

City of Morro Bay

City Council Agenda

Mission Statement

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

REVISED

REGULAR MEETING – MAY 8, 2012

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

- CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR.** Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.
- CS-2 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES**
Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Manager and the City Attorney.
- CS-3 GOVERNMENT CODE SECTION 54956.8; PROPERTY TRANSACTIONS:**
Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to one parcel.
- **Property: Rose's Landing – Lease Site 82-85/82W-85W**
Negotiating Parties: Doug Redican and City of Morro Bay
Negotiations: Lease Terms and Conditions

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

**PUBLIC SESSION – MAY 8, 2012
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 CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF APRIL 24, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION APPROVING MATCHING FUNDS FOR THE 2012 BTA GRANT APPLICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution.

A-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY; (ADMINISTRATION)

RECOMMENDATION: Approve and send attached response letter to the Presiding Judge of SLO County Superior Court and the Grand Jury.

A-4 ANNUAL REPORTING ON THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT AND SCHEDULING OF A PUBLIC HEARING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Set the date for the public hearing to be held on May 22, 2012 in order to continue the MBTBID activities and assessments.

A-5 AUTHORIZATION TO AMEND THE GRANT AGREEMENT FROM THE NATURE CONSERVANCY FOR SUPPORT OF FORMATION OF A COMMUNITY FISHING ASSOCIATION TO ADD \$50,000 TO THE GRANT; (ADMINISTRATION/HARBOR)

RECOMMENDATION: Authorize an amendment to add \$50,000 to the existing grant from The Nature Conservancy (TNC).

A-6 AMENDMENT NO. 2 TO THE LEASE AGREEMENT FOR LEASE SITE 78-81/78W-81W, LOCATED AT 701 EMBARCADERO, BETWEEN THE CITY OF MORRO BAY AND VAN BEURDEN INVESTMENTS; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 20-12 approving Amendment No. 2 to the Lease Agreement for Lease site 78-81/78W-81W between the City of Morro Bay and Van Beurden Investments.

A-7 REQUEST FOR APPROVAL OF AMENDMENT #2 TO THE LEASE AGREEMENT FOR LEASE SITE 122-123/122W-123W (HARBOR HUT, 1205 EMBARCADERO); (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 21-12 for Lease Site 122-123/122W-123W approving Amendment # 2 to the lease to extend the term 10 years.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution No. 22-12 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report.

B-2 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution No. 23-12 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report.

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 DISCUSSION ON LOCAL SPORTFISHING BUSINESSES; (ADMINISTRATION)

RECOMMENDATION: This is a discussion item pending Council direction.

D-2 CONFIRMATION OF GOALS FROM THE 2012 GOAL-SETTING WORKSHOP; (ADMINISTRATION)

RECOMMENDATION: Adopt the attached Goal Setting Workshop Outcomes and Success Factors for 2012.

D-3 PUBLIC SERVICES DEPARTMENT - COLLECTIONS/WWTP DIVISION REORGANIZATION AND POSITION UPGRADE; (PUBLIC SERVICES)

RECOMMENDATION: Consider and approve the Public Services Department wastewater operation reorganization and authorize the associated reclassification of the Wastewater Division Manager.

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 772-6205 FOR FURTHER INFORMATION.

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

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

AGENDA NO: A-1

MEETING DATE: 05/08/2012

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – APRIL 24, 2012
VETERAN’S MEMORIAL HALL – 6:00P.M.

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

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Rob Livick	Public Services Director
	Mike Lewis	Interim Police Chief
	Eric Endersby	Harbor Operations Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CLOSED SESSION REPORT – City Attorney Robert Shultz reported that City Council met in Closed Session and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Ethan Pettinger, owner of the Flooring Discount Center located at 787 Harbor, presented the Morro Bay Business report. Mr. Pettinger, a 5th generation Morro Bay resident, has been in the flooring business for over 19 years. He promises the best deals and even gives additional discounts to all military, law enforcement and fire personnel. Their hours are Mon thru Fri 9am-5pm; Sat 10-3pm; and Sun by appointment. He encouraged everybody to shop local.

Ken Vesterfelt praised the efforts of those involved with the 2nd Annual Emergency Car Show. There was great cooperation and great exposure for the City. He announced the upcoming Cruisin’ Morro Bay Car Show being held on Friday, May 4th – Sunday, May 6th. The event boasts of over 500 cars and the event supports the community and local business. He also announced the upcoming Annual Tip-a-Cop dinner on Friday, May 18th at the MB Community Center supporting Special Olympics. Tickets can be purchased at the Police Department. Lastly, he requested that dog owners be more responsible – clean up after your pet.

Garry Johnson presented pictures of former Chief of Police, Tim Olivas’s swearing in as Under-Sherriff as well as the swearing in of Morro Bay’s Interim Police Chief, Mike Lewis. He also reiterated the need for civility in this year’s campaigns.

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Elaine Giannini spoke on the homeless situation in Morro Bay. She also recognized many local residents and businesses who serve meals to the 20+ Morro Bay homeless. They currently serve 9 meals a month but have a goal of 1 meal a day, every day. She feels the homeless deserve to be treated with dignity and that we should be providing them the services that we can.

Geiska Baker Velasquez, Regional Transportation Planner with SLOCOG presented May 2012 as Bike Month. There are a variety of programs available throughout the month in order to participate individually or as a group. You can view those offerings at www.rideshare.org/ and go to “calendar”.

Annika Velasquez, invited everybody to a fun event being held on May 5th – Cycle de Mayo which is a Youth Bicycle Derby and Rodeo being held at the Montessori Youth Center from 11am-2pm.

Craig Schmidt urged the Council to put the Visitors Center contract back out to bid through an RFP process. On behalf of the Chamber, he also advertised Morro Bay’s upcoming event – Annual Morro Bay Kite Festival and Celebrate Morro Bay Parade being held on Saturday, April 28th and 29th. He also thanked all the event sponsors for their generosity.

John Shoals, as a representative of PG&E, spoke regarding item A-4 - Approval of Comment Letter to The State Lands Commission Regarding the Draft Environmental Impact Report for the Central Coastal California Seismic Imaging Project stating that while there will be impacts to the commercial fishermen, they have been made a part of this process; that a communication plan is being developed; that Morro Bay will remain open during the survey and this project shouldn’t impact vessels in and out of the harbor; and that the 82 days should be looked at as a window and that the actual time will be 41 days.

Jeremiah O’Brien also spoke on Item A-4, stating that PG&E has not been in touch with the Morro Bay Fisherman’s Organization, the Board or their Counsel with regards to this project. He also wanted to reiterate that the Commercial Fishermen’s industry is not in decline as PG&E reported and instead is making significant growth both in numbers and dollars. He also expressed his thanks to Council for writing the response letter.

Brian Schrier spoke on item C-1 regarding the Secondhand Smoking Ordinance. He hoped that Council would reconsider the proposed Ordinance and say instead that smoking would not be allowed within 20 feet of any open doorway.

Jamie Irons commended the Council on the letter to the Land Commission. He also spoke on the homeless situation and reaffirmed that it is a situation that needs to be addressed.

Janice Peters thanked all those who came and participated in the Fundraiser Follies. She also encouraged Council to put out an RFP for the Visitors Center which would allow anyone interested in the contract have the opportunity to apply.

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Joel Anderson spoke on the Secondhand Smoking Ordinance; he was upset at the potential financial impacts a licensing component would have on local businesses. He also felt that this type of regulation invades a person’s personal freedom.

Chris Christiansen spoke on item D-4, the Restriping of Market Street for Diagonal Parking. He hopes Council will give serious consideration to the restriping proposal as he feels that intersection is an accident waiting to happen and this will alleviate that potential.

Betty Winholtz spoke on several items. Item A-4, Letter to the State Land Commission regarding the Seismic Study, the only comment she didn’t see in the letter is in regard to the breadth of the study that PG&E is doing. Regarding D-6, the Homeless Situation in Morro Bay, she is concerned there is no reference to CAPSLO or any of the homeless agencies in the County that could be helpful in this situation. Her main concern was with regards to Item D-2, the Unfriendly Sidewalks in Morro Bay. She is unsure of the intent of the staff report and was concerned with the lack of detail with both location and policy. She suggested some items to be addressed be prioritization of sidewalks for repair; when and where is it appropriate to increase a 5 foot sidewalk to 10 feet; and the materials used in their construction.

John Barta thanked staff for awarding and moving forward with the street rehabilitation contract. He also thanked staff for writing and sending the letter to the State Lands Commission regarding the Draft Environmental Impact Report for the Central Coastal California Seismic Imaging Project. He also spoke on the Secondhand Smoking Ordinance and hoped that we do not go down the road of selective enforcement and instead be fair.

Susan Stewart also spoke on the Secondhand Smoking Ordinance as she too would hate to see anybody’s business impacted by higher fees. She suggested that for those business owners who are sensitive to the possibility of smoke entering their business, that they take some proactive measures and place friendly “please don’t smoke” signs in front of their business.

Mayor Yates closed the public comment period.

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 CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF APRIL 10, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 A PROCLAMATION DECLARING MAY 2012 AS BIKE MONTH; AND MAY 14 TO MAY 18, 2012 AS BIKE TO WORK AND SCHOOL WEEK; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

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A-3 AWARD OF CONTRACT TO INTERNATIONAL SURFACING SYSTEMS OF WEST SACRAMENTO, CA FOR THE PROJECT NO. MB-2012-S2: 2012 STREET REHABILITATION PROGRAM”; (PUBLIC SERVICES)

RECOMMENDATION: Award Project Contract to International Surfacing Systems.

A-4 APPROVAL OF COMMENT LETTER TO THE STATE LANDS COMMISSION REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE CENTRAL COASTAL CALIFORNIA SEISMIC IMAGING PROJECT; (CITY ATTORNEY)

RECOMMENDATION: Review and authorize staff to forward letter on.

A-5 QUARTERLY FINANCIAL STATUS REPORT FOR THE FISCAL YEAR ENDED MARCH 31, 2012; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Accept the report as presented.

A-6 UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO AND REPORT ON CALIFORNIA LEGISLATIVE ACTION DAYS; (CITY ATTORNEY)

RECOMMENDATION: Review the report and if there are any pending Legislative Bills that are of interest or concern, discuss them with the City Attorney.

Councilmember Smukler pulled Item A-4 from the Consent Calendar.

MOTION: Councilmember Smukler moved the City Council approve Items A-1, A-2, A-3, A-5 and A-6 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

Councilmember Smukler pulled Item A-4 as he hoped that we could strengthen portions of it, especially as it relates to the lack of communication PG&E has had with our local fishing community and the trickle-down effects of the project on our economy.

All Councilmembers were in favor of strengthening the letter so long as it doesn't delay it being sent. Staff ensured Council that the changes can be made and the letter mailed out by the next business day.

MOTION: Councilmember Smukler moved the City Council approve Item A-4 of the Consent Calendar with the inclusion of the information on the lack of communication as well as the trickle down effects to the economy. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES - NONE

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C. UNFINISHED BUSINESS

C-1 ADOPTION OF ORDINANCE NO. 577 AMENDING AND RENAMING MORRO BAY MUNICIPAL CODE CHAPTER 9.24 TO SECONDHAND SMOKING REGULATIONS; (CITY ATTORNEY)

City Attorney Rob Schultz gave a brief presentation, stating that he spoke with the 2 members of the public who spoke out against its adoption, providing them with updated and accurate information.

Councilmember Smukler is still a proponent of passive enforcement and reiterated that this Ordinance should empower people to make a request of a smoker and be legally supported.

Mayor Yates wanted to make note that while this Ordinance doesn't have any reference to a licensing requirement, that that issue is coming to Council at a future meeting.

MOTION: Councilmember Johnson moved the City Council adopt Ordinance 577 amending and renaming Morro Bay Municipal Code Chapter 9.24 to Secondhand Smoking Regulations. The motion was seconded by Councilmember Borchard and carried 3-2 with Mayor Yates and Councilmember Leage voting no.

D. NEW BUSINESS

D-1 RECONSIDERATION OF MOTION #5 MADE AT FEBRUARY 28, 2012 CITY COUNCIL MEETING REQUESTING AN RFP FOR THE VISITOR'S CENTER; (ADMINISTRATION)

City Manager Andrea Lueker presented her staff report stating that at the February 28, 2012 City Council meeting, Council approved 6 separate motions which included Motion #5 which, at the request of Councilmember Borchard, is being reconsidered tonight. Being reconsidered is the potential of putting out a Request for Proposal for the operation of the Visitor's Center.

Councilmember Borchard brought this back for reconsideration as it felt like with all the motions made that evening, they had sole sourced the Visitors Center contract to an unknown yet to be determined entity thru the Tourism Bureau and they also put no dollar amount on it with no parameters for funding. The current contract for the Visitors Center is \$150,000; including \$50,000 from the TBID so she would be looking at putting a limit on the contract at \$100,000.

Councilmember Johnson agrees, especially with the monetary amount. She would like to see a time limit added to the contract whether or not we go with the RFP – something like “for 1 year to be re-evaluated”.

Councilmember Smukler, who voted no on this motion initially, did so because he felt we didn't have any information about a proposal, didn't have dollar amounts, and didn't have a structure

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yet in place. He is very interested in an RFP component but also felt that timing is a concern as we don't want to be transitioning during the peak of the tourist season. This needs to be a fair process, timely and that we get parameters out there so it can be looked at and supported. Based on the calendar of upcoming events, it is his thought that maybe there needs to be concentration on an RFP process and leave the other "moving part" alone for now.

Mayor Yates supports Councilmember Borchard and Councilmember Smukler getting together and to work out something that could be brought back to the next meeting and discussed.

Councilmember Johnson would agree to have Councilmember Borchard and Councilmember Smukler getting together to work on a concise motion. She said that the purpose of the original motion was to get everything under one umbrella.

MOTION: Councilmember Borchard moved the City Council negate Motion #5 as was presented on this item D-1. The motion was seconded by Councilmember Smukler and failed 2-3 with Mayor Yates, Councilmember Johnson and Councilmember Leage voting no.

D-2 REPORT REGARDING THE UNFRIENDLINESS OF SIDEWALKS IN MORRO BAY'S COMMERCIAL AREAS; (PUBLIC SERVICES)

Public Services Director Rob Livick presented his staff report on the status of sidewalks in Morro Bay. The City has a variety of differing sidewalks. The City also has a replacement plan in place. Staff is looking for direction from Council.

Councilmember Smukler requested information on the rubber sidewalks found in some places in Morro Bay. Rob Livick stated that type of sidewalk has a high cost to purchase, install and maintain.

Councilmember Leage brought this item forward due to the problems down on the Embarcadero between Harbor and Pacific Streets. There is no room for people to walk in front of the shops and it has become dangerous. He would like to see parking on the west side of the Embarcadero taken out and the sidewalk widened.

Councilmember Johnson feels the City has a lot of different sidewalk problems; the Embarcadero is just one of them. She would like to see staff come back with a priority list of what we can do with the money we have allocated to fix them.

Mayor Yates thinks we have at least 3 things going on – the Embarcadero, the Beach Street area between Market and Morro and the ones that are in major disrepair that need to be addressed.

Councilmember Borchard also wants to see the list of priorities prior to the budget process so that Council can have input and evaluate, if there are funds available, to begin repairs.

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Council was unanimously in favor of sending this back to Public Services with the understanding that they bring back a report with lists focusing on gap closures, bottleneck areas and tree lifting and repairs hopefully prior to the budget process.

Councilmember Smukler hoped that this report would also incorporate the Pedestrian & Bike Plan elements.

Mayor Yates also encouraged Councilmember Leage meet with Public Services regarding the Embarcadero area as there are funds available that can be sought out.

D-3 STATUS REPORT ON MORRO ROCK PARKING LOT SOLID WASTE SERVICE;
(PUBLIC SERVICES)

Recreation & Parks Department Director Joe Woods presented his staff report summarizing the various options of solid waste collection opportunities at the Morro Rock parking lot which would be “bird proof” and minimize littering. They are: 1) status quo with closer monitoring during the weekends; 2) Big Belly containers; and, 3) dumpsters developed with slots rather than lids. It is the recommendation of the department to increase awareness with staff working extra weekend hours until we can replace the existing containers with solar powered “Big Bellys”.

Councilmember Johnson promoted shifting part-time employee’s hours so that the area would be covered on Sundays and then attempt to find grant monies to purchase the “Big Bellys”.

Councilmember Leage wondered at what point the “Big Bellys” would pay for themselves; Joe Woods said it would be approximately a year.

Councilmember Smukler stated that the situation that we experienced last summer wasn’t acceptable. He is fully in favor of moving forward with the “Big Bellys”. He would also like to see Sunday garbage removal service starting now.

Council was unanimously in favor of moving forward with expanded service on Sunday’s as well as coming back with a report on the utilization of “Big Bellys” by the second meeting in June.

D-4 PROPOSAL FOR THE RESTRIPIING OF MARKET AVENUE BETWEEN MORRO
BAY BLVD AND PACIFIC FOR DIAGONAL PARKING (APPLICANT: GEORGE
SALWASSER, 781 MARKET AVENUE); (PUBLIC SERVICES)

Public Services Director Rob Livick presented his staff report. Chris Parker, on behalf of George Salwasser, proposes to restripe Market Avenue to include restriping the West side of Market with 11 diagonal parking spaces along with a Trolley/Transit stop. The proposal is being made due to pedestrian safety concerns. The cost for this proposal is to be borne by the Mr. Salwasser. Staff however is not in favor of this request and instead suggest refreshing the pavement markings.

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Mayor Yates doesn't feel we have a safety problem there and in fact feels that backing out of a diagonal parking space at that location is less safe.

Councilmember Leage questioned why the concept hadn't been brought to the Planning Commission first. He too feels it is more dangerous to back out of a diagonal space.

Councilmember Smukler spoke with Mr. Salwasser and he shares the concern for the safety of pedestrians as they cross the street at Morro Bay Blvd. He questioned the ability to create a crosswalk that was more prominent and easier to see.

Councilmember Borchard feels there is a legitimate concern for the safety of pedestrians.

Councilmember Johnson doesn't support diagonal parking and instead wants to look at the big picture to see what we can do to alleviate the safety concern.

MOTION: Mayor Yates moved the City Council deny D-4 for diagonal parking on Market Street and requests staff take whatever action is necessary to improve safety at that intersection. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

**D-5 DISCUSSION ON THE CONCEPT OF A COMMUNITY BULLETIN BOARD;
(ADMINISTRATION)**

At the request of a Councilmember City Manager, Andrea Lueker presented her staff report on the concept of a Community Bulletin Board. Council felt it important to have some kind of signage to advertise upcoming community sponsored events. Currently the City has 4 ways that we currently advertise events - "Welcome to Morro Bay" signs where individual signs can be slid in; City Park banner hanging poles; posting smaller signs on billboards; and, banner hanging at the Community Center. Options for additional advertising include electronic reader boards and/or metal or other suitable material frames that would be permanently fixed to a special event venue for hanging banners on.

Councilmember Smukler would like to say in concept that we are interested in these options but feels it necessary to discuss the issue with the Chamber of Commerce. He feels that the banners need to be affordable, valuable and aesthetically pleasing. He also spoke highly of banners that span the streets like the ones found in San Luis Obispo on Higuera Street.

All Councilmembers were supportive of this concept and gave direction to the City Manager to meet with the Chamber of Commerce to discuss these advertising opportunities to include "over the street" banners. Council requested this to return within 3 months.

**D-6 DISCUSSION ON THE HOMELESS SITUATION IN MORRO BAY;
(ADMINISTRATION)**

At the request of a Councilmember, City Manager Andrea Lueker presented the staff report on the homeless situation in Morro Bay. The Morro Bay Police Department has a "Homeless

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Persons” policy that ensures that the department provides law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. To assist with the implementation of this policy, the Chief of Police designates a member of the department to act as the Homeless Liaison Officer. In addition to the homeless liaison, there are various groups/individuals that provide meals on a regular basis to the homeless living in the creek bed area of Lila Keiser. On February 28, 2012, the Council approved \$8,630 of the 2012 CDBG funds to go to CAPSLO’s Homeless Shelter.

Councilmember Smukler appreciated the efforts of the City’s last Homeless Liaison, retired officer Richard Hannibal. He also knows that we need regional and volunteer resources as well as community input as the City doesn’t have the funding resources to deal with this ourselves.

Councilmember Johnson has had one-on-one dealings with some of Morro Bay’s homeless population. Until recently, those living at the Lila Keiser creek bed haven’t created any enforcement problems. Unfortunately, there has been a recent influx of problematic individuals who have chosen to stay there that has changed the climate. Due to this, there is a very good chance that those living there will need to be displaced and will have no place to go. In her conversations with many of them, they don’t want to go to San Luis Obispo. Dee Torres, the City’s Case Manager for the County is willing to come out and do an outreach to make them aware of what resources are available.

Councilmember Borchard echoes most of Councilmember Johnson’s sentiments. The homeless want a safe refuge. Part of what the Council and the City can do is to lobby the County for expanded services.

Mayor Yates’ focus is on the County services as CAPSLO and HSOC all deal with the homeless. He too has found thru his discussions that most of the homeless actually want to be there as it has become comfortable for them. He is supportive of both Councilmember Johnson via CAPSLO and Councilmember Leage via HSOC working together to try and come up with some viable solutions.

While no action was taken on this item, it was requested by Council to keep this item active on the Agenda Planning Guide.

E. DECLARATION OF FUTURE AGENDA ITEMS - NONE

ADJOURNMENT

The meeting adjourned at 9:56 p.m.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A-2
MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 2, 2012
FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Barry Rands, PE, Associate Engineer

SUBJECT: Resolution Approving Matching Funds for the 2012 BTA Grant Application

RECOMMENDATION:

Staff recommends the City Council adopt Resolution 24-12 approving matching funds amounting to 10% of the 2012 Bicycle Transportation Account (BTA) grant application

FISCAL IMPACT:

The matching funds, totaling \$7,200, are proposed to come from accumulated Local Transportation Funds, 2% of which are designated for bicycle and pedestrian improvements. The amount reserved for bicycle and pedestrian currently stands at \$12,559 and an additional \$7,622 is due to be added in the next fiscal year.

BACKGROUND and DISCUSSION:

The City Council adopted the 2011 Morro Bay Bicycle and Pedestrian Master Plan in February of this year, making the City eligible for annual Bicycle Transportation Account (BTA) grant funding from the State. One of the highest priority concerns identified in the Master Plan was for a safer crossing of Atascadero Road for both bicycles and pedestrians in the section of road between Main Street and the high school. This area has high use by student pedestrians before and after school and during lunch period and by vehicles at this intersection of a major state highway (SR 1 and 41). In addition, users of the Class 1 bike path cross Atascadero Road in this area.

Staff has prepared and submitted a grant application to the State with a proposal to construct a number of improvements to increase safety for pedestrians and cyclists and to improve traffic flow in this area of concern. A map showing a conceptual design for these improvements is attached. Additional components of this grant proposal include formal designation and signage of a Class 3 bike route through north Morro Bay on Sandalwood and Beachcomber Streets. Traffic and parking regulations in that area will remain unchanged.

The BTA Grant requires the City to provide a minimum of 10% of project costs in matching funds and a City Council Resolution approving this use of funds. The City currently has adequate

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

funds in the Local Transportation Fund Account for such purposes.

CONCLUSION:

Cyclists and pedestrians, especially students, will benefit from a safer and more convenient crossing of Atascadero Road, the designated multi-use Class 1 path on the north side of the street, and other improvements proposed in the 2012 BTA Grant Application. Use of \$7,200 in designated Local Transportation Funds to leverage a \$72,000 Grant is a good and appropriate use of City funds.

ATTACHMENT:

Map exhibit of proposed improvements on Atascadero Road

RESOLUTION NO. 24-12

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING MATCHING FUNDS FOR THE 2012 BTA GRANT APPLICATION**

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

WHEREAS, the City Council adopted the 2011 Morro Bay Bicycle and Pedestrian Master Plan in February of this year; and

WHEREAS, the Plan was certified by the San Luis Obispo Council of Governments; and

WHEREAS, the City is now eligible for Bicycle Transportation Account (BTA) grant funding from the State; and

WHEREAS, the BTA Grant requires the City to provide a minimum of 10% of project costs in matching funds; and

WHEREAS, the City currently has adequate funds in the Local Transportation Fund Account for such purposes; and

WHEREAS, staff has prepared a BTA grant application based on project priorities described in the Bicycle and Pedestrian Master Plan.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay, California, approves the use of designated Local Transportation Funds to provide the 10% match for the Bicycle Transportation Account Grant Application.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of May, 2012 on the following vote:

AYES:

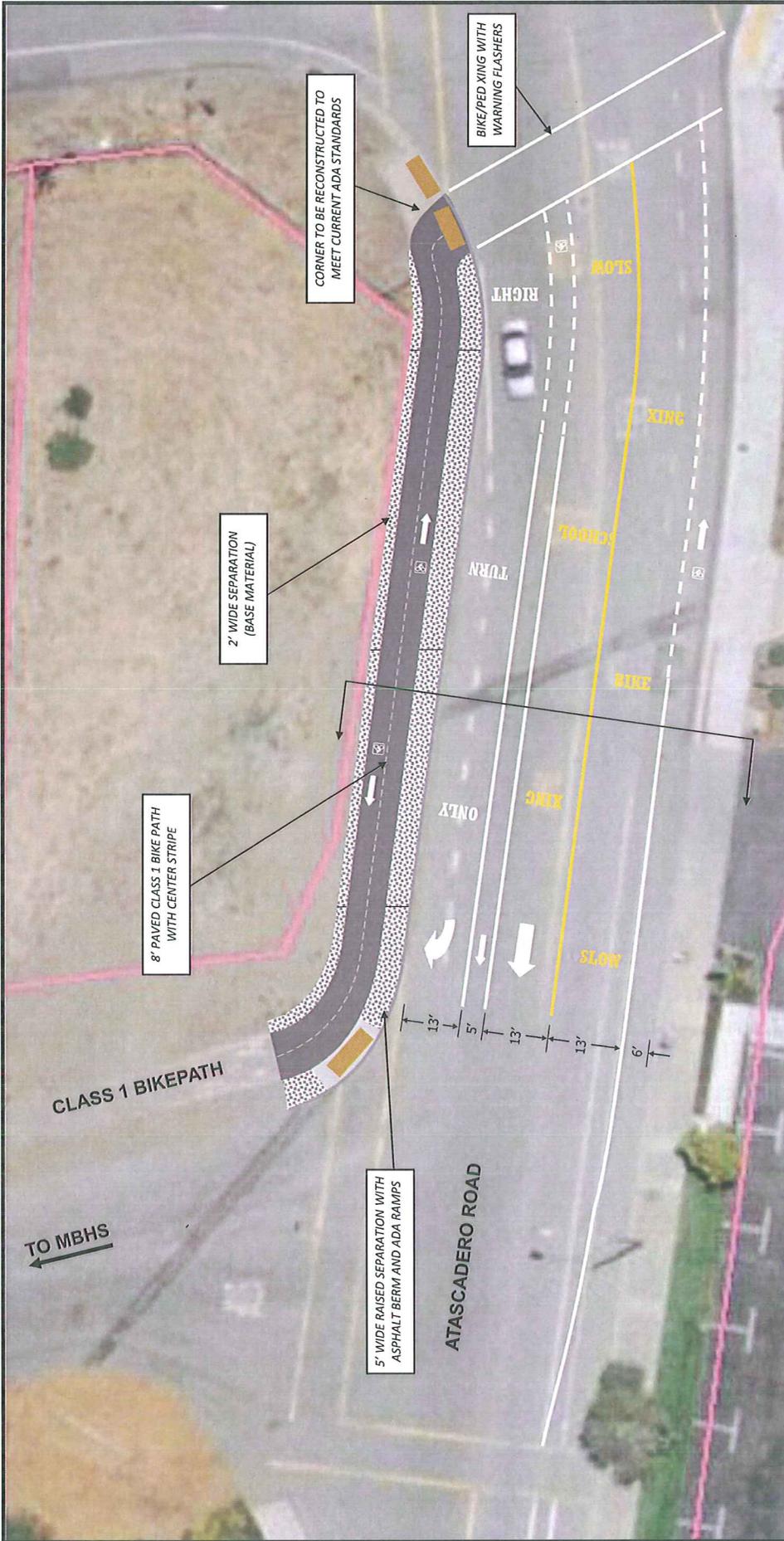
NOES:

ABSENT:

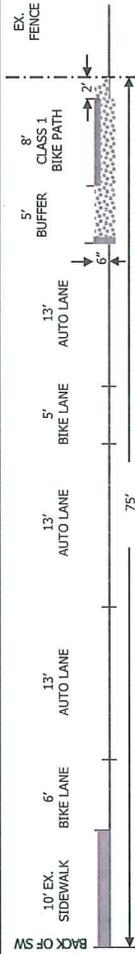
WILLIAM YATES, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk



MORRO BAY TO CAYUCOS CONNECTOR GAP CLOSURES
 PROPOSED IMPROVEMENTS (DETAILED)
 ATASCADERO ROAD NEAR MBHS



ATASCADERO ROAD SECTION LOOKING WEST
 PROPOSED SECTION BETWEEN SB HWY 1 RAMP AND MBHS

SCALE: 1" = 20'



AGENDA NO: A-3

MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 30, 2012
FROM: Jamie Boucher, City Clerk
SUBJECT: Request to Approve a Response to the Grand Jury Regarding City Employee
Vacation and Sick Leave Accumulation Pay

RECOMMENDATION

Staff recommends the City Council direct staff to send the attached letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury report Entitled "Pay Me Now or Pay Me Later".

FISCAL IMPACT

There is no fiscal impact.

BACKGROUND

On February 28, 2012, the City received a report prepared by the San Luis Obispo County Grand Jury entitled "Pay Me Now or Pay Me Later" (attachment A). The report makes the following findings:

1. There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.
2. With the exception of Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buyback or payoff of accumulated sick leave either annually or upon leaving city employment.
3. The City of Paso Robles, with only 165 employees, has more than 47,000 hours of accumulated vacation on its books and an enormous unfunded liability of \$1,646,575.
4. The City of Paso Robles has a policy stating that no employee can exceed one-and-one half times their annual accumulation or they will lose their vacation time.
5. The City of Paso Robles is in gross violation of its own policies governing accumulated vacation time; 40% of City employees exceed the stated policy.
6. The City of Paso Robles has not updated its personnel rules and regulation since 1989.
7. The City of Atascadero has admittedly and blatantly violated its own policies on vacation time for more than 20 years.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

8. The City of Atascadero has not acted to date on any policy changes related to its accumulated vacation problem, in spite of the recommendations of the City Attorney.
9. The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.
10. Most jurisdictions do not update their personnel rules and regulations after MOU's are developed with each bargaining unit. All personnel rules are incorporated into any new MOU's but personnel rules are not always updated accordingly.

The report makes the following recommendations:

1. All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.
2. All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.
3. The City of Paso Robles should review and update its Personnel Rules and Regulations.
4. The City of Paso Robles should take immediate steps to stop additional vacation accumulation in violation of its own policies.
5. In order to reduce its unfunded liability, the City of Paso Robles should consider a multi-year program to pay off accumulated vacation time.
6. The Atascadero City Council should immediately address the recommendations made by their City Attorney for dealing with the problem of maximum allowable vacation time, implement one of the recommendations and adhere to it.
7. The City of Atascadero should consider a multi-year program to pay off accumulated vacation time and sick leave; and thereby reduce its unfunded liability.
8. The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.
9. All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.
10. All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability problem.

The report specifically requires the Morro Bay City Council to submit a response to Findings #'s 1, 2, 9 and 10 and Recommendations #'s 1, 2 and 8-10 to the Presiding Judge of the San Luis Obispo Superior Court by May 30, 2012.

DISCUSSION

The Grand Jury report focuses its attention on their understanding of each of the San Luis Obispo County municipality's policies regarding vacation and sick leave accumulation as well as the rules and regulations governing these accumulations. Their investigation resulted from a citizen complaint and was expanded to include all cities in the County.

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

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

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

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

CONCLUSION

After review of both the “Findings” and Recommendations” found in the Grand Jury Report, as well as the City’s response to each, it is staff’s hope that the attached letter can be approved and sent onto the Presiding Judge of San Luis Obispo County Superior Court.



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6201

May 8, 2012

Presiding Judge Barry T. LaBarbera
Superior Court of California
1050 Monterey Street
San Luis Obispo, CA 93408

Re: Grand Jury Report entitled "Pay Me Now or Pay Me Later"

Dear Judge LaBarbera:

On behalf of Council of the City of Morro Bay, thank you for the information provided by the Grand Jury in the report entitled "Pay Me Now or Pay Me Later". This report was presented and reviewed by the City Council at their meeting held on May 8, 2012. After carefully considering the report and its findings and recommendations, the City Council offers the following responses:

Findings:

Grand Jury Finding #1: There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.

City Response: *The City Council disagrees with this statement. While we can only respond to the City of Morro Bay employees' unused accumulation of vacation time, the City is aware that there are some employees who have reached and/or are reaching their maximum allowable accumulation; however, all accumulations fall within the current bargaining unit's MOU/Agreement/Resolution. As per all MOU's/Agreements/Resolutions, all vacation accruals are dealt with as of November 1st of each calendar year. The City does not deem this accumulation "substantial".*

Grand Jury Finding #2: With the exception of Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buyback or payoff of accumulated sick leave either annually or upon leaving city employment.

City Response: *The City Council partially agrees with this statement. While we can only respond to the City of Morro Bay employees' accrual of and/or buy back of sick leave, the City does allow for an annual opportunity to convert accumulated sick leave to vacation time based on annual sick leave usage. For the City's Executive, Management, Confidential and SEIU units, the City also offers,*

upon retiring City employment and assuming at least 10 years of service, the ability to purchase back sick leave, up to a certain amount of hours and at a percentage of pay, differing by the bargaining unit of which he/she is a member.

ADMINISTRATIO
595 Harbor Street

CITY ATTORNEY
595 Harbor Street

FINANCE DEPARTMENT
595 Harbor Street

FIRE DEPARTMENT
715 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero Road

POLICE DEPARTMENT
850 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Avenue

RECREATION & PARKS
1001 Kennedy Way

Grand Jury Finding #9: The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.

City Response: *The City Council partially agrees with this statement. In all but one of the City's MOU's/Resolutions/Agreements there is a provision stating "Employees exceeding the xxx hour maximum (differs based on bargaining unit) as of the pay period containing November 1 will be paid off for vacation time exceeding the xxx hour maximum. Payment shall be computed based upon the employee's base hourly rate of pay as of June 30 of the same calendar year. Vacation pay out will occur in the first pay period occurring on or after December 1". The City's POA does not have this stipulation in their MOU and in fact cease accruing vacation time if they reach their maximum accrual. As of today's date, there are some City employees who currently exceed the 300 hours that the Grand Jury notes; however this still falls within City policy as this isn't handled until November 1 of each year. In addition, the City strongly encourages its employees to use their vacation time.*

Grand Jury Finding #10: Most jurisdictions do not update their personnel rules and regulations after MOU's are developed with each bargaining unit. All personnel rules are incorporated into any new MOU's but personnel rules are not always updated accordingly.

City Response: *The City Council agrees with this statement. The City concedes that our Personnel Rules and Regulations are in need of updating, it has never been our policy nor do we intend on making it policy to update them each time an MOU is modified. The City's Personnel Rules and Regulations is a more general document that is in place to regulate overall policy, not specific, individual policy as that is one of the purposes of the MOU/Resolution/Agreement(s).*

Recommendations:

Grand Jury Recommendation #1: All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.

City Response: *The City Council agrees with this recommendation and we continue in our efforts to reduce the allowed maximum accumulation totals found in each individual MOU/Resolution/Agreement. In addition, the City strongly encourages its employees to use their vacation time.*

Grand Jury Recommendation #2: All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.

City Response: *As indicated under the City response to Findings #10; the City Council disagrees with this statement. The City's Personnel Rules and Regulations is a more general document that is in place to regulate overall policy, not specific individual policy as that is one of the purposes of the MOU/Resolution/Agreement(s). ie: the City's Personnel Rules and Regulations allow for the accrual of vacation time for all employees; it does NOT stipulate how that time is earned as that is a specific negotiated item found in an MOU/Resolution/Agreement.*

Grand Jury Recommendation #8: The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.

City Response: *The City Council not only agrees with this recommendation but wants to ensure the Grand Jury that we enforce the language found in each MOU's/Resolution/Agreement for each bargaining group regarding the accumulation of vacation time.*

Grand Jury Recommendation #9: All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.

City Response: *The City Council partially agrees with this recommendation. The City does monitor employees' vacation and compensatory accumulated balances and encourages the use of those hours. However, the City cannot mandate the use of those hours.*

Grand Jury Recommendation #10: All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability problem.

City Response: *The City Council agrees with this recommendation. As indicated under the City response to Recommendation #9, the City continuously monitors their employees accumulated vacation balances and encourages the use of those hours. Should a member of the public be interested in accessing the overall City "picture" of accruals on a yearly or annual comparison basis, that information can be made available to them. It should be noted though that those numbers may be skewed as each employee earns varying hourly rates and as such, may not accurately portray the information that the Grand Jury or public is looking for.*

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

Sincerely,

William Yates
Mayor



GRAND JURY

RECEIVED

FEB 28 2012

ADMINISTRATION OFFICE
CITY OF MORRO BAY

February 28, 2012

CONFIDENTIAL

Mayor William Yates and Council
City of Morro Bay
595 Harbor St
Morro Bay CA93442

Dear Mayor Yates and Council:

The San Luis Obispo County Grand Jury has completed the attached report titled **“Pay Me Now or Pay Me Later.”** This copy of the report is being provided to you two days in advance of its public release, as required by California Penal Code §933.05 (f), which states:

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

Please check the last page of text of the report for the timing of your response, if any, as required by the Penal Code. Sections 933 through 933.05 of the Penal Code are attached for your reference.

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

Respectfully,

Norman A. Baxter, Foreperson
2011-2012 San Luis Obispo County Grand Jury

Enclosures

California Penal Code

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

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

PAY ME NOW OR PAY ME LATER

CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY

INTRODUCTION

This report is a study of actual employee vacation and sick leave accumulation, and the rules and regulations governing these accumulations, in each San Luis Obispo County municipality.

ORIGIN

This Grand Jury investigation resulted from a citizen complaint and was expanded to include all cities in the County.

PROCEDURE

The Grand Jury obtained information for this report from the following sources:

1. Personnel Rules and Regulations from all seven cities in San Luis Obispo County
2. All Memorandums of Understanding¹ (MOUs) from all seven cities. Memorandums were for all bargaining units² in each jurisdiction; they identify vacation, sick leave and overtime policies in each city, unit by unit.
3. A record of each city employee, identifying his or her accumulated sick leave, vacation and overtime

¹ Memorandum of Understanding is an understanding reached as a result of meeting and conferring on hours, wages and working conditions pursuant to California law.

² Bargaining units are police and fire safety personnel, management employees, confidential (at will and exempt employees, usually working for management personnel) and miscellaneous employees, who are usually non-safety personnel, e.g., parks, building, planning.

4. Calculations of the potential unfunded liability³ for vacation time in each jurisdiction, based upon current data submitted
5. Follow-up communication with a city if there was any question about the data received
6. Calculations of accumulated vacation time at a conservative \$35 per hour based upon when the documentation was received by the 2011-2012 Grand Jury

NARRATIVE

CITY OF ARROYO GRANDE

Each employee unit has a different amount of maximum accumulated time that can be carried for vacation and sick leave. Vacation time can vary from 200 to 225 hours, except for management personnel who can accumulate up to 750 hours of vacation time. The City requires all employees to use at least 80 hours of vacation time annually after one year of service.

The Grand Jury found that there is only one employee who has exceeded the maximum amount of vacation time allowed; that person was grandfathered in when the rules were changed.

The City allows up to 480 hours of accumulated sick leave. Annually, an employee has the option of being paid 25% of his/her unused sick leave for the preceding twelve months. In lieu of payment, an employee may opt to transfer 25% of his/her unused sick leave to vacation credit.

Overall, the City has 83 full and part-time employees with a total of 7,232 hours of accumulated vacation time on its books and only one employee who exceeds the allowable accumulated time. The employee average is about 87 hours or 11 days of vacation.

The City currently has an unfunded liability for accumulated vacation time in the amount of \$253,120. As a result, the City appears to be managing its leave time very well.

³ Unfunded liability is the payment owing for accumulated vacation time at a future date when an employee leaves the city, and is paid out of general operating funds available to the city at the time of payout. Usually, final payments are at a rate of pay higher than that being earned at the time the vacation was accumulated.

CITY OF ATASCADERO

The City of Atascadero has a policy limiting vacation accrual, but has not enforced its own policy for over 20 years, thereby causing a major problem for the City. The City's policy clearly states, "Employees shall cease to accumulate vacation once their accrued vacation balance has reached two (2) times their annual accrual rate."

On October 25, 2011, the City Attorney provided a legal analysis to the City Council regarding restrictions on accrual of vacation, general principles and past practices, and submitted the following options for the City Council to consider:

- Maintain existing practice
- Revise Personnel Rules to reflect current practices
- Begin enforcing current rules, which would require a meet and confer process with employee bargaining units
- Allow employees to take time off and enforce the vacation cap gradually
- Create a new Personnel Rule for vacation accrual

The City Attorney developed these options for the City Manager and the City Council to help resolve this problem. As of this writing, however, no action has been taken by the City Council.

The City of Atascadero has unlimited accrual of sick leave and a "Stay Well" bonus program. Once eligible, an employee may opt to receive a pay-off equal to one-third of the unused annual allotment of sick leave. The City does not pay off accumulated sick leave when an employee leaves the City, with the exception of Mid-management personnel. Mid-management personnel are entitled to receive payment at their hourly rate for one-half of their accumulated sick leave.

The City of Atascadero currently has 116 employees with 25,352 hours of accumulated vacation time on its books and unfunded liability for accumulated vacation time of \$887,320. The average accumulated vacation time per employee is more than 218 hours or approximately 27 days, which is the second highest total in the County.

The City is managing its vacation time poorly and has built up a significant unfunded liability as a result.

CITY OF GROVER BEACH

Employees may earn up to 280 hours of vacation time a year, depending upon how long they have been with the City. The City has a "Buy Back" program for vacation when accumulation exceeds 60% of the authorized time allowed. Employees may be paid a maximum of 80 hours of compensation for vacation accumulation in any calendar year. This approach minimizes unfunded liability.

Employees with less than five years with the City may accumulate a maximum of 20 days, while employees with five to ten years may accumulate up to 25 days. Employees with over ten years with the City may accumulate a maximum of 34 days. Any vacation exceeding this amount will be forfeited, unless approved by the City Administrator in advance.

Management and Confidential unit employees may accumulate up to 632 hours of vacation time, depending on how many years they have worked for the City.

Sick leave may be accumulated up to 2,000 hours, and management personnel may be paid a maximum of 672 hours upon leaving city employment. However, effective with new contracts, the sick leave buy back policy has been suspended. Some accumulated sick leave may be applied to the Public Employee Retirement System (PERS), depending on the existing contracts at the time of retirement.

At present, the City has a total of 55 employees with 10,496 hours of accumulated vacation time on its books and unfunded liability for accumulated vacation time in the amount of \$367,360.

The relatively high unfunded liability may cause some concern, as the average vacation accumulation per employee is 190 hours or about 24 days. However, it appears as if the City is

managing its accumulated vacation time quite well; it addresses the issue on an annual basis in an effort to limit its liability.

CITY OF MORRO BAY

The City of Morro Bay has a vacation accumulation policy ranging from 10 to 20 days per year. Employees may carry forward one year of their maximum allowable annual accumulation of vacation time. There is a "buy back" program for some employees when they exceed the maximum allowable accrual time.

The City has a policy that once an employee reaches the maximum vacation accumulation, the employee may not continue to accrue vacation time. However, City records indicate that several employees appear to have more time on the books than allowed by City rules and regulations. The City Manager is authorized to grant approval to exceed the maximum allowable accrual of vacation, but it is not known if such approval has been granted officially.

Management and Confidential Unit employees may accumulate up to 400 hours of vacation time.

The Grand Jury noted that twelve employees have over 300 hours of accumulated vacation time, four employees have over 400 hours and two employees have in excess of 600 hours.

The City has no limit on sick leave accumulation and there is a pay-off policy between 25% and 35% of sick leave accumulation when the employee leaves City employment, depending upon the bargaining unit.

The City has a total of 98 full and part-time employees with total accumulated vacation time of 14,766 hours and unfunded liability for accumulated vacation time of \$516,810. The average vacation accumulation per employee is about 151 hours or 19 days.

The City appears to be managing accrued vacation time reasonably well, but it does have some long-time employees who may cause a financial problem when they leave City employment.

CITY OF PASO ROBLES

The City of Paso Robles has a policy governing how many vacation hours an employee may accumulate on an annual basis. This accumulation is based upon time in service and ranges from 80 to 160 hours, except for Management and Confidential Unit employees who may accrue up to 200 hours.

In the City's Personnel Rules, under Section 16.02 (c), however, the policy states: "At no time may an employee have a total balance of vacation days in excess of one-and-one-half times its current, annual accrual rate. Excess vacation accrued in this manner shall be lost if not taken within 60 days of the date the maximum accumulation is reached."

The Grand Jury found that 67 of 165 City employees, or 40%, exceed the maximum vacation allowed, even though the City has a policy of paying off vacation time up to one week per year, if the employee has at least three weeks of vacation accumulated. It is obvious that the City does not follow its own vacation accrual policy.

The Grand Jury investigation revealed that the City has an enormous problem of accumulated vacation time and related unfunded liability. The largest accumulation is among the Police Department and Management and Confidential Unit employees, the two highest paid units in the City. This situation magnifies the problem because the cost of payout per employee in these two units exceeds the cost of payout per employee in the Miscellaneous Unit (non-safety personnel).

Currently, the City has 47,045 total hours of accumulated vacation on its books and unfunded liability for accumulated vacation time of \$1,646,575 because it does not enforce its maximum vacation accumulation policy. The 165 City employees have an average of 285 accumulated vacation hours or more than 36 days per employee, which is the highest accumulation in the County.

In contrast, the City of San Luis Obispo has 50,429 hours on its books for 345 employees, for an average time accumulated vacation time of only 18.25 days per employee.

The City of Paso Robles has unlimited accrual of sick leave, as do most of the cities in the county.

The Grand Jury also noted that the City of Paso Robles appears to have a set of personnel rules and regulations that has not been updated since 1989. As a result, there may be significant outdated policies and procedures that require a thorough review by the City Council and staff.

CITY OF PISMO BEACH

In the City of Pismo Beach, vacation time varies with the employee bargaining unit. Generally, employees can receive up to 20-22 days, depending upon time with the city, and may accrue up to 44 days or two times the employee's annual accrual rate.

The City has no cap on accumulated sick leave accruals; however, payment of accrued sick leave cannot exceed 480 hours. Some time may be converted to the retirement system, depending upon the existing city contract with PERS.

The City has a total of 85 employees with 8,691 accumulated vacation hours and unfunded liability for accumulated vacation time of \$304,185. Although this number may seem to be cause for concern, the City of Pismo Beach has no employees who exceed the maximum allowed. The City averages about 103 hours of accumulated time or about 13 days per employee. Vacation time appears to be well managed.

CITY OF SAN LUIS OBISPO

In the City of San Luis Obispo, vacation can be accrued up to two times the annual rate allowed for an employee. Depending upon the bargaining unit, the City may buy back from an employee up to 80 hours of vacation time annually.

The City of San Luis Obispo has unlimited accumulation of sick leave and can pay off Miscellaneous Unit employees between 10% and 15% of their accumulation, after an employee

has 20 years with the City. Fire and Police personnel can receive up to 30% payment of their accumulation, depending upon time with the City.

There are so many variations on buy back of time, accrual rates and other forms of compensation that analysis of vacation time is the most meaningful.

The City of San Luis Obispo has a total of 50,740 hours of accumulated vacation time and unfunded liability for accumulated vacation time of \$1,775,900. With 345 employees, however, the City has an average accumulated vacation time of only 147 hours or approximately 18 days per employee.

The City of San Luis Obispo is well within its policy guidelines for vacation accumulation and vacation time appears to be well managed.

SUMMARY TABLES

The two tables below summarize the vacation accrual issues that each municipality in San Luis Obispo County must manage. The first table shows the amount of unfunded liability for vacation accrual by city in the County.

Table 1: Summary of Unfunded Liability for Vacation Accrual

<u>City</u>	<u>Unfunded Liability for Vacation Accrual</u>
Arroyo Grande	\$253,120
Atascadero	\$887,320
Grover Beach	\$367,360
Morro Bay	\$516,810
Paso Robles	\$1,646,575
Pismo Beach	\$304,185
San Luis Obispo	\$1,775,900

Note: Dates of the amount of unfunded liability vary by city. All calculations of accumulated vacation time are based upon when the documentation was submitted to the 2011-2012 Grand Jury in mid-2011, at an average cost of \$35 per hour.

The second table shows the average vacation accrual in hours per employee by city in the County.

Table 2: Summary of Average Vacation Accrual per Employee

<u>City</u>	<u>Average Vacation Accrual - Hours per Employee</u>
Arroyo Grande	87
Atascadero	218
Grover Beach	190
Morro Bay	151
Paso Robles	285
Pismo Beach	102
San Luis Obispo	147

CONCLUSION

After a review of the vacation and sick leave policies of the cities in San Luis Obispo County, and a review of accumulated vacation time for employees, it is apparent that some cities are not in compliance with their own personnel rules, regulations and policies.

Several jurisdictions have excessive accumulated vacation time that places the city in financial jeopardy due to unfunded liability. Employees have been allowed to accumulate excessive vacation time, either as a result of poor management practices or the inability of management to allow vacation time off for employees.

It is obvious that several jurisdictions have, or will have, a considerable problem in paying off accumulated vacation time. Almost all accumulated time is paid off at a **higher** rate than when it was earned, which adds an additional financial burden on all cities.

It is also clear that in some jurisdictions personnel rules and regulations have not been updated for some time. As a result, they do not reflect current practices. Some jurisdictions appear to use employee agreements in lieu of updating their personnel rules and regulations; they incorporate the agreements into the personnel rules by reference.

It is very difficult for an individual who is not familiar with a particular jurisdiction to understand employee benefits fully by reviewing only the Personnel Rules. All Memorandums of Understanding should be reviewed, as well.

FINDINGS

1. There is substantial unused accumulated vacation time in all jurisdictions in San Luis Obispo County.
2. With the exception of the Cities of Grover Beach and Arroyo Grande, all jurisdictions in San Luis Obispo County allow unlimited accrual of sick leave. All jurisdictions but one, however, have a policy allowing the buy back or payoff of accumulated sick leave either annually or upon leaving city employment.
3. The City of Paso Robles, with only 165 employees, has more than 47,000 hours of accumulated vacation on its books and an enormous unfunded liability of \$1,646,575.
4. The City of Paso Robles has a policy stating that no employee can exceed one-and-one-half times their annual accumulation or they will lose their vacation time.
5. The City of Paso Robles is in gross violation of its own policies governing accumulated vacation time; 40% of City employees exceed the stated policy.
6. The City of Paso Robles has not updated its personnel rules and regulations since 1989.
7. The City of Atascadero has admittedly and blatantly violated its own policies on vacation time for more than 20 years.
8. The City of Atascadero has not acted to date on any policy changes related to its accumulated vacation problem, in spite of the recommendations of the City Attorney.
9. The City of Morro Bay has 12 employees with over 300 hours of accumulated vacation time and is in violation of its own policies, in some cases.

10. Most jurisdictions do not update their personnel rules and regulations after MOUs are developed with each bargaining unit. All personnel rules are incorporated into any new MOUs, but personnel rules are not always updated accordingly.

RECOMMENDATIONS

1. All jurisdictions should review their accumulated vacation time and implement steps to address future accumulation and payment of vacation time.
2. All jurisdictions that do not update their personnel rules after implementing new Memorandums of Understanding should update their personnel rules to reflect current practices.
3. The City of Paso Robles should review and update its Personnel Rules and Regulations.
4. The City of Paso Robles should take immediate steps to stop additional vacation accumulation in violation of its own policies.
5. In order to reduce its unfunded liability, the City of Paso Robles should consider a multi-year program to pay off accumulated vacation time.
6. The Atascadero City Council should immediately address the recommendations made by their City Attorney for dealing with the problem of maximum allowable vacation time, implement one of the recommendations and adhere to it.
7. The City of Atascadero should consider a multi-year program to pay off accumulated vacation time and sick leave, and thereby reduce its unfunded liability.
8. The City of Morro Bay should enforce its policies with regard to accumulation of vacation time in excess of allowable time.

9. All jurisdictions in the County should constantly monitor their accumulated sick leave, vacation and compensatory time to ensure that they do not incur further unfunded liabilities.

10. All jurisdictions in the County should report annually to their citizens on the status of vacation and sick leave accumulations, and compare them with the prior year to demonstrate how they are addressing the unfunded liability issue.

COMMENDATIONS

The Cities of Arroyo Grande, Pismo Beach and San Luis Obispo are managing their accumulated vacation time extremely well.

REQUIRED RESPONSES

All cities are required to respond to Findings 1, 2 and 10, and Recommendations 1, 2, 9, and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Paso Robles is required to respond to Findings 1-6 and 10, and Recommendations 1-5, 9 and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Atascadero is required to respond to Findings 1, 2, 7, 8, and 10, and Recommendations 1, 2, 6, 7, 9, and 10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The City of Morro Bay is required to respond to Findings 1, 2, 9, and 10, and Recommendations 1, 2 and 8-10. The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by **May 30, 2012**. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

The mailing addresses for delivery are:

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

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



AGENDA NO: A-4

MEETING DATE: 05/8/2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 17, 2012
FROM: Susan Slayton, Administrative Services Director/City Treasurer
SUBJECT: Annual Reporting on the Morro Bay Tourism Business Improvement District and Scheduling of a Public Hearing

RECOMMENDATION:

Council to acknowledge receipt of the annual report and budgets, and set the date for the public hearing to be held on May 22, 2012, in order to continue the MBTBID activities and assessments. Further, the adoption of a Resolution will affirm the results of that meeting.

FISCAL IMPACT:

Estimated revenue for 2012/13 is \$571,500 in assessments, and is dedicated to advertising and promotions, Visitors Center support, cost allocation for AGP Video filming, and recovery of the 2010/11 General Fund loan.

SUMMARY:

This is the annual reaffirmation of the MBTBID and authorization of the 3% assessments, as required by State law. Staff requests that Council acknowledge receipt of the annual report and budget, and set the date for the public hearing to be held on May 22, 2012, in order to continue the MBTBID activities and assessments. Further, the adoption of a Resolution will affirm the results of that meeting.

DISCUSSION:

State law requires the City Council to annually renew business improvement districts, and receive annual reports for each fiscal year. These reports are attached as Exhibits A and B.

Beginning in the 2010/11 fiscal year, the MBTBID had a fund balance in the amount of \$66,630. For the 2010/11 fiscal year, revenues received totaled \$398,924 (\$398,696 TOT and \$228 interest), and expenditures made totaled \$486,927 for advertising and promotions plus a \$6,000 cost allocation for AGP Video to assist with the cost filming the committee meetings. This resulted in an over-expenditure of available funds by \$27,373, and necessitated a loan from the General Fund to cover this deficit.

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

The adopted budget for 2011/12 is \$460,500 (TOT and interest), and the proposed budget for the 2012/13 fiscal year is \$571,500 (TOT only). Appropriations for both years are for marketing expenditures (\$404,500 and \$488,127, respectively), support for the Visitors Center (\$50,000 both years), and a cost allocation charge by the General Fund for AGP Video filming expense (\$6,000 both years). Please note that the plan for 2012/13 recovers the loan from the General Fund that was needed in 2010/11 to cover insufficient funds.

Staff requests that Council acknowledge receipt of the annual report and budgets, and set the date for a public hearing to be held on May 22, 2012, in order to continue the MBTBID activities and assessments. Further, the adoption of a Resolution will affirm the results of that meeting.

CITY OF MORRO BAY

2012/13 PROPOSED ANNUAL BUDGET

MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT

	<u>2008/09 Actual</u>	<u>2009/10 Actual</u>	<u>2010/11 Actual</u>	<u>2011/12 Amended Budget</u>	<u>2012/13 Proposed Budget</u>
Beginning cash balance	\$ -	\$ 47,260	\$ 66,630	(27,373)	(27,373)
Revenues from:					
Assessments	48,682	380,375	398,696	460,000	571,500
Interest	-	1,069	228	500	-
Subtotal	48,682	381,444	398,924	460,500	571,500
Expenditures for capital outlay:					
Tourism promotion	(1,422)	(362,074)	(486,927)	(404,500)	(488,127)
Transfers to General Fund	-	-	(6,000)	(56,000)	(56,000)
Revenues over (under) expenditures	47,260	19,370	(94,003)	-	27,373
Ending cash balance	\$ <u>47,260</u>	\$ <u>66,630</u>	\$ <u>(27,373)</u>	<u>(27,373)</u>	<u>-</u>

NOTES:

In 2010/11, funding for the Visitors Center was approved; total transfer for 2012/13 is \$6,000 for AGP Video and \$50,000 for the Visitors Center.



AGENDA NO: A-5

MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council

DATE: May 1, 2012

**FROM: Andrea K. Lueker, City Manager
Eric Endersby, Harbor Director**

SUBJECT: Authorization to Amend the Grant Agreement from The Nature Conservancy for Support of Formation of a Community Fishing Association to Add \$50,000 to the Grant

RECOMMENDATION

That the City Council move to authorize an amendment to add \$50,000 to the existing grant from The Nature Conservancy (TNC) to provide continued staff and outside legal counsel support for formation of a Community Fishing Association and Community Quota Fund in Morro Bay.

FISCAL IMPACT

There has been no direct fiscal impact from the existing grant agreement and there will be none in the amendment to add \$50,000. The City's Administrative Services Director has created a special account to track all direct expenses on this project and they will be reimbursed from grant funds. The City will supply some in-kind services during the course of the grant such as providing office space in the Public Services building, telephone and computer use and very limited clerical support.

BACKGROUND

In September 2010, the City Council approved a \$70,000 grant agreement with TNC to fund fisheries support work in the new West Coast Trawl Individual Quota Program. Attached is a copy of the original grant agreement with more detail on the purpose of the grant. The \$70,000 was almost fully expended by February 2012, with approximately \$45,000 in CMB contract employee costs and \$25,000 in consultants/legal counsel. City staff has negotiated an amendment to the grant agreement to add \$50,000 in additional funds and extend the date for termination of the grant agreement until August 31, 2012.

Prepared By: EE

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

DISCUSSION

On January 1, 2011 the National Marine Fishery Service (NMFS) implemented a long-planned Individual Quota (IQ) Program in the West Coast trawl sector of the groundfish fishery. Each owner of Trawl permits was given Quota Shares (QS) commensurate with the catch associated with that permit in the window period of 1994-2004. TNC owns a total of 13 Trawl permits, 6 of which were historically associated with Morro Bay fishing operations. TNC has indicated a strong interest in transferring the Quota Share associated with the 6 local permits to a community entity that could hold the shares in the area to be used by local fishermen to the extent possible for social, economic and conservation benefits. IQ programs are controversial; fishermen generally oppose them, conservation groups and NMFS generally support them asserting they will lead to a better long term management outcome. Without diving into this argument, there are some incontrovertible facts:

- 1) The West Coast trawl sector was converted to an IQ program in 2011 and it will not be changed back.
- 2) The majority of groundfish fishing privileges are in the trawl sector, and keeping groundfish landings in Morro Bay is necessary to maintain a critical mass of fishing activity to support our working waterfront and Harbor services to the Commercial fishing sector.
- 3) IQ programs may lead to long term better management outcomes, but they definitely cause consolidation of the industry as QS becomes highly fungible, and the cost of fishing in the program is higher, so QS and annual Quota Pounds are leased or sold to larger fishing vessels and ports with the strongest market leverage to achieve economies of scale. There is a very real risk that, absent action by an agency such as the City, historic Morro Bay fishing privileges in the key sector will migrate through market forces to a few larger fishing operations in Oregon and Washington ports.

Working under this grant in 2011 the City incorporated a new public benefit non-profit corporation called the Morro Bay Community Quota Fund (MBCQF) for the purposes of holding QS historically associated with the Morro Bay area in the West Coast trawl sector. We created a strategic plan for the MBCQF and commenced negotiations with TNC to secure the fishing privileges associated with the 6 Morro Bay permits into the MBCQF. The City is well along in negotiations with TNC to finalize the transaction on behalf of the MBCQF, creating bylaws and program documents to outline how it will operate. To continue this work the City required additional funding and TNC has agreed to amend the existing grant agreement to add \$50,000. These additional funds will carry the project until September 2012 and City staff anticipates acquiring additional grant funds to continue the project after that. A tentative sale agreement with TNC is expected to be reached by the end of 2012 and transfer of the Quota Shares to the MBCQF is expected in 2013-14.

CONCLUSION

Staff recommends that the City accept an amendment to the existing grant agreement with TNC to add \$50,000 and extend the grant termination date until August 31, 2012 to provide staff support for negotiating a Quota Share purchase agreement and necessary background documents/work on formation of the Morro Bay Community Quota Fund.



GRANT AGREEMENT NUMBER:	MARINE 11222010 MB
ACCOUNTING INFORMATION	
Cost Center Name:	Moore Catch Share Management
Cost Center Number:	1050023032-0002
Source of Funds:	Private

**AMENDMENT 1 TO
 GRANT AGREEMENT NUMBER MARINE 11222010 MB
 BETWEEN
 THE CITY OF MORRO BAY AND THE NATURE CONSERVANCY**

This document will constitute the first amendment ("Amendment 1") to Grant Agreement Number 11222010 MB entered into on January 10, 2011 (the "Agreement"), by The Nature Conservancy, a District of Columbia non-profit corporation, 99 Pacific St., Suite 200G, Monterey, CA 93940, telephone 831-333-2046, (the "Conservancy"); and the City of Morro Bay, 595 Harbor Street, Morro Bay, CA 93442, represented by Andrea Lueker, City Manager, with sufficient authority for this act (the "Awardee"), collectively the "Parties" and each a "Party", to develop a community fishing association and enabling policies for communities engaged in the west coast groundfish fishery.

WHEREAS:

Whereas, the Conservancy and the Awardee confirm that the objective of the Agreement remains unchanged;

Whereas, the Parties desire to amend the Agreement because of a fund increase of \$50,000 needed for unanticipated costs associated with completing tasks associated with the listed Scope of Work, including: (i) a quota share acquisition proposal with term sheet submitted to the Conservancy, (ii) an investor prospectus for working with investors/donors/lenders for funding the acquisition of quota share, (iii) revised bylaws for the Morro Bay Community Quota Fund, (iv) IRS 501(c)3 application with revised bylaws, and (iv) program outline for a research fund;

THEREFORE, in virtue of the aforementioned and in agreement with Clause XXIX – "Binding effect/Amendments" of the Agreement, the Parties agree that all other sections of the Agreement will remain the same and are ratified in full, and that this Amendment 1 will serve to amend the existing Amendment only as follows:

FIRST. Clause II. "Term" shall be deleted and replaced with the following language:

"The start date of this Grant is December 1, 2010 and shall expire August 31, 2012."

SECOND. Clause III. "Reporting" shall be deleted and replaced with the following language:

"Awardee shall submit financial and programmatic report before each payment date listed below. Each report should outline progress made on the above described scope of work with each of the grant payment requests following execution of the grant, described below. Each report should be in writing and no longer than 2 to 3 pages. Furthermore, regular verbal reports of progress and communication of issues related to the scope of work should be provided to TNC's senior project director, Michael Bell. A Final report is due on or before August 31, 2012 and should describe all progress made towards the scope of work and include a set of recommendations that outline how stakeholders in Morro Bay can achieve the goal of establishing a local Community Fishing Association."

THIRD. Clause IV. "Payments" shall be deleted and replaced with the following language:

"The grant amount is \$120,000 and shall be paid to Awardee during the term of the Agreement. The payments will be paid according to schedule below:

- Payment of \$17,500 made after execution of grant
- June 1, 2011 – payment of \$17,500 made upon approval of reports
- January 31, 2012 – payment of \$17,500 made upon approval of reports
- May 1, 2012 – payment of \$42,500 made upon approval of reports
- August 1, 2012 – payment of \$25,000 made upon approval of reports

All reports shall be submitted to:

Michael Bell
Senior Marine Project Director
The Nature Conservancy
895 Napa Street, Suite B2
Morro Bay, CA 93442"

IN WITNESS WHEREOF, the Parties sign this Amendment 1, effective as of the last date signed below.

AGREED AND ACCEPTED TO:

CITY OF MORRO BAY

By: Andrea Lueker, City Manager

Signature

Date

THE NATURE CONSERVANCY

By: Wendy Pulling
Director of Conservation
Programs



Signature

Date

4/17/12

PRIVATE GRANT AGREEMENT

Accounting Information

TNC Center No: 1050023032-0002
TNC Account No: 5076

November 20, 2011

City of Morro Bay
Contact: Andrea Lueker, City Manager
595 Harbor Street
Morro Bay, CA 93442

Re: Grant No Marine 11222010 MB

Dear Mrs. Lueker,

We are very pleased to inform you that The Nature Conservancy (the "Conservancy") has agreed to make a grant ("Grant") to the City of Morro Bay ("Awardee") in the amount not to exceed \$70,000 over the term of this grant agreement ("Grant Agreement"). This Grant is under general agreement dated August 10, 2010 ("Prime Award") between The Conservancy and the Gordon and Betty Moore Foundation for the development of Community Fishing Association ("CFA") enabling policy and CFA institutional development in Morro Bay and other port communities engaged in the west coast groundfish fishery.,

OBJECTIVE

On January 1, 2011, Trawl Sector Individual Quota (IQ) system will go into place, implementing a major new regime for groundfish management on the West Coast. This change will have far reaching impacts on traditional small fishing harbors that have been dependent on groundfish landings to support marine infrastructure such as Morro Bay, Monterey, Moss landing and Half Moon Bay/Pillar Point Harbor.

Since 2005, the Conservancy has owned six trawl permits in the Morro Bay area. The Conservancy has worked with partners in fishing and the community (including the City of Morro Bay, CMB, and Port San Luis Harbor District, PSL) on a number of projects to explore ways the fishery could be more economically and environmentally sustainable as well as to develop a new "Community Fishing Association" that could acquire and anchor the fishing access privileges in the community.

A group of local fishermen have successfully harvested fish during this period using fixed gear under an Exempted Fishing Permit (EFP). The EFP will become moot once the IQ system is implemented since gear switching in trawl sector permits will be allowed in the new regime. Some of those same fishermen have now formed a non-profit group called the "Central Coast Groundfish Association" and are in discussion with the Conservancy regarding financial arrangements to convert their trawl permits to this association or some other form of local ownership. The City of Morro Bay also has an interest in supporting commercial fishing in Morro Bay harbor, its marine dependent infrastructure and insuring that this transition is achieved with the broadest possible long term community benefit.

The purpose of this Grant to allow the Awardee to hire a part-time hourly employee for two years to:

1. Coordinate community support for the formation of a Community Fishing Association (CFA) in Morro Bay and to provide community input and desires into the formation of the CFA
2. Conduct outreach to interested public agencies, fishermen/industry participants, community groups, service clubs and business leadership on this transition process, and
3. To represent CMB and other community interests in the development of enabling policy that would allow the development of CFA's in the new IFQ groundfish fishery management structure, including advocating for policies and management that supports economically and environmentally sustainable commercial fishing and community benefits from commercial fishing.

Scope of Work

As part of the Grant, Awardee and its employee hired with Grant funds will:

1. Develop Community Strategy: Awardee will work with the Conservancy and local partners to build the Morro Bay Community Fishing Association to anchor future IQ fishing privileges in the community. The Awardees' employee hired with the Grant will:
 - Attend and represent community interests at all Pacific Fishery Management Council meetings related to IQ program development.
 - Be the community representative at meetings for policy development, (local, state and federal).
 - Develop community vision and terms to guide CFA development
 - Explore community acquisition of central coast ground fish quota including developing funding sources and financing strategies
2. Outreach and communications: Awardee and its employee hired with Grant funds will:
 - support information exchange between interested community members, other public agencies and fisheries participants
 - keep key targets in CMB/PSL area informed and engage policymakers.
3. Support development of Community Fishing Association entities in other port communities in the Central Coast, including Monterey, Moss Landing and Half Moon Bay, which may include:
 - identify collaborative efforts between port communities that will help build enabling CFA fishery policy and on the CFA institutions.
4. Give input on fisheries management policy development to attempt to influence such policy to consider and mitigate community impacts and promote economically and environmentally sustainable Commercial Fisheries, which may include:
 - Developing policy statements for CMB consideration, council reports and testimony as needed.
 - participating in state and federal meetings with conservation interests to represent community interests.

II. TERM

The start date of this Grant is December 1, 2010 and shall expire July 1, 2012.

III. REPORTING

Awardee shall submit financial and programmatic report before each payment date listed below. Each report should outline progress made on the above described scope of work with each of the three grant payment requests, described below. Each report should be in writing and be no longer than 2 to 3 pages. Furthermore, regular verbal reports of progress and communication of issues related to the scope of work should be provided to TNC's senior project director, Michael Bell. A final report is due on or before July 1, 2012 and should describe all progress made towards the scope of work and include a set of recommendations that outline how stakeholders in Morro Bay can achieve the goal of establishing a local Community Fishing Association.

IV. PAYMENTS

The grant amount is \$70,000 and shall be paid to Awardee in 4 installments during the term of the Grant. An initial disbursement of \$17,500 will be made within 10 business days after the complete execution of this grant agreement. There will be three subsequent payments:

- June 1, 2011- payment of \$17,500 made upon approval of reports
- January 31, 2012 – payment of \$17,500 made upon approval of reports
- July 31, 2012 – payment of \$17,500 made upon approval of final reports

All reports shall be submitted to:

Michael Bell
Senior Marine Project Director
The Nature Conservancy

Private Grant Agreement 12/08

895 Napa Street, Suite B2
Morro Bay, CA 93442

V. EXPENDITURE LIMITED TO DESIGNATED PURPOSES

Grant funds may be spent only in accordance with the provisions of the Awardees' funding request and budget submitted to the Conservancy. Expenditure of Grant funds is subject to modification only with the Conservancy's prior written approval. Any Grant funds not expended or committed for the purposes of this Grant must be returned to the Conservancy.

The Conservancy may monitor and evaluate the Program's activities; which may include visits by Conservancy personnel and agents, discussions with Awardees' personnel, and review of financial and other records and materials related to the Program activities financed by this Grant in an effort to determine whether Awardees' activities meet the Conservancy's funding objectives.

VI. PROVIDING FUNDS TO OTHERS

The Awardee is prohibited from using the Conservancy's funds and/or assets for grants to others without the Conservancy's written permission.

VII. DISCLOSURE OF INTERNAL CONFLICTS OF INTEREST

The Awardee must disclose to the Conservancy any proposed use of funds and/or assets for activities in which there is an apparent or actual conflict of interest between the Awardee and its employees, board members, or close relatives of the Awardees' employees or board members and make such expenditure subject to prior Conservancy approval.

VIII. NOTIFICATION OF CHANGE IN STATUS

The Awardee must notify the Conservancy immediately of any change in the Awardees' corporate status or operations as a tax-exempt entity, or of any material judicial, legislative or administrative proceeding instituted against the Awardee.

IX. PROCUREMENT

The Awardee will follow its own policies with regard to documentation of procurements and maintain that documentation in their organization's grant files. If the Awardee does not have written procurement policies, it must retain documentation for procurements (over US \$5,000 outside the U.S. or over \$10,000 in the U.S.). Such documentation will include sole source justification, if appropriate, or documentation of a competitive process or comparison shopping.

X. RECORDS AND AUDITS

The Awardee agrees to maintain books, records, documents and other evidence pertaining to all costs and expenses incurred and revenues acquired under this Award to the extent and in such detail as will properly reflect all costs and expenses for which reimbursement is claimed. These records shall be maintained for a period of three years after the final expenditure report is submitted.

The Conservancy and its auditors (internal and external) will have access to all records relating to the award for three years after the final financial and programmatic reports for the award have been submitted to TNC, unless local law requires a longer retention period.

The Awardee shall be responsible for reimbursing for any disallowance of any expenditure related to the work the Awardee has performed.

XI. SEGREGATION OF COSTS

Private Grant Agreement 12/08

The Awardee will segregate the costs of the project described herein from other projects that it currently administers.

XII. JUSTIFICATION OF SALARY EXPENSES

The Awardee must track employees' actual time spent on the entire TNC privately-funded project in a time and effort reporting system.

XIII. TITLE TO AND USE OF PROPERTY

Title to any property purchased with Award funds vests in the Awardee. The Conservancy may not be charged for use of any property purchased with Grant funds.

XIV. INTELLECTUAL PROPERTY LICENSE

Title to any Materials developed with Grant funds vests in the Awardee, with the Conservancy getting free irrevocable license to use, publish or distribute all such copyrighted, trademarked, patented Materials, or inventions, trade secrets or other intellectual property rights. The word "Materials" may include, but is not limited to reports, studies, photographs (and negatives), computer programs, drawings, writings or other similar works or documents, along with all supporting data and material, produced under this Agreement. The Awardee agrees to provide the Conservancy with copies of the Materials at no cost.

XVI. ASSIGNMENT

This Award may not be assigned by the Awardee in whole or in part without the prior written consent of the Conservancy.

XVII. NO AGENCY

No legal partnership or agency is established by this Award. Neither party is authorized or empowered to act as an agent, employee or representative of the other, nor transact business or incur obligations in the name of the other party or for the account of the other party. Neither party shall be bound by any acts, representations, or conduct of the other.

XVIII. TERMINATION AND REMEDIES

The Conservancy shall have the right to terminate this Award by giving 30 (thirty) days written notice to the Awardee of intent to terminate. Should this occur, payment for work satisfactorily completed will be adjusted accordingly. In addition, if in the judgment of the Conservancy the Awardee defaults in performance of Awardee duties under this Award, whether for circumstances within or beyond the control of the Awardee, the Conservancy may immediately terminate this Award by written notice to the Awardee. Upon receipt of the termination notice from the Conservancy, the Awardee shall take all necessary action to cancel outstanding commitments relating to the work under this Award. In the event of termination prior to the originally agreed upon expiration, the Conservancy shall pay of any obligations incurred by the Awardee that could not reasonably be canceled.

If at any time the Prime Award is terminated, this Award shall also be automatically terminated as of the termination date of the Prime Award.

XIX. LOBBYING AND POLITICAL CAMPAIGNING

Awardee shall not use any portion of funds transferred under this Award to engage in any lobbying activities unless the parties specifically agree to such lobbying activities in this agreement.

Awardee shall not use any portion of funds transferred under this Award to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with Section 501(c)(3) of the US Internal Revenue Code.

XX. LIABILITY

Awardee shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of this Program. Awardee agrees to indemnify and hold the Conservancy harmless from any and all claims, loss, damages, costs and expenses, including attorney fees through the appellate levels, made against or incurred by the Conservancy arising out of work performed by the Awardee under this Award, or arising out of any act or omission of the Awardee.

XXI. USE OF CONSERVANCY NAME/LOGO

The Awardee may not use the Conservancy's name and/or logo in any way without prior written consent from the Conservancy, except to the extent the work performed contemplates their inclusion in the final work product.

XXII. CONFIDENTIAL INFORMATION.

During the course of the performance of this Award, the Awardee may have access to materials, data, strategies, and other information relating to the Conservancy and its programs, or systems, which are intended for internal use only. Any such information acquired by the Awardee shall not be used, published, or divulged by the Awardee to any person, firm, or corporation or in any advertising or promotion regarding the Awardee or the Awardees' services, or in any manner or connection whatsoever without first having obtained the written permission of the Conservancy, which permission the Conservancy may withhold in its sole discretion.

XXIII. TAXES

The Awardee agrees to be responsible for any and all filing and payment of taxes and for compliance with any and all provisions and requirements arising under any applicable tax laws. Neither federal, nor state, nor local income tax, nor payroll tax of any kind shall be withheld or paid by the Conservancy on behalf of the Awardee, or employees of the Awardee. If appropriate, the Conservancy shall report all fees paid to the Awardee to the IRS on Form 1099.

XXIV. COMPLIANCE WITH LAWS.

The Awardee represents, warrants, and agrees that, in connection with the transactions contemplated by this Award: (a) the Awardee can lawfully work in the United States; (b) the Awardee shall obtain, at its own expense (except to the extent otherwise explicitly stated in this Award) any permits or licenses required for the Awardees' services under this Award; and (c) the Awardee shall comply with all statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements of the United States, the State of California, and any other jurisdiction(s) in which the Awardee is organized or authorized to do business, including but not limited to any applicable anti-bribery statutes, which are applicable to the work to be done by the Awardee under this Award (in each case, an "Applicable Law"). The Awardee shall not take any actions that might cause the Conservancy to be in violation of any of such Applicable Laws.

XXV. CERTIFICATION REGARDING MATERIAL SUPPORT AND RESOURCES TO TERRORISTS

A. The Awardee hereby certifies:

1. The Awardee does not commit, attempt to commit, advocate, facilitate, or participates in terrorist acts, nor has it committed, attempted to commit, facilitated, or participated in terrorist acts.
2. The Awardee will take all-reasonable steps to ensure that Awardee does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts.
3. Before providing any material support or resources to an individual or entity, the Awardee will consider all information about that individual or entity of which it is aware or that is available to the public.
4. The Awardee will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

B. For purposes of this Certification:

1. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
2. "Terrorist act" means:
 - (i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or
 - (ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or
 - (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.
3. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

C. In the event that any material misrepresentation in this Certification is discovered during the term of this Grant, the Conservancy may elect to declare this Grant null and void and immediately terminate it. In the case of an intentional material misrepresentation, the Conservancy may, at its option, recover damages resulting from the termination. Notice of termination shall be given to Awardees' address listed on page 1.

XXVI. CERTIFICATION FOR CONFLICT OF INTEREST DETERMINATION

The Awardee certifies that the information it has provided on the Attachment entitled "Disclosure Form" is true and correct to the best of the Awardees' knowledge. In the event that any material misrepresentation in the Disclosure Form is discovered during the term of this Award, the Conservancy may elect to declare this Award null and void and immediately terminate it. In the case of an intentional material misrepresentation, the Conservancy may, at its option, recover damages resulting from the termination and shall be entitled to offset any amounts payable to the Awardee for work satisfactorily completed against such damages. The balance of amounts payable to the Awardee for work satisfactorily completed, if any, shall be paid to the Awardee. Notice of termination shall be given to Awardees' address listed on page 1.

XXVII. DUE DILIGENCE

The Conservancy may request copies of documents to ensure that Awardee meets the criteria of a non-profit conservation organization and that the Awardee meets appropriate standards of capacity, competence, and financial accountability. These documents include but are not limited to the following: a certificate of good standing, a list of the names of all of its board members and principal officers, copies of Awardees' bylaws and articles of incorporation. Awardee agrees to notify TNC immediately of any change in Awardees' corporate or tax status or operations, or if any official judicial, legislative, or administrative proceeding is instituted against Awardee that may affect the commitments and obligations agreed herein.

XXVIII. CHOICE OF LAW/FORUM

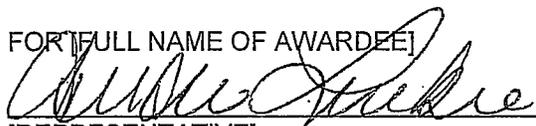
This Award shall be interpreted, construed and governed by the laws of the State of California and such laws of the United States as may be applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this Award, the Conservancy and the Awardee agree that litigation shall be conducted in the San Luis Obispo County, California

XXIX. BINDING EFFECT/AMENDMENTS

This Award shall become binding when signed by the parties. This Award supersedes all prior or contemporaneous communications and negotiations, both oral and written and constitutes the entire Award between the parties relating to the work set out above. No amendment shall be effective except in writing signed by both parties.

XXX. SEVERABILITY

If any provision of this Award is held invalid, the other provisions shall not be affected thereby.

FOR [FULL NAME OF AWARDEE]

[REPRESENTATIVE]
City Manager
[TITLE]

FOR THE NATURE CONSERVANCY

[REPRESENTATIVE]
Associate State Director of Conservation
[TITLE]

Date: 12-14-10

Attachments:



AGENDA NO. A-6

MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council

DATE: 4/29/12

FROM: Robert Schultz, City Attorney

SUBJECT: Amendment No. 2 to the Lease Agreement for Lease Site 78-81/78W-81W, Located at 701 Embarcadero, Between the City of Morro Bay and Van Beurden Investments

RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 20-12 approving Amendment No. 2 to the Lease Agreement for Lease site 78-81/78W-81W, located at 701 Embarcadero, between the City of Morro Bay and Van Beurden Investments.

FISCAL IMPACT:

There will be reduction in lease revenues of \$7,200. per year from the amount of rent on this Lease Site as long as there is a commercial fish buying/processing facility located and doing business on the premises.

BACKGROUND:

There was a fish buying/processing operation on a small portion of Lease Site 78-81/78W-81W since redevelopment of the site was completed in 1995 until approximately 2004. The tenants, the Van Beurden family, could convert this area to visitor serving/retail sales and realize more income (rent) from the site. Staff has negotiated a proposed agreement with the tenants to provide a \$600 per month rent credit as long as there is a commercial fish buying/processing facility located there.

DISCUSSION:

Marine dependent uses are a high priority for the waterfront area under the City of Morro Bay's Land Use Plan, and only a few remain in the area between Beach Street and Tidelands Park. When Bay Shores Fish Market went out of business on this site, Harbor Staff encouraged the Van Beurdens to attempt to locate another small fish buyer/processor to sublease the site, rather than convert the space to visitor serving uses. In an effort to preserve this marine dependent use on the waterfront, Staff recommends an amendment to the lease agreement to allow for a \$600 per month rent credit so long as a minimum of 400 square feet of the lease site is operated by a fish buying/processing business. The rent credit would become effective July 1, 2012.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 20-12 authorizing the Mayor to execute Amendment No. 2 to the Lease Agreement for Lease Site 78-81/78W-81W between the City of Morro Bay and Van Beurden Investments.

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

RESOLUTION NO. 20-12

**APPROVAL OF AMENDMENT NO. 2
TO THE LEASE AGREEMENT FOR LEASE SITE 78-81/78W-81W,
LOCATED AT 701 EMBARCADERO, BETWEEN THE
CITY OF MORRO BAY AND VAN BEURDEN INVESTMENTS**

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

WHEREAS, the City of Morro Bay is the lessor of certain property on the Morro Bay waterfront described as Lease Site 78-81/78W-81W, located at 701 Embarcadero; and,

WHEREAS, Van Beurden Investments are the lessees of said property; and,

WHEREAS, in order to preserve marine dependent uses on the waterfront the City and Van Beurden Investments have agreed to enter into Amendment No. 2, with an effective date of July 1, 2012, to the Lease Agreement for Lease Site 78-81/78W-81W to provide a rent credit of \$600 per month as long as there is a fish buying or fish processing business operating on at least 400 square feet of the Lease Site; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that Amendment No. 2 to the Lease Agreement for Lease Site 78-81/78W-81W between the City of Morro Bay and Van Beurden Investments is hereby approved and that the Mayor is hereby authorized to execute said Amendment No. 2.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 8th day of May 2012, by the following vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, MAYOR

JAMIE BOUCHER, CITY CLERK

AMENDMENT #2 TO LEASE AGREEMENT FOR LEASE SITE 78-81/78W-81W

This Amendment is made and entered into as of this 8th day of May, 2012 by and between the City of Morro Bay, a municipal corporation of the State of California, (hereinafter "City") and Van Beurden Investments, a partnership (hereinafter "Tenant") to amend that certain ground lease for Lease Site 78-81/78W-81W dated November 24, 1992 (hereinafter "Lease").

WHEREAS, City has previously approved a \$600 per month rent credit, effective January 1, 2007, when Tenant rents one building space of at least 400 square feet on the Site to a California licensed fish buyer or processor. Said rent credit shall be taken at the time Tenant submits annual percent of gross sales report and rent for the previous year in arrears.

NOW THEREFORE, City and Tenant mutually agree to amend said Lease as follows:

Section 13.06 Rent credit for renting building space to a fish buying or processing business shall be amended as follows:

Tenant shall receive a \$600 per month rent credit, effective July 1, 2012, when Tenant rents one building space of at least 400 square feet on the Site to a California licensed fish buyer or processor. Rent credit shall expire when Tenant no longer uses said space for a fish buyer/processor. Said rent credit shall be taken at the time Tenant pays said monthly rent.

All other terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto hereby execute this Amendment.

CITY OF MORRO BAY

TENANT

William Yates, Mayor

Van Beurden Investments
Cle Van Beurden

Andrea Lueker, City Manager

Van Beurden Investments
Leon Van Beurden

APPROVED AS TO FORM

Van Beurden Investments
Paul Van Beurden

Robert Schultz, City Attorney

Van Beurden Investments
William Van Beurden

ATTEST

Jamie Boucher, City Clerk

RESOLUTION NO. 21-12

**APPROVAL OF AMENDMENT #2 TO THE LEASE AGREEMENT
FOR LEASE SITE 122-123/122W-123W LOCATED AT
1205 EMBARCADERO, BETWEEN THE CITY OF MORRO BAY
AND TROY AND HEATHER LEAGE DBA THMT INC.**

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

WHEREAS, the City is the lessor of certain property on the Morro Bay waterfront described as Lease Site 122-123/122W-123W and Extension 122W-123W, located at 1205 Embarcadero; and,

WHEREAS, Troy and heather Leage, dba THMT Inc., is the lessee of said property; and

WHEREAS, the City and the proposed tenant, THMT, Inc. have agreed to an amendment to the lease agreement to add ten years on the existing lease agreement so that the new termination date shall be June 30, 2033 and requires that no later than June 30, 2016, Tenant shall complete refurbishment, remodeling and repairs on the buildings on the premises valued at a minimum of \$150,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the Mayor is hereby authorized to execute Amendment #2.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of May, 2012 on the following vote:

AYES:

NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Jamie Boucher, City Clerk

**AMENDMENT #2 TO THE LEASE AGREEMENT FOR
LEASE SITE 122-123/122W-123W**

This Amendment is made and entered into as of this 8th day of May, 2012 by and between the City of Morro Bay, a municipal corporation of the State of California, (hereinafter "City") and Troy and Heather Leage, dba THMT Inc. (hereinafter "Tenant") to amend that certain ground lease for Lease Site 122-123/122W-123W dated April 27, 1998 (hereinafter "Lease").

WHEREAS, Tenant intends to construct an approximate 680 sq. ft. second level over the existing office, freezer and kitchen preparation area on Lease Site 122-123/122W-123W, estimated to cost \$150,000; and,

WHEREAS, it is mutually beneficial for City and Tenant to acknowledge the improvement to the Lease Site; and,

WHEREAS, the proposed expansion of 680 sq. ft. to add additional storage space and employee break room is in compliance with MBMC 17.36.020 as said additional space shall not be used as additional restaurant service;

NOW THEREFORE, Tenant and City shall provide for the amendment of Lease as follows:

1. SECTION 1.01 TERM:

The Termination Date shall be amended to read "June 30, 2033".

2. CONSTRUCTION OF IMPROVEMENTS

Tenant agrees to obtain the required permits and to complete construction/installation of the 680 sq. ft. second level located on Lease Site 122-123/122W-123W valued at a minimum of \$150,000 by June 30, 2016. Tenant shall submit copies of invoices paid by tenant to verify expenses. Failure to complete said construction and provide proof of expenses by June 30, 2016 will void this Amendment. Tenant agrees that the 680 sq. ft. addition shall be used for additional office space, storage and employee break room for the restaurant and for no other uses.

All other provisions of the lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto execute this Amendment.

CITY OF MORRO BAY

TENANT – Troy and Heather Leage

William Yates, Mayor

Troy Leage

Andrea Lueker, City Manager

Heather Leage

APPROVED AS TO FORM:

Robert Schultz, City Attorney

ATTEST:

Jamie Boucher, City Clerk

The Cloisters, prior to development, was a privately owned 80-plus acre expanse of open land. Prior to development the property was historically used for lateral and vertical access and contained a large area of sensitive sand dunes abutting the eastern edge of Atascadero State Beach. Prior to development, the Cloisters was the subject of various land development proposals including an RV park, a 390-unit condominium development, a 466-unit single family residential development, a 455-unit mixed residential development, and a 213-unit residential development. None of these were approved.

It was well known that any development at the Cloisters was going to require a balance between continuation of lateral and vertical access within and through the property, while at the same time conserving the sensitive plant and wildlife resources present.

Zoning on most of the Cloisters site is Planned Development, Single-Family Residential with the sand dunes and wetlands zoned Environmentally Sensitive Habitat. The purpose of the Planned Development (PD) overlay zone is to provide for detailed and substantial analysis of development on parcels, which because of location, size or public ownership, warrant special review. This overlay zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit.

On September 23, 1996 the City Council passed Resolution No. 69-96 which accepted the final map for Tract 1996 known as the Cloisters Subdivision, consisting of 124 lots. Lots 1 through 120 were for single-family residential purposes. Lots 121, 122 were for the 34-acre park and open space and Lot 124 was dedicated for a fire station and Lot 123 was offered to the state.

The findings and conditions of approval for the project were numerous. For example, the City Council made findings that the Cloisters project could cause significant environmental impacts relating to land use, visual/aesthetics, affordable housing, traffic generation, air quality noise, geology, drainage and water quality, ecological resources, and public services; but that these impacts can be mitigated by the recommended conditions. In addition, the City Council made further findings that the Cloisters project was in compliance with the specific policies of the GP/LUP and zoning ordinance with respect to protection of views, environmentally sensitive resources, public access, circulation, hazards and other requirements so long as the environmental impacts were mitigated. Finally, the City Council made further findings that the Cloisters project complies with MBMC with respect to optional subdivision design and related improvements, and that the optional design is justified in order to contribute to a better community environment through the dedication of extensive public areas, restoration of the ESH area, provision of scenic easements, and provision of larger than usual lots adjacent to such areas, and maintenance of a consistent lot layout pattern adjacent to existing development on the north side of Azure Street.

In order to mitigate the environmental impacts of the project, and to provide a greater than public benefit as required in a PD overlay zone, the conditions of approval for the project required the applicant to form an assessment district for the maintenance of the public park, bicycle pathway,

right of way landscaping, coastal accessways, ESH restoration areas and any other improved common areas to be privately held or dedicated to the city. The public park area, as well as all open space improvements and the assessment district were part of many detailed discussions during each City and Coastal Commission hearings. Without this Condition of Approval the project would not have been approved and there would not be a Cloisters Development and plaintiff's homes would not exist.

The assessment district formation proceedings began in August, 1996, with the all of the Owners of the real property within the proposed district consented in writing to the formation of the district pursuant to the Landscape and Lighting Act of 1972. The assessment district formation proceedings concluded with the final public hearing for formation on September 23, 1996, which levied the annual assessment of \$148,944 for the maintenance of the thirty-four (34) acres of park and open space.

In preparing the various purchase and sale documents for each individual lot, including the Conditions, Covenants, and Restrictions, the developer was especially careful to call out the existence of the assessment district and to make certain that the existence of assessment district would not come as a surprise to anyone who purchases one of these lots. The Developer assured the City that "THERE WILL BE NO SURPRISES TO PROSPECTIVE OWNERS ABOUT THE ASSESSMENTS OR THEIR AMOUNTS."

In drafting all the project documents, the City and the developer reinforced the special benefits for the residents of the Cloisters Project with the public amenities and easements. Indeed, the Cloisters lots directly benefit from the public park, bicycle pathway, right of way landscaping, coastal accessways, ESH restoration areas and coastal accessways. The huge extent of the Cloisters open space, allow the Cloisters residents use of the public park, public restrooms, as well as the play equipment, coastal accessways, and other improvements which will benefit them to a substantial degree. There was also created and reserved in favor of each owner in the Cloisters Development easements for view, open space, scenic, passive recreation and coastal access across the entirety of LOTS 121, 122 and 123, which shall not be developed with any improvements or structures unless necessary and proper for the restoration and maintenance of the Environmentally Sensitive Habitat Area.

Each year since its formation, the City has used the same assessment rates and methodology and assessed the Cloisters homeowners \$148,944 for the continued maintenance and operation of the public park, bicycle pathway, right of way landscaping, coastal accessways, ESH restoration areas and coastal accessways as required by the conditions of approval and pursuant to the Landscape and Lighting Act of 1972. Unfortunately for the City, the assessment district does not have a cost living increase, so each year it cannot assess more than \$148,944 even though the costs to maintain these areas has consistently gone up over the years.

Over the years there have been many Cloisters residents that support the assessment district, as it is viewed as insurance against future degradation of the unique "Cloisters environment" and that phasing out the assessment would, in the end, be a bad deal for residents/homeowners of the

Cloisters and possibly attract “troublemakers”.

The process for the annual levy of assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District requires the City Council to receive the Engineer’s Report, approve and/or modify the report and adopt a Resolution of Intention. The Resolution of Intention gives notice of the time, date and place for a public hearing by the City Council on the issue of the levy of assessment. The protest hearing/public hearing has been set for June 26, 2012 at the Veteran's Memorial Building. Upon adoption, a summary of the Resolution of Intention shall be published in the newspaper as a legal notice of public hearing, at which all interested parties are afforded the opportunity to be heard either through written or oral communication. In addition, the City sends public notices via first class mail to all property owners on record in the Assessment District. Upon completion of the protest hearing/public hearing on June 26, 2012, the City Council may adopt the resolution ordering the levy of the annual assessment.

CITY OF MORRO BAY
CLOISTERS
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT

ENGINEER'S REPORT

Prepared Under the Direction of:

Robert Livick, PE/PLS, City Engineer
Public Services Department
City of Morro Bay

May 2, 2012

CITY OF MORRO BAY
CLOISTERS
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT

ENGINEER'S REPORT

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**CITY OF MORRO BAY
CLOISTERS
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT**

ENGINEER'S REPORT

I. Project Description

Tract 1996, known as the Cloisters development, is a 124 lot subdivision bounded by State Highway One at the east, Atascadero State Beach at the west, Morro Bay High School at the south, and Azure, Coral, and San Jacinto Streets at the north (the “Cloisters”).

The Cloisters, prior to development, was a privately owned 80-plus acre expanse of open land. Prior to development the property was historically used for lateral and vertical access and contained a large area of sensitive sand dunes abutting the eastern edge of Atascadero State Beach. Prior to development, the Cloisters was the subject of various land development proposals including an RV park, a 390-unit condominium development, a 466-unit single family residential development, a 455-unit mixed residential development, and a 213-unit residential development. The City of Morro Bay (the “City”) approved none of these development proposals.

It was well known that any development at the Cloisters was going to require a balance between continuation of lateral and vertical access within and through the property, while at the same time conserving the sensitive plant and wildlife resources present. In addition, the negative impacts of development on the site would have to be sufficiently offset by public resources and public amenities from the site.

Zoning on most of the Cloisters site is Planned Development, Single-Family Residential with the sand dunes and wetlands zoned Environmentally Sensitive Habitat (ESH). The purpose of the Planned Development (PD) overlay zone is to provide for detailed and substantial analysis of development on parcels, which because of location, size or public ownership, warrant special review. This overlay zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit.

On September 23, 1996 the City Council passed Resolution No. 69-96 which accepted the final map for Tract 1996 known as the Cloisters Subdivision, consisting of 124 lots. Lots 1 through 120 were for single-family residential purposes. Lots 121, 122 were for the 34-acre park and open space and Lot 124 was dedicated for a fire station and Lot 123 was offered to the state.

The findings and conditions of approval for the project were numerous. For example, the City Council made findings that the Cloisters project could cause significant environmental impacts

relating to land use, visual/aesthetics, affordable housing, traffic generation, air quality noise, geology, drainage and water quality, ecological resources, and public services; but that these impacts can be mitigated by the recommended conditions. In addition, the City Council made further findings that the Cloisters project was in compliance with the specific policies of the GP/LUP and zoning ordinance with respect to protection of views, environmentally sensitive resources, public access, circulation, hazards and other requirements so long as the environmental impacts were mitigated. Finally, the City Council made further findings that the Cloisters project complies with MBMC with respect to optional subdivision design and related improvements, and that the optional design is justified in order to contribute to a better community environment through the dedication of extensive public areas, restoration of the ESH area, provision of scenic easements, and provision of larger than usual lots adjacent to such areas, and maintenance of a consistent lot layout pattern adjacent to existing development on the north side of Azure Street.

In order to mitigate the environmental impacts of the project, and to provide a greater public benefit as required in a PD overlay zone, the conditions of approval for the project required the applicant to form an assessment district for the maintenance of the public park, bicycle pathway, right of way landscaping, coastal accessways, ESH restoration areas and any other improved common areas to be privately held or dedicated to the City. The public park area, as well as all open space improvements and the assessment district were part of many detailed discussions during each City and Coastal Commission hearings. Without this Condition of Approval and the creation of the ongoing assessment district, the project would not have been approved and there would not be a Cloisters Development.

The assessment district formation proceedings began in August 1996, when all of the owners of the real property within the proposed district consented in writing to the formation of the Cloisters Landscaping and Lighting Maintenance Assessment District (the "District") pursuant to the Landscaping and Lighting Act of 1972 (the "Act"). The assessment district formation proceedings concluded with the final public hearing for formation on September 23, 1996, which levied the annual assessment of \$148,944 (the "Assessment") for the maintenance of the thirty-four (34) acres of public resource lands including open space and natural lands, wetland area and pond used for drainage mitigation for homes constructed in Cloisters, median landscaping, street trees, a neighborhood park and recreation area, fencing and other public improvements.

In preparing the various purchase and sale documents for each individual lot, including the Conditions, Covenants, and Restrictions, the owners and developer were especially careful to call out the existence of the assessment district and to make certain that the existence of assessment district was disclosed to anyone who purchased one of these lots. In drafting all the project documents, the City and the developer reinforced the special benefits for the residents of the Cloisters Project from the public amenities and easements maintained by the Assessments. Moreover, the City and the developer clearly understood that the creation and continuation of the Assessments was necessary for the approval of residential development within the Cloisters Project.

II. Improvements

The work and improvements to be undertaken for the Cloisters Landscaping and Lighting Maintenance Assessment District, and the costs thereof paid from the levy of the annual assessments (the “Improvements”), are generally described as follows:

Installation, maintenance and servicing of public improvements, including but not limited to, turf, ground cover, shrubs, and trees, other landscaping, irrigation systems, fencing, signage, trails, walkways, recreation facilities lighting, restroom facilities, parking and all necessary appurtenances, and labor, materials, supplies, utilities and equipment. The public resources maintained and improved by the assessments from the District are further summarized as follows:

- 4 acres of park land
- 24.4 acres of open space meadow and natural land
- 5.5 acres of wetland
- 1.6 acres of medians, street trees and public right-of-ways

Within those areas, the following improvements are maintained and improved by the assessments:

- | | |
|---------------------------------|-------------------------------------|
| Parking lot | Trees & shrubs along the sound wall |
| Play equipment and sand lot | Directional signs |
| Trash cans | Monuments with lights |
| Demonstration garden | Sound wall |
| Turf | 6’ and 3’ solid fence |
| Decomposed granite paths | Wetland area and pond |
| Habitat fencing | Bridges |
| Observation pier | Light bollards |
| Scrub/meadow plantings | Drainage systems |
| Hydro-seeded planting areas | Barbeques |
| ESHA fencing and keep out signs | Irrigation (spray and drip) |
| Thickly planted medians | |
| Street trees | |
| Gabion channels | |
| Asphalt path system | Coastal |
| access ways | |
| Play area surfacing | |
| Drinking fountains | |
| Restroom | |
| Picnic tables | |
| Bike rack | |
| Benches | |
| Concrete walks | |
| Wetland plantings | |
| Willows | |
| Interpretive exhibits | |

For a detailed description of the improvements, refer to the plans and specifications on file in the office of the City Engineer.

III. Method of Assessment

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of the improvements; and the methodology used to apportion the total assessment to properties within the District.

The Assessment is an annual assessment pursuant to the Act, which was established prior to the effective date for Proposition 218 and which meets the conditions in Article XIID Section 5 of the California Constitution. Therefore, the Assessment is exempt from the requirements for new or increased assessments imposed by Article XIID.

The proceeds from the District are being used to fund the maintenance and upkeep of public resources within the Cloisters development project for the special benefit of the properties located within this project. In absence of the Assessments, such improvements would not be provided and the properties within the District would be negatively impacted by the demise and deterioration of the landscaping, median improvements, street trees, turf areas, open space lands, drainage areas, fencing, pathways and other improvements maintained by the Assessments and located within the District. Therefore, the continued maintenance and upkeep of these important improvements is a distinct and special benefit to properties within the District.

Easements were also created and reserved in favor of each owner in the Cloisters Development for view, open space, scenic, passive recreation and coastal access across the entirety of LOTS 121, 122 and 123, which shall not be developed with any improvements or structures unless necessary and proper for the restoration and maintenance of the Environmentally Sensitive Habitat Area. This is another distinct and special benefit conferred on property within the District.

Moreover, these improvements, and their continued maintenance, were an original requirement for the creation of the residential single family lots within Cloisters and the subsequent development of residential housing in the project.¹ Without the Assessments, these residential lots would not have been approved and created. Consequently, the creation of the residential lots approved for residential development is the primary special benefit from the Assessments. This special benefit is conferred exclusively on property within the District and is not a general benefit to the public at large.

IV. Maintenance Tasks

A list of maintenance tasks required to maintain the Cloisters Park and Open Space in acceptable condition for public use was developed by the City Recreation and Parks Department based on maintenance standards established for existing parks within the City and is included in this report as Attachment A.

1 . It should be noted that the Assessments were unanimously approved prior to Proposition 218 by the owners of all property within the District.

V. Maintenance Costs

The estimated annual cost of maintaining the Cloisters Park and Open Space was developed by the Recreation and Parks Department based on the tasks required and the City's Flat Rate Manual for Parks Maintenance. The annual cost of maintenance for the 2012/13 fiscal year is estimated to be \$148,944. The cost estimate is included in this report as Attachment B. Staff has been directed to outsource the maintenance for the District which may affect the distributions of expenditures.

VI. Apportionment of Assessment

The total assessment for the District is apportioned to each of the one hundred and twenty residential lots equally. Lots 121 and 122 (Parcel 1) Cloisters Park and Open Space, Lot 124 (dedicated for a fire station) and Lot 123 (now Parcel 2) was offered to the State: are not assessed. Individual assessments are listed in the following table:

Parcel/Assessment Table

Lot Number	County Assessor's Parcel Number	Annual Assessment
1	065-387-001	\$1,241.20
2	065-387-002	\$1,241.20
3	065-387-003	\$1,241.20
4	065-387-004	\$1,241.20
5	065-387-005	\$1,241.20
6	065-387-006	\$1,241.20
7	065-387-007	\$1,241.20
8	065-387-008	\$1,241.20
9	065-387-009	\$1,241.20
10	065-387-010	\$1,241.20
11	065-387-011	\$1,241.20
12	065-387-012	\$1,241.20
13	065-387-013	\$1,241.20

Lot Number	County Assessor's Parcel Number	Annual Assessment
14	065-387-014	\$1,241.20
15	065-387-015	\$1,241.20
16	065-387-016	\$1,241.20
17	065-387-017	\$1,241.20
18	065-387-018	\$1,241.20
19	065-387-019	\$1,241.20
20	065-387-053	\$1,241.20
21	065-387-054	\$1,241.20
22	065-387-055	\$1,241.20
23	065-387-023	\$1,241.20
24	065-387-024	\$1,241.20
25	065-387-025	\$1,241.20
26	065-387-026	\$1,241.20
27	065-387-027	\$1,241.20
28	065-387-028	\$1,241.20
29	065-387-029	\$1,241.20
30	065-387-030	\$1,241.20
31	065-387-031	\$1,241.20
32	065-387-032	\$1,241.20
33	065-387-033	\$1,241.20
34	065-387-034	\$1,241.20
35	065-387-035	\$1,241.20

Lot Number	County Assessor's Parcel Number	Annual Assessment
36	065-387-036	\$1,241.20
37	065-387-037	\$1,241.20
38	065-387-038	\$1,241.20
39	065-387-039	\$1,241.20
40	065-387-040	\$1,241.20
41	065-387-041	\$1,241.20
42	065-387-042	\$1,241.20
43	065-387-043	\$1,241.20
44	065-387-044	\$1,241.20
45	065-387-045	\$1,241.20
46	065-388-001	\$1,241.20
47	065-388-002	\$1,241.20
48	065-388-003	\$1,241.20
49	065-388-004	\$1,241.20
50	065-388-005	\$1,241.20
51	065-388-006	\$1,241.20
52	065-388-007	\$1,241.20
53	065-388-008	\$1,241.20
54	065-388-009	\$1,241.20
55	065-388-010	\$1,241.20
56	065-388-011	\$1,241.20
57	065-388-012	\$1,241.20
58	065-388-013	\$1,241.20
59	065-388-014	\$1,241.20

Lot Number	County Assessor's Parcel Number	Annual Assessment
60	065-388-015	\$1,241.20
61	065-388-016	\$1,241.20
62	065-388-017	\$1,241.20
63	065-388-018	\$1,241.20
64	065-388-019	\$1,241.20
65	065-388-020	\$1,241.20
66	065-388-021	\$1,241.20
67	065-388-022	\$1,241.20
68	065-388-023	\$1,241.20
69	065-388-024	\$1,241.20
70	065-388-025	\$1,241.20
71	065-388-026	\$1,241.20
72	065-388-027	\$1,241.20
73	065-388-028	\$1,241.20
74	065-388-029	\$1,241.20
75	065-388-030	\$1,241.20
76	065-388-031	\$1,241.20
77	065-388-032	\$1,241.20
78	065-388-033	\$1,241.20
79	065-388-034	\$1,241.20
80	065-388-035	\$1,241.20
81	065-388-036	\$1,241.20
82	065-388-037	\$1,241.20
83	065-388-038	\$1,241.20
84	065-388-039	\$1,241.20

Lot Number	County Assessor's Parcel Number	Annual Assessment
85	065-388-040	\$1,241.20
86	065-388-041	\$1,241.20
87	065-388-042	\$1,241.20
88	065-388-043	\$1,241.20
89	065-388-044	\$1,241.20
90	065-388-045	\$1,241.20
91	065-388-046	\$1,241.20
92	065-388-047	\$1,241.20
93	065-388-048	\$1,241.20
94	065-388-049	\$1,241.20
95	065-388-050	\$1,241.20
96	065-388-051	\$1,241.20
97	065-388-052	\$1,241.20
98	065-388-053	\$1,241.20
99	065-388-054	\$1,241.20
100	065-388-055	\$1,241.20
101	065-388-056	\$1,241.20
102	065-388-057	\$1,241.20
103	065-388-058	\$1,241.20
104	065-388-059	\$1,241.20
105	065-388-060	\$1,241.20
106	065-388-061	\$1,241.20
107	065-388-062	\$1,241.20
108	065-388-063	\$1,241.20
109	065-388-064	\$1,241.20

Lot Number	County Assessor's Parcel Number	Annual Assessment
110	065-388-065	\$1,241.20
111	065-388-066	\$1,241.20
112	065-388-067	\$1,241.20
113	065-388-068	\$1,241.20
114	065-388-069	\$1,241.20
115	065-388-070	\$1,241.20
116	065-388-071	\$1,241.20
117	065-388-072	\$1,241.20
118	065-388-073	\$1,241.20
119	065-388-074	\$1,241.20
120	065-388-075	\$1,241.20
121	065-386-005	0
122 Parcel 1	065-386-016	0
123 Parcel 2	065-386-017 065-386-018 065-386-019 065-386-012 065-386-013 065-386-014 065-386-010	0
124	065-386-015	0

CLOISTERS PARK AND OPEN SPACE MAINTENANCE TASKS

ROUTINE MAINTENANCE TASKS

Review for vandalism/repair

Outdoor

- | | | |
|---------|---|------------------------|
| Pick-up | ◆ | trash |
| | ◆ | paper |
| | ◆ | cigarette butts |
| Empty | ◆ | 6 trash cans |
| Clean | ◆ | 7 tables |
| | ◆ | 2 drinking fountains |
| Check | ◆ | 5 interpretive panels |
| | ◆ | 2 barbeques |
| | ◆ | bike paths |
| | ◆ | walkways |
| | ◆ | 2 bridges |
| | ◆ | 2 coastal access ways |
| | ◆ | 1 observation pier |
| | ◆ | 1 bike rack |
| | ◆ | 2 play apparatus |
| | ◆ | 25 light bollards |
| | ◆ | play area surface |
| | ◆ | 1 demonstration garden |
| Clean | ◆ | 3 toilets |
| | ◆ | 1 urinal |
| | ◆ | 2 sinks |
| | ◆ | restroom floors/walls |
| | ◆ | 18 benches |
| | ◆ | restock restrooms |

WEEKLY OR AS NEEDED

Mow turf

Edge turf

Remove weeds from demonstration garden, medians, planters

Trim turf around trees, posts and other hard to reach areas

Check and replace failed lamps

Blow all walkways, observation deck and parking lot

BI-WEEKLY OR AS NEEDED

Rake/redistribute gravel under picnic tables and benches
Empty barbeques of ashes
Litter pick-up open space area

MONTHLY OR AS NEEDED

Check new trees and plantings
Check/repair sprinkler system
Trim trees and bushes as needed
Critical parts inspection
New plantings

BI-ANNUALLY OR AS NEEDED

Fertilize turf/planter areas
Paint restrooms, structures, signs, etc.
Seed and aerate turf areas

ANNUALLY OR AS NEEDED

General safety inspection
Annual tree pruning

AS NEEDED

Remove graffiti
Pest/gopher control
Trim and spray paths
Mow open space area
Wetland observation/maintenance

Attachment B

**CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT
MAY 2012**

NAME: Cloisters Landscaping and Lighting Maintenance Assessment District

DIAGRAM: Attached

PLANS AND SPECIFICATIONS: Attached. No bonds or notes will be issued for this Maintenance Assessment District.

ESTIMATED COST OF MAINTENANCE: The following outlines the estimated budget for the maintenance of the Cloisters Park and Open Space for fiscal year 2012/13.

<u>Personnel Services</u>	\$100,308.00
Includes all daily and routine tasks as well as non-routine maintenance and repair costs.	
<u>Supplies</u>	\$ 8,850.00
Includes all supplies used in daily tasks as well as non-routine repair and maintenance.	
<u>Services</u>	\$ 39,786.00
Includes utilities, engineering, insurance and structural repair.	
Total Assessment Estimate:	\$148,944.00
Per Parcel Yearly Assessment \$148,944/120 parcels	\$ 1,241.20

RESOLUTION NO. 22-12

**A RESOLUTION OF THE CITY COUNCIL
DECLARING THE CITY'S INTENTION TO LEVY THE
ANNUAL ASSESSMENT FOR THE MAINTENANCE OF THE
CLOISTERS PARK AND OPEN SPACE**

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

WHEREAS, all property owners of the Cloisters subdivision requested the City of Morro Bay form a maintenance assessment district to fund the maintenance of the Cloisters Park and Open Space; and

WHEREAS, the Landscaping and Lighting Act of 1972 (the "Act") enables the City to form assessment districts for the purpose of maintaining public improvements; and

WHEREAS, pursuant to Section 22623 of the Act, the Engineer has filed in the Office of the City Clerk, and submitted for review to the City Council, a report entitled "Engineers Report - Cloisters Landscaping and Lighting Maintenance Assessment District", May 2, 2012, prepared in accordance with Article 4 of the Act, commencing with Section 22565; and

WHEREAS, pursuant to Section 22608.2 of the Act, the subdivider(s) were required by City Ordinance to install improvements for which an assessment district was required in order to assure continued and uninterrupted maintenance of the Cloisters Park and Open Space; and

WHEREAS, pursuant to the intent of Article XIII, Section 4, of the California Constitution, the property owners have elected to form the Cloisters Landscaping and Lighting Maintenance Assessment District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that it is the intent of the Council to order the annual levy and collection of assessments for the Cloisters Landscaping and Lighting Maintenance Assessment District generally located as shown in Exhibit "A" attached hereto at a public hearing to be held June 26, 2012 at 6:00 p.m. in the Veteran's Memorial Building, 209 Surf Street, Morro Bay, CA.

BE IT FURTHER RESOLVED by the City Council the improvements to be maintained at the Cloisters Park and Open Space are specified in the Engineer's Report dated May 2, 2012, which is hereby approved.

RESOLUTION 22-12
PAGE 2

BE IT FINALLY RESOLVED by the City Council the assessment upon assessable lots within the district is proposed to total \$148,944 or \$1,241.20 per assessable parcel for Fiscal Year 2012/13.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 8th day of May, 2012 by the following roll call vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, MAYOR

ATTEST:

JAMIE BOUCHER, CITY CLERK

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AGENDA NO: B-2

MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 2, 2012

FROM: Joe Woods, Recreation and Parks Director

SUBJECT: Resolution Approving the Engineers Report and Declaring the Intent to Levy the Annual Assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 23-12 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report.

FISCAL IMPACT

Based on the Engineers Report, which estimates the annual costs of maintaining the North Point Natural Area for the upcoming fiscal year, the fiscal impact is estimated at \$5,645. These costs will be offset by the collection of an assessment for the same amount from the parcel owners in the North Point Subdivision.

SUMMARY

On April 10, 2012, the City Council adopted Resolution No. 17-12, which initiated the proceedings to levy the annual assessment to fund the maintenance of the North Point Natural Area. Additionally, staff was directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2012/13. Upon adoption of Resolution No. 23-12, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment.

Prepared By: BAW

Dept. Review: JMW

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

As part of the annual assessment process, staff is required to provide an Engineers Report, which is an estimate of costs for maintenance of the North Point Natural Area. The cost estimates are based on the maintenance standards currently adhered to in the existing parks within Morro Bay and included in the Flat Rate Manual for Parks Maintenance, as well as maintenance costs from the current fiscal year. The estimate for the maintenance of the North Point Natural Area is \$5,645 or \$564.50 per parcel for fiscal year 2012/13.

As with the Cloisters Landscaping and Lighting Maintenance Assessment district, personnel costs as well as supplies and services have risen significantly in the last several years. However, due to the small acreage, natural landscaping and little irrigation in the North Point Natural Area the assessment amount collected is currently adequate to cover the costs of maintenance.

DISCUSSION

The process for the annual levy of assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District requires the City Council to receive the Engineers Report, approve and/or modify the report and adopt a Resolution of Intention. The Resolution of Intention gives notice of the time, date and place for a public hearing by the City Council on the issue of the levy of assessment. The protest hearing/public hearing has been set for June 26, 2012 at the Veteran's Memorial Building. Upon adoption, a summary of the Resolution of Intention shall be published in the newspaper as a legal notice of public hearing, at which all interested parties are afforded the opportunity to be heard either through written or oral communication. In addition, the City sends public notices via first class mail to all property owners on record in the Assessment District. Upon completion of the protest hearing/public hearing on June 26, 2012, the City Council may adopt the resolution ordering the levy of the annual assessment.

RESOLUTION NO. 23-12

**A RESOLUTION OF THE CITY COUNCIL
DECLARING THE CITY'S INTENTION TO LEVY
THE ANNUAL ASSESSMENT FOR THE MAINTENANCE OF THE
NORTH POINT NATURAL AREA**

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

WHEREAS, all property owners of the North Point subdivision requested the City of Morro Bay form a maintenance assessment district to fund the maintenance of the North Point Natural Area; and

WHEREAS, the Landscaping and Lighting Act of 1972 (the "Act") enables the City to form assessment districts for the purpose of maintaining public improvements; and

WHEREAS, pursuant to Section 22623 of the Act, the Engineer has filed in the Office of the City Clerk, and submitted for review to the City Council, a report entitled "Engineers Report North Point Natural Area Landscaping and Lighting Maintenance Assessment", dated May 2, 2012, prepared in accordance with Article 4 of the Act, commencing with Section 22565; and

WHEREAS, pursuant to Section 22608.2 of the Act, the subdivider(s) were required by City ordinance to install improvements for which an assessment district was required in order to assure continued and uninterrupted maintenance of the North Point Natural Area; and

WHEREAS, pursuant to the intent of Article XIII, Section 4, of the California Constitution, the property owners have elected to form the North Point Natural Area Landscaping and Lighting Maintenance Assessment District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that it is the intent of the Council to order the annual levy and collection of assessments for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District generally located as shown in Exhibit "A" attached hereto at a public hearing to be held June 26, 2012 at 6:00 p.m. in the Veteran's Memorial Building, 209 Surf Street, Morro Bay, CA.

BE IT FURTHER RESOLVED by the City Council the improvements to be maintained at the North Point Natural Area are specified in the Engineer's Report dated May 2, 2012 which is hereby approved.

BE IT FINALLY RESOLVED by the City Council the assessment upon assessable lots within the district is proposed to total \$5,645 or \$564.50 per assessable parcel for fiscal year 2012/13.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 8th of May, 2012 by the following roll call vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, MAYOR

ATTEST:

JAMIE BOUCHER, CITY CLERK

CITY OF MORRO BAY
NORTH POINT NATURAL AREA
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT

ENGINEER'S REPORT

Prepared Under the Direction of:

Robert Livick, PE/PLS, City Engineer
Public Services Department
City of Morro Bay

May 2, 2012

CITY OF MORRO BAY
NORTH POINT NATURAL AREA
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT

ENGINEER 'S REPORT

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Maintenance Task List	Attachment A
Detailed Cost Analysis	Attachment B

**NORTH POINT NATURAL AREA
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT**

ENGINEER'S REPORT

I. Project Description

As a condition of approval for Tract No. 2110, the North Point subdivision, the developers were required to offer to the City for dedication Lot 11 of the subdivision for park purposes, and to construct improvements on Lot 11 including a paved parking area, a stairway providing access to the beach, benches, landscaping and irrigation, lighting, and other improvements. The subdivision was also conditioned to provide maintenance of the park by establishing an assessment district. Lot 11 of Tract No. 2110 is identified as the North Point Natural Area.

For a detailed description of the improvements, refer to the plans and specifications on file in the office of the City Engineer.

The owners of the ten residential lots within the North Point subdivision have requested that the City form a maintenance assessment district to fund the maintenance of the North Point Natural Area.

II. Maintenance Tasks

A list of maintenance tasks required to maintain the North Point Natural Area in acceptable condition for public use was developed by the City Recreation and Parks Department based on maintenance standards established for existing parks within the City and is included in this report as Attachment A.

III. Maintenance Costs

The estimated annual cost of maintaining the North Point Natural Area was developed by the Recreation and Parks Department based on the tasks required and the City's Flat Rate Manual for Parks Maintenance. The annual cost of maintenance for the 2012/13 fiscal year is estimated to be \$5,645.00. The detailed cost estimate is included in this report as Attachment B. Staff has been directed to outsource the maintenance for the District which may affect the distributions of expenditures.

IV. Apportionment of Assessment

The total assessment for the District is apportioned to each of the ten residential lots equally. Lot 11, the North Point Natural Area; Lot 12, a private street; and Lot 13, an open space parcel to be granted to the State of California; are not assessed. Individual assessments are listed in the following table:

Parcel/Assessment Table

Lot Number	County Assessor's Parcel Number	Annual Assessment
1	065-082-10	\$564.50
2	065-082-11	\$564.50
3	065-082-12	\$564.50
4	065-082-13	\$564.50
5	065-082-14	\$564.50
6	065-082-15	\$564.50
7	065-082-16	\$564.50
8	065-082-17	\$564.50
9	065-082-18	\$564.50
10	065-082-19	\$564.50
11	065-082-20	\$ 0.00
12	065-082-21	\$ 0.00
13	065-082-22	\$ 0.00

Attachment A

NORTH POINT NATURAL AREA

MAINTENANCE TASKS

Routine Maintenance Tasks

Review for vandalism/repair
Pick-up - paper
trash
cigarette butts
Empty - trash cans
Clean - benches
Check - fencing
beach access stairway
bike rack
lights
planting hillside, erosion

Weekly or as needed

Blow paths, parking lot

Monthly or as needed

Check trees
Check/repair sprinkler system
Trim trees and bushes as needed
Critical parts inspections

Annually or as needed

Paint beach access stairway, public access signage
New plantings (replacement)
General safety inspection
Annual tree pruning
Remove graffiti
Mow open space
Pest/gopher control
Trim and spray paths
Repair public access signage

Attachment B

**NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT
MAY 2012**

NAME: North Point Natural Area Landscaping and Lighting Maintenance Assessment District

DIAGRAM: Attached

PLANS AND SPECIFICATIONS: Attached. No bonds or notes will be issued for this Maintenance Assessment District.

ESTIMATED COST OF MAINTENANCE: The following outlines the estimated budget for the maintenance of the North Point Natural Area for fiscal year 2012/13.

Personnel Services **\$4,800.00**

Includes all daily and routine tasks as well as non-routine maintenance and repair costs.

Supplies **\$ 200.00**

Includes trash liners, round-up and all other supplies in daily tasks as well as non-routine repair and maintenance.

Services **\$ 645.00**

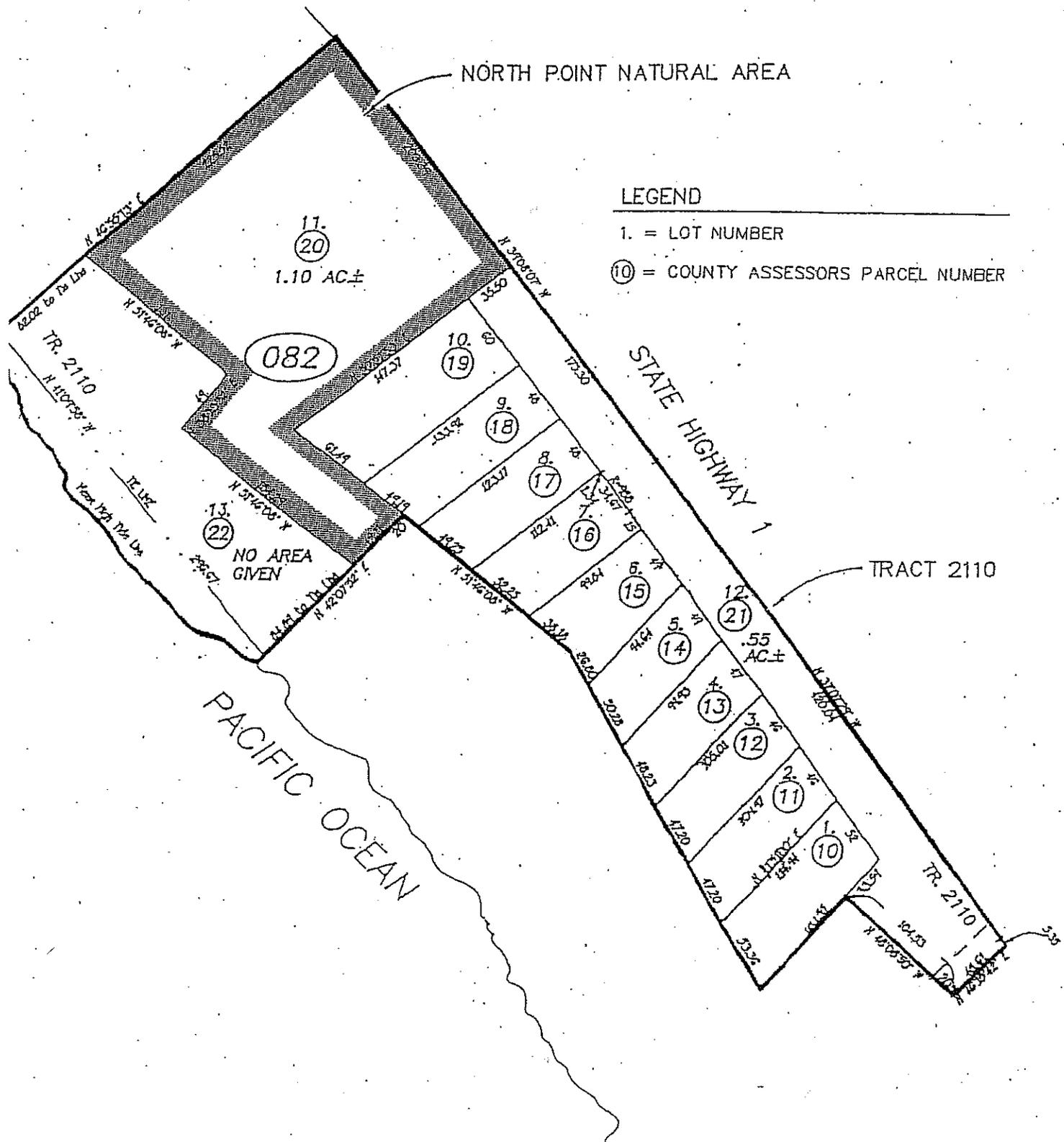
Includes utilities, engineering, insurance and structural repair to stairway and other structures.

Total Assessment Estimate: **\$5,645.00**

Per Parcel Yearly Assessment \$5,645.00/10 parcels **\$ 564.50**

NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT

ASSESSMENT DIAGRAM





AGENDA NO: D-1

MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council DATE: April 30, 2012

FROM: Andrea K. Lueker, City Manager

SUBJECT: Discussion on Local Sportfishing Businesses

RECOMMENDATION

This is a discussion item and as such no recommendation is able to be presented until the City Council direction is provided.

FISCAL IMPACT

Not applicable at this time.

BACKGROUND

During declaration of future agenda items at the March 27, 2012 City Council meeting, member Leage asked that the sportfishing industry be agendaized for a general discussion as the industry has significantly dwindled over the past years. The City Council expressed interest in exploring options to help revitalize the industry in Morro Bay and all 5 members of the City Council concurred with putting this item on a future agenda.

At one time in Morro Bay, there were up to 10 viable sportfishing businesses along the waterfront, however currently there are only 2 companies that conduct sportfishing trips from Morro Bay. In discussing this issue, staff has attached the language of Measure D which passed in 1981 as Measure D may present some constraints to any new options considered north of Beach Street.

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

ORDINANCE NO. 207

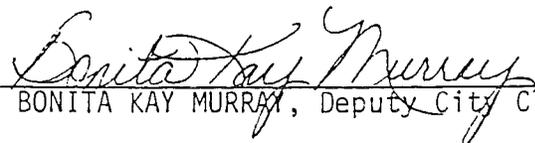
AN ORDINANCE TO RESTRICT FURTHER DEVELOPMENTS
AND USES BETWEEN BEACH STREET AND TARGET ROCK
TO THOSE PRIMARILY SERVING LICENSED COMMERCIAL
FISHING OR RECREATIONAL FISHING

The people of the City of Morro Bay do ordain an ordinance relating to the restriction of further developments and uses between Beach Street and Target Rock to those primarily serving licensed commercial fishing or recreational fishing as follows:

Municipal Code Section 17.36.020C. The City shall not grant any permit, authorization or other approval of any state owned tidelands subject to city lease between Beach Street and Target Rock, unless such development or use is primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or is clearly incidental thereto. For purposes of illustration only, and not by way of limitation, no approval shall be granted for any new passenger for hire boats or supporting facilities, or for any new restaurant, cafe, gift shop or other retail establishments serving the general public, and any existing such uses shall hereafter be considered nonconforming and shall not be expanded or enlarged.

I, BONITA KAY MURRAY, Deputy City Clerk of the City of Morro Bay, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by a majority vote of the electors voting in the special municipal election held in the City of Morro Bay on the 2nd day of June, 1981.

DATED: June 8, 1981


BONITA KAY MURRAY, Deputy City Clerk



AGENDA NO: D-2

MEETING DATE: May 8, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 30, 2012
FROM: Andrea K. Lueker, City Manager
SUBJECT: Confirmation of Goals from the 2012 Goal-Setting Workshop

RECOMMENDATION

Staff is recommending the City Council adopt the attached Goal Setting Workshop Outcomes and Success Factors for 2012 as designated priorities by the City Council of the City of Morro Bay.

FISCAL IMPACT

Not applicable.

BACKGROUND

In November 2007, the City Council determined that conducting an annual Goal Setting Process was an important part of strategic planning for the City of Morro Bay. As a result, in June 2008, the City Council held their first such workshop, facilitated by Amy Paul of Management Partners. The second Goal Setting Workshop was held on February 17 & 18, 2009 with the 2010 Goal Setting Workshop held on March 16 & 17, 2010. The City Council did not hold a separate process in 2011, but held a public workshop entitled "Council Direction on the 2011/2012 City Goals and Priorities" at their March 8, 2011 meeting. On March 6 & 7, 2012 the City Council held a 2 day Goal Setting Workshop facilitated by Rich and Sharon Thomas

DISCUSSION:

Attached is the draft document of the goals established during the March 2012 Goal Setting Workshop. Staff is recommending the City Council adopt the Goals as well as the added "Success Factors"

u.w.council.staff report confirm of goal setting 2012

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

Morro Bay City Council

Goals and Priorities 2012-2013

Goal 1: Operate Efficiently & Effectively

Objective 1: Improve and Streamline the Planning and Permitting Process: – **CC Top Priority**

- Positive mindset –“Can Do Attitude” What can we do to help you get this done?
This mindset will continue to be emphasized to all staff.
- If the answer is “no” present it in a way that the answer can be respected.
This will continue to be stressed with staff.
- Create better efficient use of counter hours by being available between 1:00 to 4:00 PM.
Recently instigated is the ability for individuals to schedule appointments during counter hours, 1:00-5:00 p.m.
- Develop a clear “guide” of what is needed to get through the process – clarify project and list all of the Planning, Permits and Licensing requirements.
Staff will complete a flow chart for different scenarios to make clear what is needed and a potential timeframe for completion.
- Hire intern to help implement some solutions.
Staff has requested an intern from Cal Poly, more likely Summer/Fall 2012.
- Ensure good communication between the City Planning staff, the Chamber of Commerce, and the business/economic development entities.
Staff attends the Economic Development meeting which ensures communication. Should the Chamber be provided some funding for Economic Development, there are other options for working together including but not limited to shared office space, meeting with new business license applicants and combined Public Services counter help.
- Keep City Council informed about sensitive issues related to planning, permitting, and inspections, etc.
On the Friday update, staff will be adding information on current planning, permitting and inspection information.
- Consider conducting an information session with the City Planning Commission and the City Council on local/state/federal regulations, and City Policies and Procedures (format to be determined).
Date and format to be discussed as new City Council members and Planning Commissioners are elected/appointed.

Goal 2: Sustainability

Objective 1: Keep Morro Bay Safe and Vital:

- Hire New Police Chief.
Application deadline 6/11/2012.
- Continue to support SRO/K9.
Staff is committed to the support of the SRO and K-9 programs.
- Review of Disaster Preparedness Plan.
Last review occurred in January, 2008 with plan adoption by Resolution No. 05-08. Next review scheduled Winter 2013, if requested.
 - Include affects of sea level rise.
Sea level rise will be included in the Hazard Mitigation Plan. City is currently working with a consultant to provide a pro bono rewrite.
- Evaluate additional Dispatch Support – reserve position funding.
To be addressed by Council during the budget process June 2012.
- Evaluate additional Code Enforcement position.
To be addressed by Council during the budget process June 2012.
- Consider need for replacement of Ladder Truck.
To be addressed by Council during the budget process June 2012. With power plant outfall agreement, included is \$300,000 for the Fire Department as well \$40,000 annually given forward to 2015.

Objective 2: Create an Economic Development Program:

- Evaluate partnership opportunity with the Chamber of Commerce.
The Chamber will present an Economic Development proposal to City Council for their consideration at the May 22, 2012 meeting.
- Identify funding to implement program.
The City will be considering this issue during the presentation by the Chamber regarding economic development as well as during their budget hearing on June 12, 2012.
- Complete the projects we have started.
 - Parking in North Morro Bay.
Approved at Planning Commission, slated for City Council on May 22, 2012, then to Coastal Commission.
 - Business Façade Improvement.
Secured a 1% reduction from Rabobank, no other banks have responded.
 - Waiver of Commercial impact fees – completed.
3-year waiver put into place in 2011.
- Pursue the “In Business Together” program as an approach.
- Streamline Business License process.
Determine where obstacles exist and determine how changes can be made.
- Educate community about the source of City revenue.
Provide a City revenue description on the website-Fall 2012
- Improve policies and processes that have a negative impact on businesses.
Determine where obstacles exist and determine how changes can be made.
- Business recruitment and retention as a part of the overall economic development plan.

The Chamber will present an Economic Development proposal to City Council for their consideration at the May 22, 2012 meeting.

- Promotional outreach.
- Participate with “Green Business Certificate Program” with Chamber of Commerce.
The participation for this program is ongoing.
- City Manager to ask Chamber of Commerce to bring the plan forward in time for budget decisions.

The Chamber will present an Economic Development proposal to City Council for their consideration at the May 22, 2012 meeting.

Objective 3: Update Sign Ordinance:

- Complete process.
 - To Planning Commission in April 2012.
In progress. Planning Commission started working on the City’s sign program on 5/2/2012. The Commission established a framework for discussion of the various items and consensus was established for 4 sign districts.
 - To City Council as soon as possible after the Planning Commission concludes their work.
The recommendations of the Planning Commission will be presented to the City Council at the next possible meeting after conclusion at the Planning Commission meeting.
- Keep City Council Updated.
Staff will keep the City Council updated through the Friday Update process as well as posting information on the website.

Objective 4: Ensure that Morro Strand State Park Campground Remains Open:

- Ensure City Staff knows it is a priority of the City Council to keep the park open.
Staff is aware, by passage of Resolution No. 15-12, regarding Morro Strand.
- Keep City Council updated.
Staff has provided and will continue to provide updates via the Friday update.
- July 1, 2012 due.
- Keep option for the City to help keep the campground open.

Goal 3: Improve and Maintain Infrastructure

Objective 1: Complete Wastewater Treatment Plant:

- Complete the project plan.
De novo hearing anticipated August 2012.
- Keep cost to a minimum short and long term operations and maintenance.
- Re-writing JPA agreement with Cayucos .
This project will begin after the JPA has an approved project.
- Be open to shifting the “Plan” if appropriate.
- Re-evaluate bio- solids component.

Objective 2: Streets:

- Approved Plan 7 months ago and allocated resources – will be out to bid by end of month.
30 day turnaround time.
Completed.

- Contract in front of City Council by last meeting in April 2012.
Contract awarded at April 24, 2012 City Council meeting.
- Prioritize Business (Commercial) Districts to be done by Memorial Day.
Included in the contract awarded at the April 24, 2012 City Council meeting. Construction of this year's program is to commence on May 14th and completion in 45 working days. The first order of work will be Main Street, Embarcadero and Quintana.
- Residential to be completed after business and commercial.
Included in contract awarded at the April 24, 2012 City Council meeting.

Objective 3: Storm Drains:

- Continue to pursue low impact development in relationship to runoff.
Ongoing.
- Coordinate projects with street work.
Ongoing.

Objective 4: Sewer System:

- Continue replacement and relining of pipes.
Ongoing.
- Continue replacement of Lift Systems – funded.
Lift station I in progress, lift station II will go out to bid on May 29, 2012 and we anticipate award at the July 10, 2012 City Council meeting.

Objective 5 Capital Improvement Projects:

- Currently have a 5 year CIP Plan, part of Budget process – not funded.
5-year CIP updated yearly and included in budget for City Council approval.
- Develop ways to fund CIP.
Ongoing.
- Pursue all funding sources.
Ongoing.
- Continue with City Council involvement in setting priorities in CIP.
5-year CIP updated yearly and included in budget for City Council approval.
- Ensure rehabilitation of T Pier and floating docks is included in the CIP.
T-Pier in progress, other floating docks and piers in CIP which are reviewed and approved by the City Council annually.

Objective 6: Buildings:

- Find ways to fund ADA requirements.
 - Include ADA accessibility at Coleman park and other similar locations.
Included on the 5-year CIP.
- Maximize use of facilities – we currently use too much space for storage can be used for higher purposes.
Currently the only two facilities that are used for storage are buildings A & B located on the south east end of the parking lot at 714 Embarcadero and Fire Station II located on Bonita St.
- Move “Transit” and utilize that space.
December 2012 goal.

- Better parking facilities for bicycles at public facilities and meeting places.
Make sure the “Racks with Plaques” program information is available for sponsorship.
- Continued maintenance of buildings.
Ongoing.
- Determine use of current Fire Department structure and space when new building is complete.
Bring back to City Council for review of options for the structure and future use of the site to include the Civic Center plans from past.

Objective 7: North Morro Bay:

- Work with City and Cal Trans to improve signage for businesses.
Staff will contact CalTrans “local assistance” regarding additional business related directional signage.
- Increase recreational opportunities of bike pathways and beach pathways through better signage.
More signage will be installed in conjunction with the MB/Cayucos Connector, from Cloisters to North Point, time frame is unknown at this time.
City has also applied for a BTA Grant to improve the connectivity between the bike paths at Atascadero Road.
- Continue to repair potholes and patching while seeking funding for larger pavement restoration projects.
Ongoing, yearly an allocation of funding is provided in the annual streets budget for this work through adoption of the budget.
- Pursue “Complete Streets” funding specific to North Morro Bay.
As grant opportunities become available, the City will continue to apply for such funds.
Complete Streets is a required component of the Circulation Element update of the General Plan.
- Continue pursuing “Safe Routes to School” funding.
The City applied for the last round of funding for the grant.

Objective 8: Bridge Over Morro Creek to Connect Boardwalk on Embarcadero:

- Staff should start design and permitting process now, using USHA funds (\$100k).
Staff will request USHA funding for this project when staff meets with SLOCOG staff In May 2012 for the FTIP Discussion.

Objective 9: The Rock:

- Landscape and improve parking and recreation at the Rock – no current plan.
The improvements to the Rock parking lot was added to the overall Morro Bay Northern Waterfront Improvement Plan and went to the Recreation and Parks Commission in March 2012, scheduled for the June 2012 Public Works Advisory Board meeting and will go to Harbor Advisory Board in late summer/early fall 2012.
- Include in the budget discussion the updating of trash receptacles to the bird-proof style.
This item was discussed at the City Council meeting on April 24, 2012 with direction to staff to bring back further information on purchase of the compacting trash cans by June 26, 2012.
- Improve parking access to restrooms (include in budget).
This improvement is included in the Morro Bay Northern Waterfront Improvement Plan, but could be done in a more timely fashion through allocating budget dollars to the project.

- Increased maintenance of parking lot surface.
Increased grading quarterly with additional grading materials (40 yards) is possible and can be accomplished in the upcoming year at \$1,500 per application.
- Include discussion of “lighting” in the public process.

Objective 10: Water Supply:

- Restore quality of aquifers.
Ongoing.
- Continue conservation efforts of city owned properties i.e. parks.
Ongoing.
- Solve Chorro and Morro water issues.
Ongoing.
- Keep Desal plant maintained and ready.
Ongoing operations.
- Develop public education for water conservation efforts.
Currently the City works in tandem with the other cities in the county to provide materials on water conservation.

Goal 4: Promote Morro Bay

Objective 1: Resolve Tourism Director Issue:

- Looking to merge Promotion Boards.
Community Promotions was dissolved at the February 28, 2012 City Council meeting and has stopped meeting as an advisory board after their March 15, 2012 meeting.
- Stronger Partnership with City.
- Determine what is the “Mission” and budget for the Tourism Director.
This task will be the responsibility of the new 501c6 which will be formed by July 2012.
- Determine where the “regional marketing” fits.
This task will be the responsibility of the new 501c6 which will be formed by July 2012.
- Events.
The responsibility of the events will be a discussion item between the Chamber, City Council and the new 501c6.
- Visitor Center.
This task will be the responsibility of the new 501c6 which will be formed by July 2012.
- What is left to be done?
 - City Attorney set up 501c6 by July 1, 2012.
 - Resolve structure (plan in place) by end of 2012.
 - Complete any mergers and establish “new board” by end of 2012.
 - Hiring and placement of Tourism Director.
 - Find suitable space to house offices of new Director.
 - Approve new budget.

Goal 5: Harbor

Objective 1: Re-evaluate the Implementation of Measure D:

- Bring to City Council for Discussion.
This item has been placed on the agenda planning guide for a future City Council meeting.

Ongoing Goals

- Continue to seek alternative funding sources
- Environmental Stewardship
- Continue to find cost saving energy options (including energy generation and energy efficiency)
- Supporting and protecting the fishing industry

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combination cleaner (Hydro-Vac), trailer-mounted jetter, three emergency generators, a diesel powered hydraulic pump, maintains an inventory of spare pumps and motors, confined space entry and safety equipment, and other tools and equipment. The division does have a scheduled preventive maintenance and enhanced maintenance program to maintain the system, and contracts Closed Circuit Television (CCTV) inspection and records historical data about the system, to prioritize maintenance activities. The programs meet many of the requirements of the Waste Discharge Requirements (WDR). The WDR requires that these activities be assessed and codified by specified deadlines.

The Wastewater (Treatment) Division of Public Services is comprised of eight trained and certified personnel. Bruce Keogh is currently both the Wastewater Division Manager and the Laboratory Director. Reporting to Bruce is Les Girvin, WWTP Supervisor who supervises the day to day operations and maintenance of the plant.

The Collections Division works closely with the WWTP and staff to actively identify and eliminate sources of inflow (rainwater runoff) and infiltration (of groundwater), known as I&I within the collections system. Reducing the volume of I&I entering the collection system minimizes the amount of non-wastewater unnecessarily processed by the WWTP. Furthermore both divisions work together in regards to source control to prevent unwanted and regulated constituents from entering the treatment process. Treatment plant personnel have maintained a diligent and proactive preventative maintenance program that includes major preemptive repairs of various components of the treatment process and the outfall. The Collections Division has assisted by providing both staffing and equipment for some of these activities, such as headworks maintenance and effluent flowmeter repair.

Both wastewater divisions have reporting requirements to the RWQCB through the NPDES Permit or the WDR. Additionally there are many commonalities between the two divisions that make management under a common manager beneficial to the City. Both divisions implement confined space entry programs in similar environs, both use lock-out-tag-out procedures during equipment repairs and, both divisions have employees whose expertise is working with wastewater and have been educated and are certified in that field. The combination of the two divisions would also allow for potential of cross training, based on the needs of the City, in both the collection and treatment of wastewater under common management.

The proposed reorganization will place additional managerial workload on the Wastewater Division Manager for the general management of Wastewater Collections. This will result in a diversion of between 10 to 25-percent of the Wastewater Division Manager's time away from treatment plant operations and he will need to rely on the Treatment Plant Supervisor and the operations staff to increase their efficiencies. This proposal increases the salary range of the Wastewater Division Manager to that commensurate with the Capital Projects Manager and Police Commander.

Because of our agreement with the Cayucos Sanitary District and the way that we apportion costs for the treatment plant operations, the Wastewater Division manager or treatment plant staff will need to keep track of the time spent working outside of the treatment plant so the treatment plan costs can be correctly apportioned between the City and the Cayucos Sanitary District.

CONCLUSION:

This reorganization and associated personnel actions allow the department to respond to State-mandated and locally instituted programs in Wastewater Collections, and the heavy workload in capital project management. There are no financial implications to the General Fund. As stated in the Fiscal Impact section, the annual budget impact is \$6,300, or approximately \$1/10 of 1-percent to the sewer fund. The Public Services Director will evaluate the change in duties and update City Council with any other recommended adjustments.