 2010  
**FROM:** Rob Schultz, City Attorney  
**SUBJECT:** Adoption of Ordinance No. 553 Adding Section 3.08.105 to the Morro Bay Municipal Code Establishing a Local Business Preference Program

### **RECOMMENDATION:**

Per City Council direction, we recommend the City Council accept public comment and then move for introduction and first reading of Ordinance No. 553, by number and title only, adding Morro Bay Municipal Code Section 3.08.105 entitled "Local Business Preference Program."

**MOTION:** I move for introduction and first reading of Ordinance No. 553, by number and title only.

### **FISCAL IMPACT:**

Fiscal impact is unknown. There could be a loss of City revenues with adoption of the program.

### **BACKGROUND:**

Council members have expressed interest in implementing a local vendor program as a way to help stimulate the local economy and support the formation/retention of local jobs. Programs giving preference to qualified local businesses are increasingly common among local governments.

Morro Bay Municipal Code Section 3.08.100 E.2 currently provides the following:

"Local Vendors. Fitness and quality being equal, the purchasing agent shall purchase supplies and equipment locally. The purchasing agent may give preference to the local vendors if the bids of these vendors do not exceed by more than five percent the lowest bid or price quoted by other vendors."

On November 9, 2009, the City Council reviewed a draft Ordinance that would provide further clarification and importance on giving competitive preference to local industries and businesses doing business with the City. The City Council suggested minor changes which have been incorporated into Ordinance 553.

### **CONCLUSION:**

We recommend Council review, hold a public hearing and move for first reading and introduction of the attached Ordinance 553 by number and title only.

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

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

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

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

**ORDINANCE NO. 553**

**AN ORDINANCE OF THE CITY OF MORRO BAY, CALIFORNIA,  
ADDING SECTION 3.08.105 TO THE MORRO BAY MUNICIPAL CODE  
ESTABLISHING A LOCAL BUSINESS PREFERENCE PROGRAM**

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

**THE CITY OF MORRO BAY DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Section 3.08.105 is added to Title 3, Chapter 3.08 of the Morro Bay Municipal Code to read as follows:

**3.08.105 Local Business Preference Program.**

A. Findings.

1. The City annually spends significant amounts on purchasing supplies, materials, and equipment, and contractual and professional services. The dollars used in making these purchases are derived in large measure from taxes and fees from Local Businesses and the City Council has determined that funds generated in the community should, to the extent possible, be placed back into the local economy. Therefore, the City Council has determined that it is in the best interest of the City to give a preference to Local Businesses in making such purchases whenever the application of such a preference is reasonable in light of the dollar-value received in relation to such expenditure.

2. Many of these Local Business establishments have been doing business in Morro Bay for many years. The City Council finds that the City should promote and stimulate Local Businesses by requiring that purchases of supplies, materials, equipment, and contractual services be acquired from Local Businesses.

3. The City Council further finds that this action is necessary to grow the local economy and preserve the Local Businesses that have diligently served Morro Bay for many years.

4. Strategies that encourage people to buy locally are an important component of economic sustainability. Retaining local dollars within a community reduces economic export and increases the financial productivity of taxpayer dollars and increases the consumption of local goods and services while fostering a sustainable community. In working towards a sustainable economy, the City Council recognizes that sustainable procurement policies are an important early step on the Morro Bay path to a sustainable community. Leveraging the purchasing power of the City to buy local products and services instead of products and services from outside Morro Bay strengthens the local economic activity and employment as well as sets an example that helps foster and maintain a vital economic community for future generations.

B. Statement of Policy. It is the policy of the City to promote employment and business opportunities for local residents and firms on all contracts and give preference to local residents, workers, businesses, contractors, and consultants to the extent consistent with the law and interests of the public.

C. Local Preference in Purchasing. In the bidding of, or letting for procurement of, supplies, materials, and equipment, as provided in this Chapter, the City Council or the purchasing agent may give a preference to Local Businesses in making such purchase or awarding such contract in an amount not to exceed five (5%) percent of the Local Business' total bid price.

D. Local Preference in Services. In awarding contracts for services, including consultant services, preference to Local Businesses shall be given whenever practicable pursuant to this Chapter consistent with the Statement of Policy in subsection 2. above. The contractor or consultant will also, to the extent legally possible, solicit applications for employment and proposals for subcontractors and subconsultants for work associated with the proposed contract from local residents and firms as opportunities occur and hire qualified local residents and firms whenever feasible.

E. Local Preference in Public Works Contracts (Sub-Contracting). The prime contractor shall use good faith efforts to sub-contract the supply of materials and equipment to Local Business enterprises and to sub-contract services to businesses whose work force resides within Morro Bay. The prime contractor shall submit evidence of such good faith efforts at the time of submission of bids. Good faith efforts may be evaluated by placing advertisements inviting proposals in local newspapers, sending request for proposals to local sub-contractors, or by demonstrating that no local sub-contractors are qualified to perform the work or supply the materials or equipment. Any notice inviting bids which may require the use of sub-contractors shall include notification of this subsection. The City Council or purchasing agent may reject as non-responsive the bid of any contractor proposing to use sub-contractors that fail to comply with the requirements of this subsection.

F. Exceptions to Local Business Preference Policy. The preference set forth in this Section shall not apply to the following purchases or contracts:

1. Goods or services provided under a cooperative purchasing agreement.
2. Purchases or contracts which are funded in whole or in part by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference.
3. Purchases made or contracts let under emergency or noncompetitive situations.
4. Application of the Local Business Preference to a particular purchase, contract, or category of contracts for which the City Council is the awarding authority may be waived at the City Council's discretion.

G. Quality and Fitness. The preferences established in this Section shall in no way be construed to inhibit, limit or restrict the right and obligation of the City Council and the purchasing agent to compare quality and fitness for use of supplies, materials, equipment, and services proposed for purchase and to compare the qualifications, character, responsibility, and fitness of all persons, firms, or corporations submitting bids or proposals. In addition, the preferences established in this Section shall in no way be construed to prohibit the right of the City Council or the purchasing agent from giving any other preference permitted by law or this Chapter.

H. Verification of Local Business Preference Eligibility. Any vendor or consultant claiming to be a Local Business shall so certify in the bid in writing. The purchasing agent shall not be required to verify the accuracy of any such certifications, and shall have sole discretion to determine if a vendor or consultant meets the definition of "Local Business." The decision of the purchasing agent declaring that any person or business is not a Local Business shall be subject to appeal.

I. Enforcement.

1. The information furnished by each bidder requesting a Local Business Preference shall be under penalty of perjury.

2. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Business for the purpose of this Section.

3. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a City official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Business.

4. A business which has obtained City certification as a Local Business by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew or should have known the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

a. Pay to the City any difference between the contract amount and what the City's costs would have been if the contract had been properly awarded;

b. In addition to the amount described in subsection a. above, be assessed a penalty in an amount not more than ten percent (10%) of the amount of the contract involved; and

c. Be subject to debarment from future award of contracts from the City.

J. Promulgation of Administrative Rules. The purchasing agent is authorized to adopt administrative rules supplemental to the provisions of this Title as necessary or appropriate to implement the provisions of this Section. The provisions of this Section and the rules adopted by the purchasing agent shall be provided to potential bidders, vendors, and contractors to the widest extent practicable.

**Section 2.** This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its passage and, before the expiration of fifteen (15) days after its passage, shall be published once in a newspaper of general circulation printed and published in the City of Morro Bay, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance. Any publication of the Ordinance or summary or posting of the Ordinance shall include the names of the members of the City Council voting for and against the same.

**INTRODUCED** at the regular meeting of the City Council of the City of Morro Bay held on the 11th day of January, 2010, by motion of \_\_\_\_\_ and seconded by \_\_\_\_\_.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Morro Bay, on the \_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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



AGENDA NO: B-2

MEETING DATE: January 11, 2010

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** January 5, 2010

**FROM:** Bruce Ambo, Public Services Director  
Kathleen Wold, Senior Planner

**SUBJECT:** 2009 Annual Water Report

**RECOMMENDATION:**

Staff recommends that the City Council adopt the following:

**MOTION:** I move that the City Council grant the following allocations for 2010 and key subsequent actions on water supply issues to the forthcoming Urban Water Management Plan update:

1. Allocate the mix of residential units at 60 percent single-family and 40 percent multi-family units; and authorize the corresponding water equivalency allocation for residential uses at 50 WEU's (water equivalency units); and
2. Process Residential Allocations limits on a first-come first-serve basis, based on the priorities contained in the current General Plan and Local Coastal Plan policies; and
3. Authorize allocation of 130% of the residential water equivalency units (65 WEUs) to commercial and industrial projects, within the priority categories consistent with the current Local Coastal Plan and General Plan policies; and
4. Review the Water Supply Portfolio in light of recent decreases in the reliability of the State Water Project water deliveries as part of the 2010 Urban Water Management Plan update.

**FISCAL IMPACT:**

No fiscal impact is anticipated since it is not likely that the full allocation will be necessary.

**DISCUSSION:**

The purpose of this report is to provide the annual report on the water equivalency program. This report summarizes building activity for the 2009 and provides a recommendation on the maximum number of WEU's which should be granted for the 2010. Due to recent changes in state water deliveries we are also recommending that the Water Supply Portfolio be reviewed as part of the 2010 Urban Water Management Plan update. This review will

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

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

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

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

address both the decrease in the amount of state water being delivered and the reliability of those deliveries.

**SUMMARY:**

The last annual water report was adopted by the Council in January 24, 2008 to allocate 50 WEU's with 60 percent to be used for single family dwellings and 40 percent for multiple family dwellings.

For the 2009 calendar year, the Public Services Department continued to process residential coastal permits and building permits simultaneously on a first-come, first-serve basis. Water equivalencies are recorded for tracking purposes when building permits are issued.

Progress Report on the Distribution of Water Equivalency Units for 2009: In February 2008, the City Council approved the annual allocation for the 2008 calendar year of 50 WEU's with 60 percent to be used for single family dwellings and 40 percent for multiple family dwellings, and no rollovers. 65 WEU's, or 130% of residential WEU's, were allocated for commercial and industrial uses.

Historically the City Council allocated a total of 160 WEU's including both the residential allocation and the 130 percent allocation to commercial and industrial until 2002. That number was increased to a total of 230 WEU's until the 2006 allocation approval, which reduced the total by half or 115 WEU's.

Table 1 indicates the number of water equivalency units allocated to various uses as of December 31, 2009. Minor commercial activity continues with remodels and reuses of existing buildings that do not require allocations of water. There were no WEU's allocated to commercial uses during 2009.

From January 1 to December 31, 2008, the Public Services Department issued 7 single-family residential (SFR) building permits, and 1 multiple-family residential (MFR) building permit for a total of 11 new dwelling units. There were three commercial building permits issued which required additional WEUs for a total of 3.97 WEUs. The total WEUs issued in 2008 was 12.11

From January 1 to December 31 2009, the Public Services Department issued 5 single family residential (SFR) building permits. The only multiple-family activity in 2009 was an addition which did not require any additional WEUs. There were no commercial permits issued which required additional WEU's. The total WEUs issued in 2009 was 2.62

Water Management Plan: In December 2008 the City Council reviewed the conditions of the community's long-term potable water supply and as a result approved the Water Management Plan Status Report. This report, performed at least every 5 years, looked at: "any changes in climatic, hydrological, technological, or political conditions that could affect the City's long-term water supply whether negatively or positively." It was determined as a result of the review that the existing resources are adequate and sustainable for build-out of the community in accordance with the General Plan. The City Council also authorized a water usage study that was prepared by the City's consulting engineering firm this study also determined that there is adequate water for the build-out of the City under the current General Plan.

In 2010 the City is facing a short term water challenge due to greatly reduced State Water Project deliveries coupled with the nitrate contamination of both the Morro and Chorro

groundwater basins. The timing of these events has caused a short term impact to the City's ability to supply water. As the projects designed to alleviate these issues are implemented these impacts will be ameliorated. As part of the 2010 Urban Water Management Plan update the Water Division will be reviewing the long term water supply portfolio."

Potable Water Production Data: As shown in Table 3, for calendar year 2009 a total of 235 acre-feet of water was extracted from the City's Chorro Basin, 80 acre feet came from the Morro Basin, 1069 acre-feet were delivered from the State Water Project (SWP), and 64 acre feet from the desalination plant. For the calendar year 2009 a total of Table 3 shows the total water production for this year was 1448 acre-feet.

Table 4 provides an historical record of water production and use from 1960 through 2009. Beginning in 1997, per capita water use has been re-calculated, based upon the amount of water delivered to customers (metered/sold) rather than gross production, to closely reflect actual community consumption practices.

The 2009 average consumption was 120 gallons per capita per day (gpcd). In accordance with the Water Management Plan (page 1, Section 2), this consumption is below the 130-gpcd threshold amount for extensive consumer education and more stringent conservation measures than under Normal Water Supply Conditions.

Water Allocation Mix: Water equivalencies units (WEU's) are allocated each year for residential, commercial and industrial uses. The mix of WEUs is based upon the historic pattern of development. Recent years have seen a greater demand for development of single family units than multiple family units. The past few allocations have been granted at a 60/40 mix between Single Family and Multiple family categories. This mix has served the community well therefore no changes have been recommended.

Historic Growth: The maximum number of 77 units contained in Ordinance 266 has been reviewed for its continued applicability given the population goal was set for 12,200 by the year 2000. That year has now passed and Morro Bay's current population is 10,555 well below the maximum set for year 2000. The maximum number of housing units under Ordinance 266 was 6,672 unless there was an election to allow further building. The current number of housing units is 6496 or 176 units below the cap. It appears that historically there have other factors limiting growth beyond the limits set by Ordinance 266.

### **BACKGROUND:**

Pursuant to the Amended Section 13.20.060 of the Municipal Code, the Annual Water Report has been prepared by the Public Services Department and forwarded to the City Council for consideration and adoption. This report describes the uses that have received water equivalency allocations in 2009 (Table 1), and provides the Departments recommendation regarding the building allocation for residential units and the suggested mix of multi-family and single family residential units for 2009 as indicated in City Council Resolution No. 78-00. That resolution indicated that the City Council would continue to set an annual limit on residential units and their mix as set forth in Ordinance 266. In addition, this report provides a snapshot of the City's population (Table 2), water production (Table 3), per capita water use trends (Table 4), and water loss estimates (Tables 5 & 6).

### **CONCLUSION:**

Documentation contained in this report substantiates that that there is sufficient water resources to grant the recommendations as contained in this report while ensuring compliance with all requirements within Ordinance 266. In 2010 the City is facing a short term water challenge due to greatly reduced State Water Project deliveries coupled with the nitrate contamination of both the Morro and Chorro groundwater basins. The timing of these events has caused a short term impact to the City's ability to supply water. As the projects designed to alleviate these issues are implemented these impacts will be ameliorated. As part of the 2010 Urban Water Management Plan update the Water Division will be reviewing the long term water supply portfolio."

### **ATTACHMENTS**

- A. Table 1: Distribution of Water Equivalency Units
- B. Table 2: Population
- C. Table 3: Water Production
- D. Table 4: Per Capita Water Use



AGENDA NO: **B-3**

MEETING DATE: 1/11/10

# Staff Report

**TO: Honorable Mayor and City Council**

**DATE: January 5, 2010**

**FROM: Rob Schultz, City Attorney**

**SUBJECT: Termination of Agreement between Roandoak and the City of Morro Bay**

## **RECOMMENDATION:**

It is recommended that the City Council review the Agreement between Roandoak and the City of Morro Bay and direct Staff to terminate the Agreement.

**MOTION:** I move that we direct Staff to terminate the Agreement between Roandoak and the City of Morro Bay pursuant to Paragraph 9 of the Agreement.

## **FISCAL IMPACT:**

If the Council terminates the agreement with Roandoak, then Staff will begin to negotiate the terms of removal of water service with the two impacted property owners. If there is any fiscal impact for removal of service with the two impacted property owners, Staff would return to Council for approval.

## **BACKGROUND:**

The City entered into the attached agreement with Roandoak of God in 1982. Paragraph 1 of the agreement grants to the City of Morro Bay the right to extract water from Well No. 9A. In exchange for the use of well 9A, Paragraph 6 of the Agreement requires the City to provide free water service, in an amount not to 1,100,000 gallons per month, to three parcels described in the agreement. The Agreement provides that if any of the parcels are sold, the City will continue to provide water in the amount not to exceed 500,000 gallons and the City shall be entitled to pumping costs for water used. In addition, Paragraphs 4 and 5 of the Agreement provide Roandoak with the use of a boat slip on the Embarcadero and use of approximately five acres owned by the City in the Chorro Valley. Paragraph 9 of the agreement allows the City to terminate the agreement. Termination of the agreement will result in the loss of Well No. 9A as a water resource for the City. The City would no longer be required to provide water to the three parcels, and the City will recover the use of a boat slip on the Embarcadero and use of the five acres in the Chorro Valley.

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

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

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

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

**DISCUSSION:**

Because of the degradation to the water quality and the changes in regulations, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal standards to customers in the basin. In order to both provide water to the customers outside the City limits and maintain the Chorro Groundwater resource for the benefit of the customers within the City limits, major modifications to the City's infrastructure would be required. These modifications would be needed to effectively deal with the nitrate contamination while also providing disinfection of the occasional bacteriological contamination events that impact the Chorro Groundwater Basin.

In December of 2008, the California Department of Public Health inactivated all of the wells in the Ashurst well field including Well No. 9A. Until a method of providing treatment for nitrate removal or blending is in place, the City is unable to use this well as a supply source. Therefore, since Well No. 9A can no longer serve the purpose of municipal water supply without major modifications to the City's infrastructure, Staff is comfortable relinquishing control of that well at this time.

The degradation of water quality in the Chorro Valley, coupled with the connection of water services to the pumping line, and further complicated by more stringent regulations, will continue to strain the City's water resources until resolved. Staff is requesting that the Council begin the process by terminating the agreement with Roandoak. Staff will then negotiate the terms of removal of service with the impacted property owners, in accordance with any existing agreements, and for the benefit of the residents of the City of Morro Bay.

**CONCLUSION:**

It is recommended that the City Council review the Agreement between Roandoak and the City of Morro Bay and direct Staff to terminate the Agreement.



**AGENDA NO: D-1**

**Meeting Date: 1/11/10 Action: \_\_\_\_\_**

## Staff Report

**TO: Honorable Mayor and City Council      DATE: January 5, 2010**

**FROM: Dylan Wade, Utilities/Capital Projects Manager**

**SUBJECT: Discussion on Water Quality Testing in Morro Bay's Drinking Water**

### **RECOMMENDATION:**

It is recommended that City Council review this staff report and its accompanying attachments and provide direction to Staff as it deems necessary.

**MOTION:** I move that we receive and file this report.

### **FISCAL IMPACT:**

The City currently conducts routine water quality testing in accordance with the permits and direction issued by the California Department of Health. To the extent that additional monitoring is requested there will be costs incurred to conduct that monitoring.

### **BACKGROUND:**

The City of Morro Bay is regulated as a Large Water System since it serves a population of more than 10,000 people. As such, the City is subject to the requirements of the Safe Drinking Water Act (SDWA). Under the SDWA the US EPA sets national standards for drinking water based on sound science to protect against health risks, considering available technology and costs. These National Primary Drinking Water Regulations (Attached) set enforceable maximum contaminant levels for particular contaminants in drinking water or required ways to treat water to remove contaminants. Each standard also includes requirements for water systems to test for contaminants in the water to make sure standards are achieved.

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

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

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

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

**Page 1 of 3**

The process used by the EPA to set the national drinking water standards is first, US EPA identifies contaminants that may adversely affect public health and occur in drinking water with a frequency and at levels that pose a threat to public health (Attached CCL 3 List). US EPA identifies these contaminants for further study, and determines contaminants to potentially regulate. Second, US EPA determines a maximum contaminant level goal for contaminants it decides to regulate. This goal is the level of a contaminant in drinking water below which there is no known or expected risk to health. Third, US EPA specifies a maximum contaminant level, the maximum permissible level of a contaminant in drinking water which is delivered to any user of a public water system. These levels are enforceable standards, and are set as close to the goals as feasible. SDWA defines feasible as the level that may be achieved with the use of the best technology, treatment techniques, and other means which US EPA finds are available, taking cost into consideration. When it is not economically or technically feasible to set a maximum level, or when there is no reliable or economic method to detect contaminants in the water, US EPA instead sets a required Treatment Technique which specifies a way to treat the water to remove contaminants.

Since the EPA has granted primacy to the California Department of Public Health to regulate public water systems in California, the City is permitted to operate by that Agency. The California Department of Public Health in turn must abide by regulatory requirements that are at least as restrictive as those put forth by the US EPA. The California Department of Public Health makes sure that water systems in California test for contaminants, reviews plans for water system improvements, conducts on-site inspections and sanitary surveys, provides training and technical assistance, and takes action against water systems not meeting standards.

### **DISCUSSION:**

The City of Morro Bay conducts a routine monitoring program testing the quality of both the source waters and the treated waters that enter into the distribution system. The water is tested for the more than 100 contaminants for which both primary and secondary drinking water standards have been established. In the case of the State Water Project, water testing is conducted by both the County and the Central Coast Water Authority. If the contaminant occurs in the system, those results are included in the annual Consumer Confidence Report which is mailed to all residents and water customers by July 1<sup>st</sup> of each year. Problem areas are documented and repairs and /or procedures are put in place to address any problem that has the potential to reoccur.

In addition to testing for the regulated contaminants for which primary or secondary standards apply, the City also performs testing to assist the EPA in determining to what extent unregulated contaminants occur as part of the 5 year repeating Unregulated Contaminate Monitoring Rule process. Other testing is performed by the City as needed to ensure the integrity of the treatment process being used, or in the case of the recent nitrate studies, as an indicator of source water characteristics.

## **CONCLUSION**

It is recommended that the City Council review this staff report and its accompanying attachments and provide direction to Staff as it deems necessary.

### CCL 3 List

#### Chemical Contaminants

Substance Name	CASRN	Use
1,1,1,2-Tetrachloroethane	630-20-6	It is an industrial chemical used in the production of other substances.
1,1-Dichloroethane	75-34-3	It is an industrial chemical used as a solvent.
1,2,3-Trichloropropane	96-18-4	It is an industrial chemical used in paint manufacture.
1,3-Butadiene	106-99-0	It is an industrial chemical used in rubber production.
1,3-Dinitrobenzene	99-65-0	It is an industrial chemical and is used in the production of other substances.
1,4-Dioxane	123-91-1	It is used as a solvent or solvent stabilizer in the manufacture and processing of paper, cotton, textile products, automotive coolant, cosmetics and shampoos.
17alpha-estradiol	57-91-0	It is an estrogenic hormone and is used in pharmaceuticals.
1-Butanol	71-36-3	It is used in the production of other substances, and as a paint solvent and food additive.
2-Methoxyethanol	109-86-4	It is used in consumer products, such as synthetic cosmetics, perfumes, fragrances, hair preparations, and skin lotions.
2-Propen-1-ol	107-18-6	It is used in the production of other substances, and in the manufacture of flavorings and perfumes.
3-Hydroxycarbofuran	16655-82-6	It is a carbamate, and is a pesticide degradate. The parent, carbofuran, is used as an insecticide.
4,4'-Methylenedianiline	101-77-9	It is used in the production of other substances, and as a corrosion inhibitor and curing agent for polyurethanes.
Acephate	30560-19-1	It is used as an insecticide.
Acetaldehyde	75-07-0	It is used in the production of other substances, and as a pesticide and food additive.
Acetamide	60-35-5	It is used as a solvent, solubilizer, plasticizer, and stabilizer.
Acetochlor	34256-82-1	It is used as an herbicide for weed control on agricultural crops.
Acetochlor ethanesulfonic acid (ESA)	187022-11-3	Acetochlor ESA is an acetanilide pesticide degradate. The parent, acetochlor, is used as an herbicide for weed control on agricultural crops.
Acetochlor oxanilic acid (OA)	184992-44-4	Acetochlor OA is an acetanilide pesticide degradate. The parent, acetochlor, is used as an herbicide for weed control on agricultural crops.
Acrolein	107-02-8	It is used as an aquatic herbicide, rodenticide, and industrial chemical.
Alachlor ethanesulfonic acid (ESA)	142363-53-9	Alachlor ESA is an acetanilide pesticide degradate. The parent, alachlor, is used as an herbicide for weed control on agricultural crops.
Alachlor oxanilic acid (OA)	171262-17-2	Alachlor OA is an acetanilide pesticide degradate. The parent, alachlor, is used as an herbicide for weed control on agricultural crops.
alpha-Hexachlorocyclohexane	319-84-6	It is a component of benzene hexachloride (BHC) and was formerly used as an insecticide.
Aniline	62-53-3	It is used as an industrial chemical, as a solvent, in the synthesis of explosives, rubber products, and in isocyanates.
Bensulide	741-58-2	It is used as an herbicide.
Benzyl chloride	100-44-7	It is used in the production of other substances, such as plastics, dyes, lubricants, gasoline and pharmaceuticals.
Butylated hydroxyanisole	25013-16-5	It is used as a food additive (antioxidant).
Captan	133-06-2	It is used as a fungicide.
Chlorate	14866-68-3	Chlorate compounds are used in agriculture as defoliants or desiccants and may occur in drinking water related to use of disinfectants such as chlorine dioxide.
Chloromethane (Methyl chloride)	74-87-3	It is used as a foaming agent and in the production of other substances.
Clethodim	110429-62-4	It is used as an herbicide.
Cobalt	7440-48-4	It is a naturally-occurring element and was formerly used as cobaltus chloride in medicines and as a germicide.
Cumene hydroperoxide	80-15-9	It is used as an industrial chemical and is used in the production of other substances.
Cyanotoxins (3)*		Toxins naturally produced and released by cyanobacteria ("blue-green algae"). Various studies suggest three cyanotoxins for consideration: Anatoxin-a, Microcystin-LR, and Cylindrospermopsin.
Dicrotophos	141-66-2	It is used as an insecticide.
Dimethipin	55290-64-7	It is used as an herbicide and plant growth regulator.
Dimethoate	60-51-5	It is used as an insecticide on field crops, (such as cotton), orchard crops, vegetable crops, in forestry and for residential purposes.
Disulfoton	298-04-4	It is used as an insecticide.
Diuron	330-54-1	It is used as an herbicide.
equilenin	517-09-9	It is an estrogenic hormone and is used in pharmaceuticals.
equilin	474-86-2	It is an estrogenic hormone and is used in pharmaceuticals.
Erythromycin	114-07-8	It is used in pharmaceutical formulations as an antibiotic.
Estradiol (17-beta estradiol)	50-28-2	It is an estrogenic hormone and is used in pharmaceuticals.
estriol	50-27-1	It is an estrogenic hormone and is used in veterinary pharmaceuticals.
estrone	53-16-7	It is an estrogenic hormone and is used in veterinary and human pharmaceuticals.

Ethinyl Estradiol (17-alpha ethynyl estradiol)	57-63-6	It is an estrogenic hormone and is used in veterinary and human pharmaceuticals.
Ethoprop	13194-48-4	It is used as an insecticide.
Ethylene glycol	107-21-1	It is used as an antifreeze, in textile manufacture and is a cancelled pesticide.
Ethylene oxide	75-21-8	It is used as a fungicidal and insecticidal fumigant.
Ethylene thiourea	96-45-7	It is used in the production of other substances, such as for vulcanizing polychloroprene (neoprene) and polyacrylate rubbers, and as a pesticide.
Fenamiphos	22224-92-6	It is used as an insecticide.
Formaldehyde	50-00-0	It has been used as a fungicide, may be a disinfection byproduct, and can occur naturally.
Germanium	7440-56-4	It is a naturally-occurring element and is commonly used as germanium dioxide in phosphors, transistors and diodes, and in electroplating.
Halon 1011 (bromochloromethane)	74-97-5	It is used as a fire-extinguishing fluid and to suppress explosions, as well as a solvent in the manufacturing of pesticides. May also occur as a disinfection by-product in drinking water.
HCFC-22	75-45-6	It is used as a refrigerant, as a low-temperature solvent, and in fluorocarbon resins, especially in tetrafluoroethylene polymers.
Hexane	110-54-3	It is used as a solvent and is a naturally-occurring alkane.
Hydrazine	302-01-2	It is used in the production of other substances, such as rocket propellants, and as an oxygen and chlorine scavenging compound.
Mestranol	72-33-3	It is an estrogenic hormone and is used in veterinary and human pharmaceuticals.
Methamidophos	10265-92-6	It is used as an insecticide.
Methanol	67-56-1	It is used as an industrial solvent, a gasoline additive and also as anti-freeze.
Methyl bromide (Bromomethane)	74-83-9	It has been used as a fumigant as a fungicide.
Methyl tert-butyl ether	1634-04-4	It is used as an octane booster in gasoline, in the manufacture of isobutene and as an extraction solvent.
Metolachlor	51218-45-2	It is used as a herbicide for weed control on agricultural crops.
Metolachlor ethanesulfonic acid (ESA)	171118-09-5	Metolachlor ESA is an acetanilide pesticide degradate. The parent, metolachlor, is used as a herbicide for weed control on agricultural crops.
Metolachlor oxanilic acid (OA)	152019-73-3	Metolachlor OA is an acetanilide pesticide degradate. The parent, metolachlor, is used as a herbicide for weed control on agricultural crops.
Molinate	2212-67-1	It is used as a herbicide.
Molybdenum	7439-98-7	It is a naturally-occurring element and is commonly used as molybdenum trioxide as a chemical reagent.
Nitrobenzene	98-95-3	It is used in the production of aniline, and also as a solvent in the manufacture of paints, shoe polishes, floor polishes, metal polishes, explosives, dyes, pesticides and drugs (such as acetaminophen), and in its re-distilled from (oil of mirbane) as an
Nitroglycerin	55-63-0	It is used in pharmaceuticals, in the production of explosives, and in rocket propellants.
N-Methyl-2-pyrrolidone	872-50-4	It is a solvent in the chemical industry, and is used for pesticide application and in food packaging materials.
N-nitrosodiethylamine (NDEA)	55-18-5	It is a nitrosamine used as an additive in gasoline and in lubricants, as an antioxidant, as a stabilizer in plastics, and also may be a disinfection byproduct.
N-nitrosodimethylamine (NDMA)	62-75-9	It is a nitrosamine and has been formerly used in the production of rocket fuels, is used as an industrial solvent and an anti-oxidant, and also may be a disinfection byproduct.
N-nitroso-di-n-propylamine (NDPA)	621-64-7	It is a nitrosamine and may be a disinfection byproduct.
N-Nitrosodiphenylamine	86-30-6	It is a nitrosamine chemical reagent that is used as a rubber and polymer additive and may be a disinfection byproduct.
N-nitrosopyrrolidine (NPYR)	930-55-2	It is a nitrosamine used as a research chemical and may be a disinfection byproduct.
Norethindrone (19-Norethisterone)	68-22-4	It is a progestogenic hormone used in pharmaceuticals.
n-Propylbenzene	103-65-1	It is used in the manufacture of methylstyrene, in textile dyeing, and as a printing solvent, and is a constituent of asphalt and naphtha.
o-Toluidine	95-53-4	It is used in the production of other substances, such as dyes, rubber, pharmaceuticals and pesticides.
Oxirane, methyl-	75-56-9	It is an industrial chemical used in the production of other substances.
Oxydemeton-methyl	301-12-2	It is used as an insecticide.
Oxyfluorfen	42874-03-3	It is used as a herbicide.
Perchlorate	14797-73-0	It is both a naturally occurring and human-made chemical. Perchlorate is used to manufacture fireworks, explosives, flares and rocket propellant.
Perfluorooctane sulfonic acid (PFOS)	1763-23-1	PFOS was used in fire fighting foams and various surfactant uses; few of which are still ongoing because no alternatives are available.
Perfluorooctanoic acid (PFOA)	335-67-1	PFOA is used in the manufacture of fluoropolymers, substances which provide non-stick surfaces on cookware and waterproof, breathable membranes for clothing
Permethrin	52645-53-1	It is used as an insecticide.

Profenofos	41198-08-7	It is used as an insecticide and an acaricide.
Quinoline	91-22-5	It is used in the production of other substances, and as a pharmaceutical (anti-malarial) and as a flavoring agent.
RDX (Hexahydro-1,3,5-trinitro-1,3,5-triazine)	121-82-4	It is used as an explosive.
sec-Butylbenzene	135-98-8	It is used as a solvent for coating compositions, in organic synthesis, as a plasticizer and in surfactants.
Strontium	7440-24-6	It is naturally-occurring element and is used as strontium carbonate in pyrotechnics, in steel production, as a catalyst and as a lead scavenger.
Tebuconazole	107534-96-3	It is used as a fungicide.
Tebufenozide	112410-23-8	It is used as an insecticide.
Tellurium	13494-80-9	It is a naturally-occurring element and is commonly used as sodium tellurite in bacteriology and medicine.
Terbufos	13071-79-9	It is used as an insecticide.
Terbufos sulfone	56070-16-7	Terbufos sulfone is a phosphorodithioate pesticide degradate. The parent, terbufos, is used as an insecticide
Thiodicarb	59669-26-0	It is used as an insecticide.
Thiophanate-methyl	23564-05-8	It is used as a fungicide.
Toluene diisocyanate	26471-62-5	It is used in the manufacture of plastics.
Tribufos	78-48-8	It is used as an insecticide and as a cotton defoliant.
Triethylamine	121-44-8	It is used in the production of other substances, and as a stabilizer in herbicides and pesticides, in consumer products, in food additives, in photographic chemicals and in carpet cleaners.
Triphenyltin hydroxide (TPTH)	76-87-9	It is used as a pesticide.
Urethane	51-79-6	It is used as a paint ingredient.
Vanadium	7440-62-2	It is a naturally-occurring element and is commonly used as vanadium pentoxide in the production of other substances and as a catalyst.
Vinclozolin	50471-44-8	It is used as a fungicide.
Ziram	137-30-4	It is used as a fungicide.

#### Microbial Contaminants

Microbial Contaminant Name	Information
Adenovirus	Virus most commonly causing respiratory illness, and occasionally gastrointestinal illness
Caliciviruses	Virus (includes Norovirus) causing mild self-limiting gastrointestinal illness
<i>Campylobacter jejuni</i>	Bacterium causing mild self-limiting gastroenteral illness
Enterovirus	Group of viruses including polioviruses, coxsackieviruses and echoviruses that can cause mild respiratory illness
<i>Escherichia coli</i> (O157)	Toxin-producing bacterium causing gastrointestinal illness and kidney failure
<i>Helicobacter pylori</i>	Bacterium sometimes found in the environment capable of colonizing human gut that can cause ulcers and cancer
Hepatitis A virus	Virus that causes a liver disease and jaundice
<i>Legionella pneumophila</i>	Bacterium found in the environment including hot water systems causing lung diseases when inhaled
<i>Mycobacterium avium</i>	Bacterium causing lung infection in those with underlying lung disease, and disseminated infection in the severely immunocompromised
<i>Naegleria fowleri</i>	Protozoan parasite found in shallow, warm surface and ground water causing primary amebic meningoencephalitis
<i>Salmonella enterica</i>	Bacterium causing mild self-limiting gastrointestinal illness
<i>Shigella sonnei</i>	Bacterium causing mild self-limiting gastrointestinal illness and bloody diarrhea



AGENDA NO: D-2

MEETING DATE: January 11, 2010

# Staff Report

**TO:** Honorable Mayor and Council                      **DATE:** January 6, 2010  
**FROM:** Janeen Burlingame, Management Analyst  
**SUBJECT:** Review of 2009 Trolley Season Performance

**RECOMMENDATION:**

Receive report on 2009 trolley season performance.

**MOTION:** I move that the City Council receive and file the review of the 2008 trolley season performance.

**FISCAL IMPACT:**

None.

**SUMMARY:**

During the August 2009 Council Goals Workshop on the Management Partners Report on the City's organization and financial options, the Council requested a review of information on the 2009 trolley season after the season ended.

**BACKGROUND:**

The City's Trolley service is a seasonal fixed route transit system serving the general public by linking the Downtown Business District, Waterfront, State Parks in the north and south ends of the community through the use of three trolley routes operating within the City limits.

In addition, the service provides a connection to the regional transit system at City Park. This connection provides an important link via the regional transit service to the other communities in the San Luis Obispo County, and connections to a major community college, state university, the County seat in San Luis Obispo, as well as many links to coastal recreational venues and access to service jobs around Hearst Castle.

Service operates weekends only from Memorial Day weekend to the first weekend in October, and on Friday and Monday from Memorial Day through Labor Day. Service begins at 11:00 a.m. each operating day and ends service at 7:00 p.m. on Fridays, 7:00 p.m. on Saturdays, 6:00 p.m. on Sundays, and 5:00 p.m. on Mondays.

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

## **DISCUSSION:**

While the number of operating days did not change between the 2008 and 2009 seasons; the end of day service hours on Friday and Saturday however, were reduced to 7 p.m. respectively, and the fare structure was modified to include a different fare for children and adults. The child fare was 50¢, adult fare \$1 and an All Day Pass was \$3.

The City Council requested a survey of riders be performed during the season to gather some information about where riders were from to determine local usage as well as to receive feedback on fares. Approximately 300 surveys were made available to passengers on all three routes from June 26 through August 2 and 57 completed surveys were returned. Five questions were asked.

1. Which city/town do you live in?
  - 9% live in Morro Bay (was 15% for 2000 season survey)
  - 7% live in SLO County (not including Morro Bay) with the most living in Los Osos
  - 67% live in California (not including SLO County) with the most living in Bakersfield and Fresno, followed by Clovis and Tulare
  - 14% live outside California (not including outside US) with the most living in Dallas
  - 4% live outside the US (Den Haag, Holland)
  
2. How do you feel about the \$1 fare?
  - 89% felt the \$1 fare was Just Right
  - 5% each felt the \$1 fare was Low and High
  
3. How much would you be willing to pay?
  - 55% responded \$1
  - 25% responded \$2
  - 5% each responded 50¢ and Whatever
  - 2% each responded \$2.50, \$1.75, \$1.50-\$2, \$1.50, and Nothing
  
4. Are there any points of interest in Morro Bay where you would like the trolley to stop?
  - 33 surveyors responded to this question
  - 33% responded No
  - 6% each responded Rock\*, Beach\*, All Okay and All of it
  - 3% each responded My House, Barons Orchids, Museum, Harbor Shops\*, Motels, The Entire Area, Wherever It Stops, Not Familiar with Area, Spencers/Taco Temple\*, You Already Do, All Covered, Perfect Stops, You Are Doing Good, and All is Fine!

\*Trolley already has stops here; surveyor on route that did not go to this location and they may have been unaware of where the other routes stop.
  
5. How are you spending your day in Morro Bay?
  - 34% responded Shop
  - 29% responded Dine in Restaurant
  - 25% responded Go to Beach
  - 10% responded Stay in Motel/Hotel
  - 2% responded Camping
  - 1% responded Ride Trolley

Tables 1 through 4 provide information on the 2009 season. In 2009, ridership decreased by 16.9% over the prior year due to the declined economy. The Waterfront route saw the largest decrease in ridership (29%) as opposed to the Downtown and North routes (11% and 7%). Many individuals spent less of their discretionary dollars than in prior years on trolley rides, most typically on the Waterfront

route as visitors chose to walk the length of the Embarcadero, while the Downtown and North routes were used more as transportation from the campgrounds to the Embarcadero. Although ridership decreased for the season and fewer service hours were operated, farebox revenue increased by 40% due to the modifications made to the fare structure.

**Table 1 - Trolley Summary**

Season	# Days	Ridership	Riders per Day	VSH	Riders per VSH	VSM	Farebox	Ave. Fare per day
2008	70	25,956	371	1,683	15	18,539	\$ 11,337	161.95
2009	71	21,551	304	1,565	14	16,698	\$ 15,867	223.48

**Table 2 - Trolley 2009 Season - Ridership per Hour Analysis by Route**

\*Includes 4th of July extended hours

	11-12	12-1	1-2	2-3	3-4	4-5	5-6	6-7	7-8*	8-9*	Total Riders
<b>Waterfront</b>	897	1046	1111	1182	1091	906	730	442	40	48	7,493
Riders/VSH	13	15	16	17	15	13	13	13	20	48	
<b>Downtown</b>	994	761	962	860	959	912	575	204	32	89	6,348
Riders/VSH	14	11	14	12	14	13	10	6	16	89	
<b>North</b>	1123	1075	1131	1109	1204	962	725	292	54	35	7,710
Riders/VSH	16	15	16	16	17	14	13	8	27	35	

**Table 3 - Trolley 2009 Season - Ridership per Hour Analysis All Routes**

\*Includes Memorial Day, 4th of July, and Labor Day holidays

	11-12	12-1	1-2	2-3	3-4	4-5	5-6	6-7	7-8	8-9	Ridership
<b>2009 Total Ridership</b>	3,014	2,882	3,204	3,151	3,254	2,780	2,030	938	126	172	21,551
Ave. Riders by Hour/Day	42	41	45	44	46	39	37	27	4	8	14

**Table 4 - Trolley 2009 Season - Ridership per Hour Analysis All Routes by Day**

	11-12	12-1	1-2	2-3	3-4	4-5	5-6	6-7	7-8	Friday Total	
<b>Friday Ridership</b>	448	380	595	465	558	444	379	252	0	3,521	
Ave. Riders by Hour/Day	30	25	40	31	37	30	25	17	0	10	
	11-12	12-1	1-2	2-3	3-4	4-5	5-6	6-7	7-8	8-9	Sat Total
<b>Saturday Ridership</b>	1,161	1,157	1,198	1,312	1,316	1,167	995	686	126	172	9,290
Ave. Riders by Hour/Day	58	58	60	66	66	58	50	34	6	9	19
	11-12	12-1	1-2	2-3	3-4	4-5	5-6	Sun. Total			
<b>Sunday Ridership</b>	807	790	848	886	793	761	598	5,483			
Ave. Riders by Hour/Day	40	40	42	44	40	38	30	13			
	11-12	12-1	1-2	2-3	3-4	4-5	5-6	Mon. Total			
<b>Monday Ridership</b>	576	510	531	452	566	401	37	3,073			
Ave. Riders by Hour/Day	38	34	35	30	38	27	19	11			

**CONCLUSION:**

Staff recommends the Council receive and file the report on 2009 trolley season performance.



AGENDA NO: D-3

MEETING DATE: 01/11/10

# Staff Report

**TO:** Mayor and City Council

**DATE:** January 6, 2010

**FROM:** Betty Winholtz, Council Member

**SUBJECT:** Evaluation for consistency with City Council Policies and Procedures a letter sent to the Coastal Commission dated 12/8/09, and potential disciplinary response

**RECOMMENDATION:**

Discuss the report and decide if some form of response is appropriate.

**BACKGROUND:**

In 2007, the City Council passed Resolution 50-07 (Attachment A) to clarify the obligations of members of the elected body as they correspond with other agencies by "title, position, or City letterhead." In summary, three requirements are laid down:

1. The letter may not be written by staff if it is expressing a personal point of view, or a dissenting point of view from the Council as a whole.
2. The official position of the Council should be made clear.
3. The letter must be copied to the rest of the council members and city manager.

**DISCUSSION:**

On Friday, December 11, 2009, the California Coastal Commission (CCC) ruled in favor of a Coastal Development Permit for 801 and 833 Embarcadero, commonly called the Conference Center, a project previously voted on by City Council. That week, Council Members received in their mailboxes a hard copy of a letter dated December 8, 2009 signed by the Mayor as mayor on City letterhead (Attachment B).

It is my contention that this letter does not follow the Policies and Procedures outlined in Resolution 50-07.

1. The Mayor is unclear who she represents. Is the letter to be regarded as a personal point of view, or a representation of City Council action?

When the term "we" is used in the second paragraph, is it referring to the participants, the organizers and herself as coordinator, not mayor? Or as a city-sponsored event, is "we" referring to the city as host and therefore speaking for the city council?

Prepared By: B. Winholtz

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

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

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

In the third paragraph, the use of the term "we" seems to represent the City with phrases like "We have become a community" and "we need to draw visitors."

In the fourth paragraph, confusion returns. Is the "we" Mr. Caldwell and herself, or the City?

The word "I" is finally used in the next to the last paragraph, "I agree with the statement..."

2. The project approved by the CCC is not the project that came before the City Council; therefore, if the letter is suppose to represent the desire of the City Council it cannot.

That the project changed is acknowledged twice in the letter: "After working with Coastal Commission staff, he revised the project..." (bottom of first page), and "that the revised project" (bottom of the second page).

The CCC staff outlines the many modifications that were never seen by the City Council, including reduced size by 40%, two-story to mostly single story; redesigned public views, architectural articulation and access; reduced parking demand; changed use for floating docks and slips (page 3 of CCC staff report).

### **CONCLUSION:**

I believe this letter did not follow known and written City Council Policies and Procedures as outlined in Resolution 50-07. The letter is confusing and even contradictory as to whom it represents. If it represents a personal point of view, it should not have used the word "we" repeatedly, or it should have been clear about who "we" is. If the letter is to represent City Council support for the project, it cannot since it is a different project than the one approved, and by a different City Council. This is not stated in the letter.

In deciding whether to bring this matter to the City Council I considered two thoughts. 1. A letter can be viewed as a minor event in the life of City business. However, accuracy is important since decision makers outside the city are taking "our" opinion into consideration through the letter. 2. The Mayor previously chose not to follow Council direction regarding a different letter. In 2009, she refused to sign correspondence to the Governor passed by the City Council (4-1) because she disagreed with its content. City Council Policies and Procedures 1.3.1.5 states "the mayor shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature."

Since this is the second time the Mayor has not followed written policy, the following statement should be sent to the Mayor in the form of a letter:

"While you have been an effective advocate for the City of Morro Bay, you have chosen more than once not to follow adopted correspondence procedures. Consider this a letter of (counsel/admonishment/reprimand) that such action is unacceptable and depreciates the integrity of the Council as a whole. We believe that you can easily correct this situation and assume you are willing to do so."

(ATTACHMENT A)

RESOLUTION NO. 50-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY ADDING TO AND AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL REGARDING USE OF CITY LETTERHEAD AND USE OF SPEAKER SLIPS AT CITY COUNCIL MEETINGS**

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

**WHEREAS**, the Council Policies and Procedures Manual for the City of Morro Bay is a combination of City Council actions, policies, references, and information regarding the City Council; and

**WHEREAS**, to ensure that all Councilmembers are familiar with and understand the City of Morro Bay's philosophies and policies regarding serving on the City Council, the City of Morro Bay adopted Resolution 46-02 and its Council Policies and Procedures Manual on August 12, 2002; and

**WHEREAS**, the City desires to add Section 5.4 to the Council Policies and Procedures Manual in regard to the use of City letterhead and to amend Section 1.3.9.3.5 of the Council Policies and Procedures Manual in regard to the use of speaker slips at public hearings, as follows:

1.3.9.3.5 For Public Hearings, when 10 or more members of the public desire to speak, the Mayor or Mayor Pro Tem may require speaker slips be completed and delivered to the Clerk before the item is considered. Comments from the public shall be limited to three (3) minutes per speaker for Public Hearings, unless the City Council affirmatively decides otherwise. For Public Hearings that have the potential to be appealed to the California Coastal Commission, members of the public who desire to receive notice of any further proceedings shall write their name and address on the interested parties list at the back of the room.

5.4 USE OF CITY LETTERHEAD

Staff will not prepare correspondence representing a Councilmember's personal point of view or a dissenting point of view from an official City policy or Council position. If Councilmembers use their title, position, or City letterhead to express a personal opinion, the official City position must be stated clearly so the audience understands the difference/relationship between the official City position and the viewpoint of the Councilmember. A copy of any and all correspondence

developed by or for a Councilmember on City letterhead shall be provided to the City Manager and the rest of the City Council.

**NOW, THEREFORE**, be it resolved that the City Council of the City of Morro Bay does hereby amend Section 1.3.9.3.5 and add Section 5.4 to the Council Policies and Procedures Manual to reflect the above amendments.

**PASSED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 8th day of October 2007 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

JANICE PETERS, Mayor

ATTEST:

---

BRIDGETT BAUER, City Clerk

### **D-3 ADDENDUM: PETERS RESPONSE TO WINHOLTZ REPORT**

I object to this report on principle. I am well aware of Policies and Procedures 5.4 (hereinafter "5.4") and followed them. In fact, both the City Attorney and City Manager reviewed the letter before it was sent, with 5.4's provisions in mind.

I was on the Council in 2007 when 5.4 was approved as a result of a letter sent by Councilmember Winholtz that was contrary to the Council majority decision. At that time, I supported adding language that would have required a councilmember to begin each letter with a phrase stating whether they are writing on behalf of the City Council or as an individual. That wording was not approved by the Council majority, including Ms. Winholtz.

Contrary to the report, 5.4 does not state that "the official position of the Council should be made clear." 5.4 states "If Councilmembers use their title, position, or City letterhead to express a personal opinion, the official City position must be stated clearly so the audience understands the difference/relationship between the official City position and the viewpoint of the Councilmember."

There is nothing within the letter that is not the "official City position" unless Councilmember Winholtz contends that the City is NOT "a community dependent on tourism," does NOT "need to draw visitors," or does NOT "appreciate Coastal Commission staff's advice and suggestions." The bullet point project advantages listed were all findings made by the previous City Council when the project was approved and therefore represent the official City position. The current City Council recently approved Burt Caldwell proceeding with his plans for this project and extended the existing lease for a time period consistent with completion of the planning process previous to beginning construction.

Regarding the paragraph beginning with "I agree," this wording was taken directly from the Coastal Commission staff report, with which I agreed. There is no official City position to the contrary.

Therefore, my letter is in full compliance with 5.4. I will concede that some of my pronouns could have been better clarified, and I apologize for that.

As to Councilmember Winholtz' statement that I refused to sign correspondence to the Governor, that is simply not true. The letter referred to was composed and brought to the Council by Ms. Winholtz. Since it needed to be sent quickly and I was not immediately available to sign it, I suggested that Ms. Winholtz, in her capacity as Vice-Mayor, sign it instead. As I explained to her at the time, I thought she would WANT to do so, since she had proposed it, and her reluctance to do so surprised me. I would REALLY have preferred not to sign the recent Market Street property sale agreement, but I did sign it. I have never refused to act in my elected capacity.



AGENDA NO: D-4

MEETING DATE: 01/11/10

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** January 6, 2010  
**FROM:** Bridgett Bauer, City Clerk  
**SUBJECT:** Appointment of Vice-Mayor to Serve a One-Year Term

## **RECOMMENDATION:**

Appoint Councilmember Smukler to serve a one-year term as Vice-Mayor effective January 2010.

## **DISCUSSION:**

### **3.2 APPOINTMENT OF VICE MAYOR**

The appointment of the Vice Mayor shall be for a one-year term and shall be made at the first meeting in December. For appointment as Vice Mayor, a Council Member must be on the Council at least one year. **Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Vice Mayor. If there are two Council Members who have not yet held the position, the Council Member receiving the highest number of votes in the most recent election shall be appointed Vice Mayor.** If all have held the position, the Council Member who has held it the least number of times shall be appointed Vice Mayor. If all Council Members have held it for the same number of years, the Council Member for whom it has been the longest period of time since holding the position shall be appointed Vice Mayor. (Reso. 76-08), (part)

Based on City Council Policies and Procedures, both Councilmember Borchard and Councilmember Smukler have served on the Council for one year. In the November 2008 General Municipal Election, Councilmember Smukler received 3,365 votes and Councilmember Borchard received 2,833 votes, based on that, Councilmember Smukler would be appointed to serve a one-year term as Vice-Mayor.

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