

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING

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.

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

**PUBLIC SESSION – SEPTEMBER 25, 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 SEPTEMBER 11, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 ADOPTION OF FAIR POLITICAL PRACTICES (FPPC) FORM 806 RELATING TO APPOINTMENTS OF COUNCILMEMBERS TO OUTSIDE COMMITTEES, BOARDS, AND/OR COMMISSIONS FOR WHICH COMPENSATION IS PAID PURSUANT TO CALIFORNIA CODE OF REGULATIONS §18705.5; (ADMINISTRATION AND CITY ATTORNEY)

RECOMMENDATION: Adopt the FPPC approved and required Form 806 listing all Council Appointments for which compensation is received as well as direct the City Clerk to post Form 806 on the City’s website.

A-3 RESOLUTION NO. 39-12 ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY FIREFIGHTERS AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 39-12.

A-4 DELAYED PROJECT STATUS REPORT; (ADMINISTRATION)

RECOMMENDATION: Review the quarterly Delayed Project Status Report.

A-5 A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING OCTOBER, 2012 AS “RIDESHARE MONTH”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation

B. PUBLIC HEARINGS, REPORTS & APPEARANCES - None

C. UNFINISHED BUSINESS - None

D. NEW BUSINESS

D-1 DISCUSSION OF THE REQUEST BY 600 MORRO BAY LP FOR THE REMOVAL OF AFFORDABLE HOUSING DEED RESTRICTIONS AT 600 MORRO BAY BLVD AND TO ALSO WAIVE THE AFFORDABLE HOUSING IN-LIEU FEE; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Abide by the City’s adopted 2009 Housing Element, and either leave the deed restriction in place or require the payment of the affordable housing in-lieu fee.

D-2 DISCUSSION ON THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT’S (TBID) REQUEST FOR ADDITIONAL FUNDING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Direct staff to review this request at mid-year budget review.

D-3 REPORT ON FINDINGS OF PLANNING STUDY COMMITTEE; (ADMINISTRATION)

RECOMMENDATION: Review the results from the Planning Study Committee process as well as the changes that have been incorporated to date, and provide staff with further direction to include continuing to work toward solutions from the Planning Study Committee results.

D-4 DISCUSSION OF DRAFT OF MENACING AND AGGRESSIVE ANIMAL ORDINANCE; (ADMINISTRATION)

RECOMMENDATION: Review the draft Menacing and Aggressive Animal Ordinance, make amendments to said Ordinance and schedule the Introduction and First reading for the October 9, 2012 City Council meeting.

D-5 REVIEW OF DRAFT AMENDMENTS TO CHAPTER 10.76 OF THE MORRO BAY MUNICIPAL CODE ENTITLED COASTERS, ROLLER SKATES, SKATEBOARDS, SCOOTERS, EPAMDS AND SIMILAR DEVICES; (CITY ATTORNEY)

RECOMMENDATION: Review the attached draft Chapter 10.76 entitled Coasters, Roller Skates, Skateboards, Scooters, EPAMDs and Similar Devices and direct staff to return this item with any changes for Introduction and First Reading at a public hearing.

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: 09/25/2012

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 11, 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
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Eric Endersby	Harbor Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT – There was no Closed Session Meeting held this evening.

PUBLIC COMMENT

Paul Finley owner of Sojourner Surfboards, located at 986 Quintana presented the Morro Bay Business Report. Paul feels blessed to live in Morro Bay with his wife and 3 daughters. Sojourner Surfboards has been building custom surfboards since 2009 and are now branching off into screen printing. Paul is also involved in Project Surf Camp as a board member; Sojourner is completely behind this project for kids with special needs. He can be reached at 805 904-5079, at sojournersurfboards.com or at sojournerscreenprinting.com.

Robert “Red” Davis spoke representing the SLO Bicycle Club advertising their annual bike event, the 41st Annual Lighthouse Bike Ride. They expect over 1400 riders and monies raised through this fundraising effort goes towards local high school scholarships, college scholarships and community events. The event starts at MBHS, goes to Piedras Blancas Lighthouse Station and ends back at MBHS.

Hank Roth advertised the upcoming Avocado Margarita Festival. The event is being held this Saturday from 11am-6pm and Sunday from 11am-3pm. The days will be filled with fun, food and entertainment. Additional information can be found at avomargfest.com.

Dick Winiker resident at 555 Piney Way, Unit B spoke bringing to the attention of staff and Council that there is a rooster living nearby who crows at all times of the day. He played a tape of the crowing rooster in hopes that the situation can be rectified. He stated he brought this to our attention over 3 weeks ago and he feels it shouldn't take that long to handle it.

Michael Durick spoke regarding three items. He first urged Council to unanimously adopt Resolution 46-12, Affirming the Intended Use of the City's One-half Cent District Transaction Tax (Measure Q) as written, as it is entirely consistent with the intent of the voters. He also spoke on the Confidential Agreement regarding Section 6.5.5 – Approval of Compensatory Time-off, stating that the term “shall” was used inaccurately and recommended that section be revised to give management their due rights. He also spoke regarding the accumulated vacation time allowed feeling that it is quite excessive. He finally spoke on item D-1, Discussion and Approval of the Chamber of Commerce Economic Development Proposal and Lease Conditions for City Property feeling that if we rented the property to the Chamber for \$1/year, we would be giving much too much away and that instead it should be put out for an RFP for business people to bid on.

Sandy Tandler spoke regarding the WWTP project. After reading the Coastal Commission letter she was shocked by the fact that people would want to move the plant so badly they would provide faulty information. She is concerned about the cost of moving the plant and wondered what the agenda behind moving the plant is.

Suzanne Moyer asked a few questions regarding the WWTP project. She wondered how the Righetti property became involved. And how can we afford the plant at this new location?

John Solu spoke representing the Harbor Festival Organization on item D-1. The Harbor Festival is a non-profit organization that has an over \$400,000 impact to Morro Bay. They would like the opportunity to rent any City facility that may become available. He requested we respect other non-profits to rent space at a reduced rate as well.

Aaron Ochs, managing editor of The Rock thanked the City for placing the Seismic testing information on our website page. He said The Rock is dedicated to covering the City's side, the fishermen's side and the resident's side of this issue. He feels it is important to get the information into the hands of people that can make a difference.

Susan Stewart spoke on item D-1 encouraging the Council to approve the Chambers Economic Development Proposal and a 5 year lease of the Fire Department modular building at 695 Harbor. She feels they have provided a very viable and timely plan and that the City providing a facility would show that Morro Bay cares about growth and development.

Benjamin Terria has been a commercial fisherman for 17 years and is deeply concerned about our local waters. He feels that if the Seismic testing were to occur at the recommended decibel levels, it will kill everything in our waters which will obviously affect our entire local economy very badly. He hopes we will do what we can to stop it.

Wanda Durrick spoke on item D-1 stating that Morro Bay is not “swimming in money”. The Fire Department modular building can be a source of income for the City. If we are to give it away, then at least we should be giving other non-profits the ability to have a chance at it.

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 AUGUST 28, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 42-12 ADOPTING THE AGREEMENT WITH THE MORRO BAY CONFIDENTIAL EMPLOYEES AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 42-12.

A-3 RESOLUTION NO. 41-12 ESTABLISHING THE COMPENSATION AND WORKING CONDITIONS FOR MANAGEMENT EMPLOYEES OF THE CITY OF MORRO BAY; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 41-12.

A-4 ADOPT RESOLUTION NO. 47-12 AUTHORIZATION FOR THE EXECUTION OF THE CERTIFICATIONS AND ASSURANCES FOR THE PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT, AND SERVICE ENHANCEMENT ACCOUNT BOND PROGRAM; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution 47-12.

A-5 PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING THE MONTH OF OCTOBER, 2012 AS “ENERGY AWARENESS MONTH”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-6 RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO 2012/2013 \$80,000 BOATING SAFETY AND ENFORCEMENT GRANT CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

RECOMMENDATION: Adopt Resolution 48-12

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA OPPOSING THE CENTRAL COASTAL CALIFORNIA SEISMIC IMAGING PROJECT; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 49-12.

A-8 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AFFIRMING THE INTENDED USE OF THE CITY'S ONE-HALF CENT DISTRICT TRANSACTION TAX, COMMONLY KNOWN AS MEASURE Q; (CITY COUNCIL)

RECOMMENDATION: Adopt 46-12.

Councilmember Smukler pulled Items A-2 and A-8 from the Consent Calendar.

MOTION: Councilmember Smukler moved the City Council approve Items A-1, A-3, A-4, A-5, A-6, and A-7 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

A-2 RESOLUTION NO. 42-12 ADOPTING THE AGREEMENT WITH THE MORRO BAY CONFIDENTIAL EMPLOYEES AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

Councilmember Smukler pulled Item A-2 questioning Section 6.5.5 of the Confidential Agreement and asked whether or not it would be prudent to make the change that the speaker in public comment recommended. Staff stated that they would make the change to remove the word "shall" and replace it with "may".

MOTION: Councilmember Smukler moved the City Council approve Item A-2 with the proposed change. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

A-8 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AFFIRMING THE INTENDED USE OF THE CITY'S ONE-HALF CENT DISTRICT TRANSACTION TAX, COMMONLY KNOWN AS MEASURE Q; (CITY COUNCIL)

Councilmember Smukler pulled Item A-8 requesting that an addition be made to Item #4 as he feels that as it currently reads, "Storm Drain Maintenance", it is too restrictive. He proposed to add the phrase "...and improve water quality". Councilmembers Borchard and Johnson felt that statement was too vague. It was then proposed to use the following language found in the advertisements, "... and prevention of toxic runoff into the Bay."

MOTION: Councilmember Smukler moved the City Council approve Item A-8 with the following addition to Item #4 – Storm Drain Maintenance *and Prevention of Toxic Runoff into the Bay*. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

- B. PUBLIC HEARINGS, REPORTS & APPEARANCES - None
- C. UNFINISHED BUSINESS - None
- D. NEW BUSINESS
- D-1 DISCUSSION AND APPROVAL OF THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PROPOSAL AND LEASE CONDITIONS FOR CITY PROPERTY LOCATED AT 695 HARBOR STREET; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Chamber of Commerce Executive Craig Schmidt made his presentation to the Council. He reviewed prior presentations stressing that they would be able to provide for retention and expansion of businesses; recruitment of businesses; and entrepreneurial development. To measure impacts they would provide a monthly business barometer which will track vacancies, new businesses in town, TOT receipts, employment numbers, sales tax and businesses served with exit survey results. He also discussed the use of the Fire Department modular building. This building would provide the partner space needed to fully develop the economic development proposal as well as ensure the space necessary for the business incubator program.

Councilmember Smukler is fully in support of this concept. He stressed that the City would be able to monitor progress through monthly business barometer reports which can include budget reports.

Councilmember Leage fully supports the Chamber of Commerce and feels they are going in the right direction but has concerns about the \$1/month rent as he feels we will run into problems with other non-profits as well as the public.

Mayor Yates doesn't feel that the Chamber is equitable to the Harbor Festival as we've always given money to the Chamber. He feels our job is to support the Chamber so that more monies come into City Hall. He continues to support this concept in its entirety.

Councilmember Johnson is a firm supporter of economic development in Morro Bay. She posed some questions to Mr. Schmidt regarding the qualifications of the Economic Development Director as well as how the office space will be utilized. She feels that we can have an economic development program without the use of the Fire Department.

Councilmember Borchard was concerned that not all the partners that the Chamber has said would participate in the program may on board. She feels that it is the Chamber's responsibility to set the milestones, not the City's. She also feels we are indirectly competing with rentals in Morro Bay. She has a problem with \$1/year rent without giving other non-profits the same opportunity. She doesn't feel she can make any decision tonight without answers to some questions.

Councilmember Smukler is in favor of moving forward with this as many of the questions have either already been answered or are on the pathway to being answered. He stated that during the Goal Setting Workshop, Economic Development was Council's #2 priority. He feels we have

provided the Chamber with a moving target and they have continually stepped up to the plate. He also feels that nothing has a higher value than having the economic development program succeed. The \$1/year is an investment that will bring returns back to the City. This is a new program and it is important for us to provide them with the tools to succeed.

City Attorney reminded Council that at the last Council meeting, in a motion, they already approved the 695 Harbor building for the Chamber's use and that tonight is to be about lease terms.

Mayor Yates is in favor of coming back with more clarity but is also in favor of the \$1/year lease.

Councilmember Borchard feels it is important to receive fair market value of the rent if the Chamber is receiving rent from the incubator businesses or feels they can take below fair market value if the money coming in from the incubator businesses goes back to the City. She needs a clearer picture.

Councilmember Johnson would like to see the benchmarks more clearly defined and wondered how they would be measured and by whom? What business partners are going to participate and for how long? Will they need office space?

Councilmember Leage feels that we need to charge fair market value if the Chamber is making money on the incubator businesses.

ACTION: This item is to be brought back to a future meeting with a lease agreement to include terms containing fair market value and a range of options of what we could rent it for; and a second portion of the agreement dealing with the economic development proposal and measurable milestones/benchmarks.

E. DECLARATION OF FUTURE AGENDA ITEMS - None

ADJOURNMENT

The meeting adjourned at 7:55 p.m.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A-2

MEETING DATE: 9/25/12

Staff Report

TO: Honorable Mayor and City Council

DATE: September 19, 2012

FROM: Jamie Boucher, City Clerk
Robert Schultz, City Attorney

SUBJECT: Adoption of Fair Political Practices (FPPC) Form 806 Relating to Appointments of Councilmembers to Outside Committees, Boards, and/or Commissions for which Compensation is Paid Pursuant to California Code of Regulations §18705.5

RECOMMENDATION

Staff recommends the City Council adopt the FPPC approved and required Form 806 listing all Council Appointments for which compensation is received as well as direct the City Clerk to post Form 806 on the City's website.

FISCAL IMPACT

Not applicable.

DISCUSSION

The Mayor makes appointments to which the City Council approves, of its members to positions on outside governing boards, some of which may provide compensation to the appointment member. In March of this year, the Fair Political Practices Commission (FPPC) voted to adopt an amendment to California Code of Regulation, Title 2, Section 18705.5. A copy of Section 18705.5 is attached. The new regulation now clearly authorizes public officials to vote on their own appointments to compensated positions on various types of boards and commissions.

Before a public official may participate in a decision to appoint themselves to a compensated position, Section 18705.5 requires a new Form 806 be adopted by the public agency and posted on the website. Form 806, adopted by the FPPC in May, requires public agencies to list the following: 1) each appointed position for which compensation is paid; 2) the salary or stipend for each appointed position; 3) the name of the public official and their alternate who has been appointed to the position; and, 4) the term of the position.

The City Clerk has compiled the necessary information for which compensation is received. This

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

information has been included on the attached Form 806, which serves as the City's report of all compensated public official appointments. Upon adoption of Form 806, the City Clerk will post Form 806 on the City's website. As new appointments are made, Form 806 must be amended to reflect those new appointments. This form will be referenced in future public official appointments and will be updated after future changes in appointments, compensation and/or meeting schedules occur.

CONCLUSION:

City Council adopt Form 806 and direct the City Clerk to post the Form on the City's website.

**Agency Report of:
Public Official Appointments**

A Public Document

1. Agency Name City of Morro Bay		California Form 806 For Official Use Only	
Division, Department, or Region (If Applicable)			
Designated Agency Contact (Name, Title) Jamie Boucher, City Clerk			
Area Code/Phone Number (805) 772-6205	E-mail jboucher@morro-bay.ca.us	Page <u>1</u> of <u>1</u>	Date Posted: (Month, Day, Year)

2. Appointments

Agency Boards and Commissions	Name of Appointed Person	Appt Date and Length of Term	Per Meeting/Annual Salary/Stipend
San Luis Obispo Council of Governments (SLOCOG)	▶ Name <u>Yates, William</u> <small>(Last, First)</small> Alternate, if any <u>Borchard, Carla</u> <small>(Last, First)</small>	▶ <u>01 / 10 / 12</u> <small>Appt Date</small> ▶ <u>one year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>100.00</u> ▶ Estimated Annual: <input checked="" type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other
Air Pollution Control District (APCD)	▶ Name <u>Smukler, Noah</u> <small>(Last, First)</small> Alternate, if any <u>Yates, William</u> <small>(Last, First)</small>	▶ <u>01 / 10 / 12</u> <small>Appt Date</small> ▶ <u>one year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>100.00</u> ▶ Estimated Annual: <input checked="" type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other
California Joint Powers Authority (CJPIA)	▶ Name <u>Yates, William</u> <small>(Last, First)</small> Alternate, if any _____ <small>(Last, First)</small>	▶ <u>01 / 10 / 12</u> <small>Appt Date</small> ▶ <u>one year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>100.00</u> ▶ Estimated Annual: <input checked="" type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other
	▶ Name _____ <small>(Last, First)</small> Alternate, if any _____ <small>(Last, First)</small>	▶ _____ <small>Appt Date</small> ▶ _____ <small>Length of Term</small>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other

3. Verification

I have read and understand FPPC Regulation 18705.5. I have verified that the appointment and information identified above is true to the best of my information and belief.

_____ <small>Signature of Agency Head or Designee</small>	Jamie Boucher <small>Print Name</small>	City Clerk <small>Title</small>	09/12/2012 <small>(Month, Day, Year)</small>
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Comment: _____

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18705.5. Materiality Standard: Economic Interest in Personal Finances.

(a) A reasonably foreseeable financial effect on a public official's or his or her immediate family's personal finances is material if it is at least \$250 in any 12-month period. When determining whether a governmental decision has a material financial effect on a public official's economic interest in his or her personal finances, neither a financial effect on the value of real property owned directly or indirectly by the official, nor a financial effect on the gross revenues, expenses, or value of assets and liabilities of a business entity in which the official has a direct or indirect investment interest shall be considered.

(b) The financial effects of a decision which affects only the salary, per diem, or reimbursement for expenses the public official or a member of his or her immediate family receives from a federal, state, or local government agency shall not be deemed material, unless the decision is to appoint, hire, fire, promote, demote, suspend without pay or otherwise take disciplinary action with financial sanction against the official or a member of his or her immediate family, or to set a salary for the official or a member of his or her immediate family which is different from salaries paid to other employees of the government agency in the same job classification or position, or when the member of the public official's immediate family is the only person in the job classification or position.

(c) Notwithstanding subsection (b), pursuant to Section 82030(b)(2) and Regulation 18232, a public official may make, participate in making, or use his or her official position to influence or attempt to influence, a government decision where all of the following conditions are satisfied:

(1) The decision is on his or her appointment as an officer of the body of which he or she is a member (e.g., mayor or deputy mayor), or to a committee, board, or commission of a public agency, a special district, a joint powers agency or authority, a joint powers insurance agency or authority, or a metropolitan planning organization.

(2) The appointment is one required to be made by the body of which the official is a member pursuant to either state law, local law, or a joint powers agreement.

(3) The body making the appointment referred to in paragraph (1) adopts and posts on its website, on a form provided by the Commission, a list that sets forth each appointed position for which compensation is paid, the salary or stipend for each appointed position, the name of the public official who has been appointed to the position and the name of the public official, if any, who has been appointed as an alternate, and the term of the position.

COMMENT: Cross-references: For the definition of "immediate family," see Government Code section 82029.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
2. Change without regulatory effect amending section heading filed 3-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 13).
3. Editorial correction of History 1 (Register 2000, No. 25).

4. Amendment of section heading and section filed 1-17-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 3).
5. Amendment of subsection (a) filed 1-16-2002; operative 2-15-2002 (Register 2002, No. 3).
6. Amendment of subsection (b) filed 6-21-2005; operative 7-21-2005 (Register 2005, No. 25).
7. Amendment of subsection (a) filed 12-18-2006; operative 1-17-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
8. New subsections (c)-(c)(3) filed 4-23-2012; operative 5-23-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 17).



AGENDA NO: A-3

MEETING DATE: 09/25/2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 17, 2012
FROM: Susan Slayton, Administrative Services Director/Treasurer
SUBJECT: Resolution No. 39-12 Adopting the Memorandum of Understanding with the Morro Bay Firefighters and Related Compensation

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 39-12, approving the Memorandum of Understanding with the Morro Bay Firefighters. The term of the MOU is from September 26, 2012 through June 30, 2013.

FISCAL IMPACT

As per City Council's direction, this MOU reflects minimal cost to the City (approx \$3,000 in health insurance).

SUMMARY:

The July 1, 2011 – June 30, 2012 MOU is currently on the City's website (link: "Employee Compensation Information"). The proposed September 26, 2012 – June 30, 2013 MOU, which is attached in a draft blue-lined format, includes no substantive changes.

The MOU has been ratified by the Morro Bay Firefighters.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

RESOLUTION NO. 39-12

**RESOLUTION OF THE CITY OF MORRO BAY
ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY
FIREFIGHTERS AND RELATED COMPENSATION**

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

WHEREAS, in accordance with the provisions of the California Government Code Section 3500 et. seq. and Resolution No. 74-69 of the City of Morro Bay, the City's representatives have met and conferred in good faith pertaining to the subject of wages, benefits and conditions of employment with the Morro Bay Firefighters; and

WHEREAS, the meetings between the Morro Bay Firefighters, and the City have resulted in a mutual agreement and understanding to recommend that the employees represented by the Morro Bay Firefighters, accept all of the terms and conditions, as set forth in a Memorandum of Understanding as attached and made a part of this Resolution herewith; and

WHEREAS, the City now desires to provide said salaries, benefits and conditions to said Fire employees of the City of Morro Bay.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, that it hereby approves and adopts, in full, the Memorandum of Understanding for the period September 26, 2012 through June 30, 2013, as attached and made a part of this Resolution.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay that the City Manager is hereby authorized to execute the Memorandum of Understanding on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a meeting thereof held this 25th day of September, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

WILLIAM YATES, Mayor

JAMIE BOUCHER, City Clerk

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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE MORRO BAY FIRE FIGHTERS
AND THE CITY OF MORRO BAY**
2011-2012-2013

ARTICLE 1 PURPOSE

WHEREAS, the City of Morro Bay is a municipal corporation existing under the laws of the State of California as a general law city; and

WHEREAS, the City of Morro Bay is limited, insofar as funds are concerned, because of a fixed tax rate; and in structure because it is a public entity rather than a profit-making business; and

WHEREAS, the Morro Bay Fire Fighters and the City of Morro Bay recognize that the mission and the purpose of the City is to provide high-quality and economical municipal services and facilities to the residents of the City of Morro Bay:

THEREFORE, this Memorandum of Understanding is entered into as of ~~December 13, September 26, 2011~~2012, between the City of Morro Bay, referred to as CITY, and the Morro Bay Fire Fighters, referred to as MBFF.

It is the intent and purpose of this memorandum to assure sound and mutually beneficial working and economic relations and conditions between the parties hereto; to provide for an orderly and peaceable method and manner of resolving any differences which may arise and to negotiate any misunderstanding which could arise and to set forth herein the basic and full agreement between the parties concerning the pay, wages, hours of employment, and other terms and conditions of employment.

ARTICLE 2 MANAGEMENT

- 2.1 In order to ensure that the City shall continue to carry out its public safety functions, programs, and responsibilities to the public imposed by law, and to maintain efficient public safety service for the citizens of Morro Bay, the City continues to reserve and retain solely and exclusively all management rights, regardless of the frequency of use, including those rights and responsibilities set forth by law and those City rights set forth in the City's Personnel Rules and Regulations and including but not limited to the following:
 - 2.1.1 To manage the Fire Department and determine policies and procedures and the right to manage the affairs of the Department.
 - 2.1.2 To determine the existence or nonexistence of facts which are the basis of the management decision in compliance with State law.

- 2.1.3 To determine the necessity, organization, implementation, and termination of any service or activity conducted by the City or other government jurisdiction and to expand or diminish fire services.
- 2.1.4 To direct, supervise, recruit, select, hire, evaluate, promote, transfer, discipline, discharge, terminate, demote, reduce, suspend, reprimand, withhold salary increases and benefits for disciplinary reasons, or otherwise discipline employees in accordance with Department or City rules, regulations, or ordinances.
- 2.1.5 To determine the nature, manner, means, extent, type, time, quantity, quality, technology, standard, and level of fire services to be provided to the public.
- 2.1.6 To require performance of other public safety services not specifically stated herein in the event of emergency or disaster, as deemed necessary by the City.
- 2.1.7 To lay off employees of the Fire Department because of lack of work or funds or under conditions where continued work would be inefficient or nonproductive or not cost effective, as determined by the City.
- 2.1.8 To determine and/or change the fire facilities, methods, technology, equipment, operations to be performed, organization structure, and allocate or assign work by which the City fire operations and services are to be conducted.
- 2.1.9 To determine method of financing.
- 2.1.10 To plan, determine, and manage Department's budget which includes, but is not limited to, changes in the number of locations and types of operations, processes and materials to be used in carrying out all Fire Department functions and the right to contract or subcontract any work or operations of the Fire Department.
- 2.1.11 To determine the size and composition of the Fire Department work force, assign work to employees of the Fire Department in accordance with requirements determined by the Fire Department and to establish and require compliance to work hours and changes to work hours, work schedules, including call back, standby, and overtime, and other work assignments, except as otherwise limited by this agreement, or subsequent agreements.
- 2.1.12 To establish and modify goals and objectives related to productivity and performance programs and standards, including but not limited to quality and quantity, and required compliance therewith.

- 2.1.13 To determine qualifications, skills, abilities, knowledge, selection procedures and standards, job classification, job specifications, and to reallocate and reclassify employees in accordance with division and/or City Rules and Regulations.
- 2.1.14 To determine the issues of public policy and the overall goals and objectives of the Fire Department and to take necessary action to achieve the goals and objectives of the Fire Department.
- 2.1.15 To hire, transfer intra or inter Department, promote, reduce in rank, demote, reallocate, terminate and take other personnel action for non-disciplinary reasons in accordance with Department and/or City Rules, Regulations and Ordinances.
- 2.1.16 To determine policies, procedures and standards for recruiting, selecting, training and promoting employees.
- 2.1.17 To establish, implement, and/or modify rules and regulations, policies, and procedures related to productivity, performance, efficiency, personal appearance standards, code of ethics and conduct, safety, health, and order, and to require compliance therewith.
- 2.1.18 To maintain order and efficiency in fire facilities and operation.
- 2.1.19 To restrict the activity of an employee organization on City facilities except as set forth in this agreement.
- 2.1.20 To take any and all necessary steps and actions to carry out the service requirements and mission of the City in emergencies or any other time deemed necessary by the City and not specified above.
- 2.2 Nothing herein is meant to diminish City rights provided by the Government Code.
- 2.3 Nothing herein is meant to diminish employee rights as provided by the Government Code including the right to meet and confer on changes in standards for promotion.

ARTICLE 3 MBFF RECOGNITION

3.1 Pursuant to Resolution No. 74-69, the Employer-Employee Relations Resolution of the City of Morro Bay and applicable state law, the Morro Bay Fire Fighters, was designated by the City of Morro Bay as the representative of City fire fighting employees. The term "employee" or "employees" as used herein is comprised of the following classifications:

Captain/Paramedic
Captain
Engineer/Paramedic
Engineer
Firefighter/Paramedic
Firefighter

3.2 Employees working on a regular basis in a classified position, but less than full-time, shall receive vacation and sick leave accruals on a pro-rated basis commensurate with hours worked. All benefits for new hires, including insurance benefits, will be allocated on a pro-rated basis commensurate with hours worked.

3.3 FIRE ENGINEER RATING

3.3.1 It is recognized, in principle, as long as the full-time MBFF personnel complement of the Morro Bay Fire Department remains at ten (10) or less, that efficient operation of the Department requires an increase in the authorized number of Fire Engineers. Accordingly, CITY agrees to promote to Fire Engineer all personnel classified as Fire Fighter hired after the effective date of this agreement provided that they have served for eighteen (18) months with the CITY in the Fire Fighter classification; that at the completion of eighteen months of employment, they have been recommended by the Fire Chief for promotion and have demonstrated, through successful completion of written and practical examinations that they have successfully completed six semester units of Fire Science courses at an institution approved by the Fire Chief. The City shall make every effort to schedule the examination to be completed prior to the expiration of eighteen months. The content and passing grade of the written and practical examinations will be determined by the Fire Chief subject to the approval of the City Manager.

3.3.2 An individual recommended for promotion, and failing to attain a passing grade in either the written or practical examination, shall not be eligible for reexamination until six (6) months after the date of failure.

ARTICLE 4 MBFF BUSINESS

- 4.1 Employee representatives designated by the MBFF shall be granted time off, without loss of pay, to attend "meet and confer" sessions with the Municipal Employee Relations Officer and/or his designee on subjects within the scope of representation when such meetings are scheduled during regular working hours. Should such meeting extend beyond an employee representative's regular working hours, the employee representative shall be paid for only the regular working hours.
- 4.2 It is understood that this time-off provision shall only apply to a maximum of two employees attending any one meeting between CITY and MBFF where exceptional circumstances warrant, the City Manager may approve the attendance at such meetings of additional employee representatives. The MBFF shall, whenever practicable, submit the names of all employee representatives to the Municipal Employee Relations Officer at least two working days in advance of such meetings. Provided further (1) that no employee representative shall leave his or her duty or work station or assignment without specific approval of the department head or other authorized City management official; and (2) that any such meeting is subject to scheduling by City management in a manner consistent with operation needs and work schedules.
- 4.3 Off-duty employees will not be paid for attending meet and confer sessions, nor will over-time be paid for same. The parties agree to consider the shift schedules of team members in scheduling meetings.
- 4.4 MBFF may hold unit meetings at the Fire Station, 715 Harbor Street, after 1700 hours with two days' prior notice to Fire Chief. The Fire Chief has the authority to deny and/or cancel said meeting if it conflicts with official City activities for MBFF duties.

ARTICLE 5 AUTHORIZED AGENTS

For the express purpose of administering the terms and provisions of this agreement:

- 5.1 Management's principal authorized agent shall be the City Manager or his/her duly authorized representative (address: 595 Harbor Street, Morro Bay, CA 93442; telephone (805) 772-6200) except where a particular management representative is specifically designated in the agreement.
- 5.2 The Morro Bay Fire Fighters principal authorized representative shall be the shop steward of the Unit, or his/her duly authorized representative (address 715 Harbor St., Morro Bay, CA 93442).

ARTICLE 6 WITHHOLDING OF MBFF DUES AND INSURANCE

- 6.1 It is agreed that CITY will withhold MBFF dues and MBFF group insurance premiums from the monthly pay of each regular City employee who is a member of the MBFF. MBFF agrees to provide CITY with individual MBFF member authorizations signed by the individual MBFF member authorizing CITY to make agreed deductions; specifying the amount of each deduction; and authorizing CITY to issue a check, payable to MBFF, for the collective amount of the individual deductions. CITY does not accept responsibility for computing the amounts of deductions or for meeting payment dates which may not coincide with established pay periods. CITY will issue a single check to the MBFF for the total amount of deductions withheld from the individual employees' pay. The MBFF will be responsible for the accounting and disbursing of all such funds received from CITY. MBFF will be responsible for properly notifying CITY of any changes in deductions and will be the sole agent through which CITY will act in explaining, initiating, executing, or terminating the provisions of this Article. Such notification must be received by the CITY at least two weeks prior to the effective date of the change. Also, such change notice must include a copy of the notice sent to the employees officially telling them of the change.
- 6.2 MBFF shall indemnify and hold harmless the City of Morro Bay, its officers, agents, and employees from any and all claims, demands, damages, costs, expenses, or liability arising out of this Article.
- 6.3 It is agreed that CITY will deposit payroll deductions made payable to a City approved Credit Union providing the MBFF makes arrangements for such services that are acceptable to both members and CITY.

ARTICLE 7 TERM

Except as otherwise specifically provided herein, the term of this Memorandum of Understanding commences on ~~July 1~~September 26, 2011~~2012~~, and expires and is otherwise fully terminated June 30, ~~2012~~2013.

ARTICLE 8 RENEGOTIATIONS

- 8.1 In the event either party wants to renegotiate a successor Agreement, such party shall serve upon the other during the period of December 15, ~~2011~~2012 to January 15, ~~2012~~2013, it's written request to begin negotiations as well as it's full and entire written proposals amending this agreement.
- 8.2 The parties agree that, except by mutual agreement, no new subjects may be introduced into the process after the third (3rd) negotiations meeting.
- 8.3 Should the parties be unable to reach agreement on a new contract before the current contract expires, all applicable provisions of this Agreement shall remain

in full force and effect until such time as a new Agreement is reached, or September 30, ~~2012~~2013, whichever first occurs.

ARTICLE 9 ANTI-DISCRIMINATION

The CITY and MBFF mutually agree they will not discriminate against employees for the exercise of their rights under the State of California Government Code Section 3502.

ARTICLE 10 WORK SCHEDULE

This article is intended to define the normal hours of work and shall not be construed as a guarantee of work per day or work per week or of days of work per week.

10.1 WORKDAY

The normal workday shall be a twenty-four (24) consecutive hour period, except in cases of emergency or for reasons of attendance at extended training opportunities, or temporary duty assignments while on light duty when other shifts may be assigned by the Chief provided there is mutual agreement between the parties.

10.2 WORKSHIFT

Employees shall be scheduled to work on regular work shifts having regular starting and quitting time. Except for emergencies, employees' work shifts shall not be changed without four days (96 hours) prior written notice to the employee. Call out or overtime does not constitute a change in work shift.

10.3 WORKWEEK

The normal workweek shall average fifty-six (56) hours of work in a seven (7) consecutive day period, except in cases of emergency.

10.4 OVERTIME

10.4.1 Overtime is defined as all hours worked in excess of 106 hours worked in a 14 day work period. For those assigned to an 8-hour day, overtime shall be defined as all hours worked in excess of forty-hours per week. Vacation time and compensatory time off shall be treated as hours worked.

10.4.2 All overtime as defined above shall be paid at one and one-half (1.5) times the employee's regular rate of pay. Compensatory time off earned pursuant to 10.4.4 below will accrue at one and one-half (1.5) times hours worked.

10.4.3 Employees required to return to work on a scheduled vacation day, shall be paid at the rate of 1.5 times their regular rate of pay for the hours actually worked.

10.4.4 Employees may elect compensatory time off (CTO) in lieu of paid overtime subject to the following provisions.

10.4.4.1 CTO may be elected for overtime incurred due to training time only.

10.4.4.2 Maximum CTO accrual will be 140 hours. All overtime earned after CTO is accrued to the 140 hour maximum will be paid in cash.

10.4.4.3 Accrued CTO may be cashed out upon the request of the employee and the approval of the department. CTO accrued at time of separation will be paid off.

10.4.4.4 CTO may be taken off upon employee request and department approval. CTO will not be approved if it will require overtime.

10.4.4.5 Other overtime provisions notwithstanding, employees forced to hold over for 12 hours or more will receive time and one half compensation for the hours worked on that day.

10.5 EMERGENCIES

10.5.1 Nothing herein shall be construed to limit or restrict the authority of management to make temporary assignments to different or additional locations, shifts, or duties for the purpose of meeting an emergency.

10.5.2 Such emergency assignments shall not extend beyond the period of said emergency.

10.5.3 Short staffing caused solely by absences due to employees taking approved paid leave shall not be considered an emergency.

ARTICLE 11 VACATIONS AND HOLIDAYS

11.1 CITY and MBFF agree that difficulties exist in equating the work schedules of fire fighters to the work schedule of non-shift personnel, i.e., shift periods compared to hours and days worked by other City employees. Therefore, a formula is agreed to for computing the vacations and holiday periods for fire fighters. Such formula is agreed to be a ratio as follows: Fire fighter's total available shifts per year is to the general employees' total available work days per year (260) as X is to the number of authorized vacation and holidays days of the general employees; when X equals the amount of shifts off for fire fighters comparing fire fighters to employees of equal tenure.

11.2 Pursuant to Section 11.1, the following lists the vacation and holiday annual accrual schedule for members of the MBFF assigned to shift work:

<u>SERVICE YEARS</u>	<u>VACATION ACCRUAL</u>	<u>HOLIDAY ACCRUAL</u>	<u>TOTAL ANNUAL ENTITLEMENT</u>	<u>SHIFTS/ YEAR</u>
0 thru 2	112.0 hrs.	146.96 hrs.	258.96 hrs.	10.792
3 thru 4	123.2 hrs.	146.96 hrs.	270.16 hrs.	11.257
5 thru 6	134.4 hrs.	146.96 hrs.	281.36 hrs.	11.723
7 thru 8	145.6 hrs.	146.96 hrs.	292.52 hrs.	12.19
9 thru 10	156.8 hrs.	146.96 hrs.	303.76 hrs.	12.657
11 thru 12	168.0 hrs.	146.96 hrs.	314.96 hrs.	13.123
13 thru 14	179.2 hrs.	146.96 hrs.	326.16 hrs.	13.59
15 thru 16	190.4 hrs.	146.96 hrs.	337.36 hrs.	14.057
17 thru 18	201.6 hrs.	146.96 hrs.	348.56 hrs.	14.523
19 thru 20	212.8 hrs.	146.96 hrs.	359.76 hrs.	14.99
21 +	224.0 hrs.	146.96 hrs.	370.96 hrs.	15.547

11.3 MAXIMUM ACCUMULATION

It is recognized long-standing accumulations of vacation/holiday time exist for some employees. In order to compensate employees for this unused time, CITY and MBFF agree on the following policy:

11.3.1 Unused vacation/holiday leave may be carried over into the following year to a maximum of two times an employee's annual accumulation of vacation time plus one year of holiday time (~~146.96 hours~~). Employees exceeding the maximum as of the pay period containing November 1 of each year will be paid off for time exceeding the maximum. The City shall make said payment with the pay period containing December 1 of each year. Payment shall be computed based upon the employee's base hourly rate of pay as of June 30 of the same calendar year.

11.3.2 Employees separating from the City are entitled to pay for the accumulated vacation based upon employee's base hourly rate of pay as of June 30 prior to separation.

11.4 The following holidays are used in Section 11.2 above to determine total annual entitlement. Employees may be scheduled to work on holidays. All employees except those assigned to 8-hour shifts shall be compensated for holidays as provided in 11.2 above.

Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November

Day after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25
New Year's Day	January 1
Martin Luther King Birthday	3rd Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Floating Holiday	Varies
Floating Holiday	Varies

11.5 For any additional holiday proclaimed by the Mayor, shift employees shall be paid for 11.2 hours of work; and employees assigned to eight hour duty shall receive the holiday off. Employees may be scheduled to work on such holidays.

ARTICLE 12 SICK LEAVE

- 12.1 It is agreed that the firefighters will earn sick leave per month at the same ratio that their assigned shift schedule compares to other full-time employees (1.4:1) for 24-hour shift workers or (1.0:1) for eight-hour shift employees. There shall be no maximum number of sick leave hours that a member of MBFF may accrue.
- 12.2 All use of sick leave shall be charged on an hour-for-hour basis.
- 12.3 At termination, accumulated in the Sick Leave Accrual is not compensable; however, upon retirement, may be converted to additional time as provided by the PERS sick leave option.
- 12.4 Any use of sick leave covering a period beyond seven calendar days may require approval by a qualified medical authority for release to resume regular duties.
- 12.5 Recognizing Section 12.1 above requires a transition from the method of accruing and charging sick leave contained in earlier Memoranda of Understanding, the following conversion of previously accrued sick leave shall be made:
 - 12.5.1 For shift workers, all Sick Leave hours accrued but unused as of December 31, 2002, shall be multiplied by a factor of three (3) and shall become the employee's Sick Leave Accrual account until utilized on an hour for hour basis.
 - 12.5.2 Credits added to the Sick Leave Accrual account for full-time employees after the date above shall be 11.2 hours per month or 0.046154 hours for each regular hours worked for part-time employees on shift work or eight (8) hours per month for employees assigned to an eight-hour day.

ARTICLE 13 RETIREMENT BENEFITS

~~13.1 The City shall contribute a total of nine (9) percent of an employees' salary on behalf of the employee to the Public Employees Retirement System (hereinafter referred to as PERS). Effective the first payroll period in July 2009, the CITY shall commence reporting the Employer Paid Member Contribution (EPMC) to PERS as special compensation.~~

~~13.2 These amounts paid by the CITY are employee contributions and are paid by the CITY to satisfy the employee's obligation to contribute to PERS.~~

~~13.3 An employee has no option to receive the contributed amounts directly instead of having them paid by the CITY to PERS on behalf of the employee.~~

~~13.4 The MBFF understands and agrees that employees bear the risk of payment of any increases in the employee contribution above the current percentage made by action of the PERS or the state legislature.~~

~~13.5 Parties agree that CITY payment of PERS contributions are made based upon tax treatment currently permitted by the State Franchise Tax Board and the IRS.~~

~~13.6 Should current tax treatment change, the MBFF and the employee hold harmless the CITY, it's officers and agents from any and all claims or costs of any type including but not limited to liability for back taxes, arising out of this agreement to pay part of the employee's PERS contribution.~~

~~13.7 Should current tax treatment change, the MBFF shall have the opportunity to meet and confer regarding any such changes.~~

13.18 The CITY agrees to continue to provide PERS Safety employees in this unit hired prior to March 19, 2011 with a retirement benefit program through the Public Employees Retirement System (PERS) as follows: (Section References are to the California Government Code)

13.81.1 Highest Single Year Compensation (Section 20042)

13.81.2 Sick Leave Credit (Section 20965)

13.81.3 1959 Survivor Benefit (Section 21580)

13.81.4 3rd Level Survivor Benefit (Section 21573)

13.81.5 4th Level of 1959 Survivor Benefits (Section 21574)

13.81.6 3% @ 50 Retirement Formula (Section 21362.2)

13.29 ~~Effective March 19, 2011~~, All ~~newly hired~~ employees hired on or after March 19, 2011 in the regular full time classifications listed in Article 3.1 of this MOU between the City of Morro Bay and the Morro Bay Firefighters shall be covered by the 3% @ 55 retirement formula with final compensation based on the average of the highest paid 36 consecutive months, provided with a retirement

benefit program through the Public Employees Retirement Ssystem (PERS) as follows:

13.2.1 36 consecutive months final compensation

13.2.2 Sick Leave Credit (Section 20965)

13.2.3 1959 Survivor Benefit (Section 21580)

13.2.4 3rd level Survivor Benefit (Section 21573)

13.2.5 4th Level of 1959 Survivor Benefits (Section 21574)

13.2.6 3% @ 55 Retirement Formula

~~13.10 Effective December 24, 2011 The City shall cease contributing the nine (9%) percent sworn employee retiree contribution on behalf of the employee. Concurrently, employees shall commence making this payment on a tax deferred basis pursuant to IRS Code Section 414 (h)2. In partial exchange, the City will increased sworn salaries by 5% on December 24, 2011 and 1% on June 23, 2012. This transaction results in a net savings to the City.~~

13.3 City and MBFF to jointly explore the establishment of an employee funded Retirement Health Savings Account.

13.4 Employees are responsible for paying the entire employee retirement contribution. This contribution will be made on a tax deferred basis pursuant to IRS Code Section 414 (h)(2).

ARTICLE 14 HEALTH BENEFITS

14.1 City shall pay to each active employee by each pay period the monthly sum of the health plan selected by the employee, and dental/life and vision plans. CITY and MBFF agree that City payment of this lump sum is to be used to provide medical care coverage for the employee and/or employees dependents, and that the employees hold harmless the City, its officers and agents, including but not limited to liability arising out of this agreement. Employees will be supplied with the current division of payment for medical, dental/life, and vision insurance between City and each employee in MBFF as changes occur during this Agreement.

14.2 MEDICAL HEALTH INSURANCE

14.2.1 Employees of this UNIT shall participate in the PERS medical insurance plans on a cafeteria style basis, with the CITY contributing the PERS minimum (currently \$108112/month) to the active employee's medical insurance and \$1.00/month or the amount required by PERS to retiree medical insurance. Any costs in excess of these contribution rates shall be paid by the employee and retiree.

14.2.2 UNIT employees receive a cafeteria plan contribution (including the amount required by PERS in 14.2.1 above) as follows:

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

14.2.3 Effective January 1, 2013 (beginning December 1, 2012), UNIT employees shall receive a cafeteria plan contribution (including the amount required by PERS in 14.2.1 above) as follows:

Employee only - up to \$715/month or cost of insurance, whichever is less
Employee + 1 – up to \$967/month or cost of insurance, whichever is less
Employee + family - up to \$1080/month or cost of insurance, whichever is less

~~14.2.1 Employees of the MBFF shall participate in the PERS Medical Plans on a Cafeteria style basis with the City contributing the PERS minimum to the active employee's medical insurance, and \$1.00 per month or the amount required by PERS to retiree medical insurance through December 2011. Any cost in excess of these contribution rates shall be paid entirely by the employees and retiree.~~

~~14.2.2 The CITY shall offer those PERS plans which are available, and each employee shall be required to carry medical insurance for themselves and for dependents if dependent coverage is selected. The employee therefore will be required to purchase the necessary and appropriate medical insurance from any money that may be offered to the employee on a cafeteria style basis. In no case, shall the employee receive any money in excess of the premium option selected as a result of this proposal.~~

~~14.2.3. Health insurance shall be provided as follows:~~

~~14.2.3.1 Employees of this unit shall participate in the PERS medical insurance plans on a cafeteria style basis, with the CITY contributing the PERS minimum to the active employee's medical insurance and \$1.00/month or the amount required by PERS to retiree medical insurance. Any costs in excess of these contribution rates shall be paid by the employee and Retiree.~~

~~14.2.3.2 Unit employees will receive a medical insurance contribution (including the amount required by PERS in 14.2.1 above) as follows:~~

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

14.3 DENTAL/LIFE AND VISION INSURANCE

During the term of this Agreement, the CITY shall offer dental/life and vision insurance and each employee shall be required to carry both dental/life and vision insurance for self. Life Insurance is provided at \$20,000 per employee (\$30,000 beginning January 1, 2013). The following rates were effective January 1, ~~2011~~2012.

	<u>VISION</u>	<u>DENTAL</u>	<u>LIFE</u>	<u>TOTALS</u>
Employee Only	\$ 8.63	\$ 40.07	\$3.60	\$ 52.30
Employee +1	\$17.26	\$106.39	\$3.60	\$127.25
Employee +2	\$22.29	\$111.74	\$3.60	\$137.63
Employee Only	\$ 8.63	\$ 37.76	\$5.68	\$ 52.07
Employee +1	\$17.26	\$106.39	\$5.68	\$129.33
Employee +2	\$22.29	\$106.39	\$5.68	\$134.36

Employee will be responsible for the following monthly amounts for dental/life and vision beginning with the pay period including January 1, ~~2011~~2012:

Employee Only	\$2.32 <u>\$2.93</u>
Employee + 1	\$7.75 <u>\$11.75</u>
Employee + 2+	\$8.22 <u>\$12.21</u>

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

ARTICLE 15 EDUCATIONAL INCENTIVES

15.1 COLLEGE DEGREES

15.1.1 CITY agrees to pay the following education incentives on base salary to regular employees hired prior to January 1, 1998 who hold degrees above the minimum required in their respective classification.

Achievement in Fire Science	\$ 300 annually
Associates Degree	\$ 600 annually
Bachelor's Degree	\$1200 annually

- 15.1.2 If an employee's job description requires an Associate's degree and the employee has a Bachelor's Degree, the employee will receive only the difference between an Associate's and a Bachelor's degree, or \$600 annually.
- 15.1.3 If an employee's job description requires a degree or if an employee is promoted to a classification that requires a degree, the employee shall not receive education incentive pay for the required degree.

This section shall not be interpreted to reduce the amount of education incentive pay that any employee hired prior to January 1, 1998 receives, notwithstanding the fact that the employee is promoted to a higher position requiring a particular degree, or the fact that the job description for the employee's existing position has been revised to require a particular degree. In the event an employee hired prior to January 1, 1998 promotes to a position requiring a degree not required by the lower position, or if the job description for an employee hired prior to January 1, 1998 is revised to require a degree not previously required for the position, the employee shall, for the term of this MOU, continue to receive the amount of education incentive pay received in the lower position or previous job description.

- 15.1.4 Based on the new job descriptions for all classifications which were adopted in May 1995, as well as salary survey implementation over the last three years, employees currently in positions now required to hold an AA or BA degree according to the job description for the classification they hold, will continue to receive an educational incentive for said degree. Any employees hired on or after January 1, 1998 or current employees promoted on or after January 1, 1998 to positions requiring degrees will be subject to section 15.1.3 above.
- 15.1.5 Employees hired on or after January 1, 1998 shall not be eligible for this incentive. Additionally, employees in this unit hired prior to January 1, 1998 and in the process of obtaining their AA or BA degree have until December 31, 2000 to obtain said degree and be eligible for the incentive. After December 31, 2000, this incentive shall expire except as otherwise set forth in this section.

ARTICLE 16 UNIFORM ALLOWANCE

The uniform for the Fire Department is a two-piece work uniform, and two T-shirts, of a style, material and manufacture determined by the Fire Chief. Two (2) complete uniforms will be provided upon initial employment with the Fire Department and replacements provided are on an "as needed basis" as determined by the Fire Chief. The CITY will provide safety footwear of a type, style and manufacture as recommended

by the Fire Chief . CITY is responsible for normal upkeep, i.e., heels and soles, with replacement as determined by the Fire Chief.

ARTICLE 17 SALARIES

17.1 ~~Except as provided in Section 13.10~~ Salaries shall be unchanged for the term of this agreement.

Attached Exhibit B reflects salaries for members of this unit for the duration of this Agreement.

17.2 All salary adjustments, including but not limited to merit increases, educational incentives, and any other pay adjustments will take effect at the beginning of the next payroll period after the scheduled effective date of the increase.

17.3 Any and all education/special pay incentives will be added to base salary.

17.4 Electronic Deposit. All employees hired after January 1, 2003 shall receive their pay by electronic methods. New hires must present account information for a checking or a savings account with an ACH member financial institution.

17.5 The following agencies shall be utilized for compensation comparison purposes: Arroyo Grande, Atascadero, CDF, Cambria, Paso Robles, and San Luis Obispo.

17.6 MBFF to conduct a comparable cities compensation survey prior to the commencement of negotiations for the period beginning July 1, 2013.

ARTICLE 18 SPECIAL PAY PRACTICES

18.1 MEDIC DIFFERENTIAL

18.1.1 An employee certified as an EMT-P (Paramedic) shall receive a monthly differential as follows:

\$ 450/month

18.1.2 The City may require any employee to attend EMT-P training.

18.2 CALL-OUT PAY

18.2.1 It is agreed that the CITY will guarantee a minimum of two hours pay, computed at straight hourly rates, for any MBFF member called back to duty from an off-duty status.

18.2.2 If an employee is called to return to duty, such call-out shall not be canceled until the employee reports to the fire station.. To be eligible to receive the minimum, the employee must report to the fire station.

18.2.3 If an employee is on-duty and held beyond the end of the work period, time worked will be paid as actual hours worked under Section 10.4 of this agreement. Such holdover shall not qualify for Call-out Pay.

18.3 WORKING OUT-OF-CLASS

Employees may be worked on an out-of-class assignment only as provided in the Personnel Rules and Regulations of the City of Morro Bay, except as provided herein below:

18.3.1 Employees shall receive an additional 5% compensation for out-of-class assignments that last 24 consecutive hours. Such additional 5% pay shall start on the 25th hour retroactive to the first hour of the out-of-class assignment. Such additional compensation shall be paid during the first six (6) months of the out-of-class assignment.

18.3.2 If the assignment is extended by 6 months, then starting on the first day of the extension:

18.3.2.1 the employee shall continue to receive the 5% compensation if the out-of-class assignment is required to fill an absence due to an employee who is out on 4850 leave.

18.3.2.2 the employee shall receive an additional 5% for a total of 10% additional compensation if the out-of-class assignment is required to fill a vacant position.

18.3.3 An employee placed in an out-of-class assignment will not be taken off that assignment for the sole purpose of avoiding the payment provided above.

18.3.4 Whenever possible, City intends to fill vacancies with qualified employees.

ARTICLE 19 HEALTH AND SAFETY ARTICLE

19.1 Management shall provide and maintain safe and healthy work facilities and equipment.

19.2 Safety and health conditions in employment in the City of Morro Bay are subject to the provisions of State and Federal legislation which regulates the health environment and safety conditions of the work place.

- 19.3 A Citywide Safety/Loss Control Committee shall be established and shall review accidents, review alleged safety deficiencies, and recommend safety training and safety equipment. The MBFF may appoint one unit representative to serve on the committee. If the committee meets during the designated employee's normal working hours, the employee shall receive paid release time to attend the meeting.
- 19.4 If an employee becomes alerted to an unsafe condition or health hazard, he/she shall report such condition to his/her immediate supervisor. If such conditions cannot be satisfactorily remedied by the immediate supervisor, an employee has the right to submit the matter either personally or through the steward to his/her Department Head or designated safety representative. On any matter of safety not resolved, after proceeding through the above process, consultation will take place between management and the MBFF if requested.
- 19.5 A first aid kit shall be furnished and maintained at work facilities readily and conveniently accessible to MBFF employees.
- 19.6 Management agrees to provide to employees who are exposed to potentially toxic agents or toxic materials the appropriate medical services at no cost to the employee.
- 19.7 Any safety equipment required by the CITY shall be furnished by the CITY.

ARTICLE 20 MINIMUM STAFFING

- 20.1 CITY agrees to provide minimum staffing of three full-time personnel except in cases of emergency as determined by the Fire Chief.
- a. Exception: For brief transitional periods lasting 8-10 hours or less, minimum staffing may be allowed to drop to a minimum of two with the Chief's approval.
- 20.2 The 2004 Morro Bay Fire Department 5-Year Strategic Plan recommended that the City of Morro Bay provide 4-person daily staffing in the Fire Department.
- a. The City and MBFFA agree that 4-person full-time minimum staffing will be provided in the MOU when a second fire station or second company is staffed and operational. The 4-person minimum refers to the total on-duty staffing of full-time firefighters in the City of Morro Bay.
- b. The City currently staffs a single, two-piece suppression company consisting of an engine and a rescue. This response configuration is not affected by item a. above.
- 20.3 The City agrees to cap the total number of part-time, unrepresented firefighters to one per scheduled 24 hour shift.

- a. Exception: In an emergency and for mutual aid response coverage, the City may have more than one reserve firefighter working 24-hour shifts provided the City is meeting its minimum staffing requirements.

20.3.1 For as there are seven filled Firefighter/Engineer positions within the Department, the least senior qualified person will be assigned to vacation relief. In the event of retirement, resignation or termination, vacation relief individual will have the first right of refusal to that open position. If the seventh Firefighter/Engineer position is eliminated, there will be no vacation relief position.

20.3.2 The City will post a work schedule every 30 days for the vacation relief position and provide 96 hours notice prior to making schedule changes. There will be no more than two schedule changes within each 30 day schedule.

ARTICLE 21 PERSONNEL RULES

Parties recognize the applicability and agreement with the Personnel Rules utilized by the City for all employees. From time to time, the Personnel Rules may be amended and the City will offer the opportunity to meet and confer on those items within the scope of bargaining. Nothing in this article shall make the City's Personnel Rules subject to the Grievance Procedure.

ARTICLE 22 LAYOFFS

The parties agree to use the layoff procedure as set forth in 2.32.120 of the City of Morro Bay Municipal Code.

For purposes of workforce reductions as outlined by the City's personnel rules and regulations, shifts worked by part-time unrepresented employees will be eliminated prior to a reduction in full-time MOU represented personnel.

ARTICLE 23 PROCESSING OF FORMAL GRIEVANCES

23.1 The MBFF agrees that whenever investigation or processing of a grievance is to be transacted during working hours, only the amount of time necessary to bring about a prompt disposition of the matter will be utilized. It is further agreed that the time spent on an investigation and processing of grievances will not interfere with the normal operation of the department. CITY agrees to provide a reasonable amount of time for the investigation and the processing of a grievance, but by so agreeing does not imply that the processing or investigation of a grievance shall take priority over normal functions of the department.

- 23.2 CITY further agrees that any payment of overtime arising because of MBFF personnel's involvement in grievance investigation or processing shall not be authorized. Time spent on the investigation and processing of grievances will be recorded on a form provided by CITY. Stewards will be permitted reasonable time-off with pay for the investigation and processing of grievances provided, however, stewards shall first obtain permission from the department head and/or his/her designee and inform him/her of the nature of his/her business. CITY shall grant such permission promptly unless such absence would cause an undue interruption of work or would require the CITY to pay overtime in order to maintain the normal operation of the department.
- 23.3 Upon entering the work location, the steward shall inform the department head and supervisor of the nature of his/her business. Permission to leave a job will be granted to the employee involved unless such absence would cause an interruption of work. If the employee cannot be made available, the steward will seek an alternate time for employee availability with the department head or supervisor.
- 23.4 It is agreed that in some instances the investigation and processing of a grievance may be accomplished on the employee's time. This agreement is in recognition of the mutual sharing of costs involved in the handling of employee-initiated actions.
- 23.5 Procedures shall be in accordance with Resolution No. 46-74 and any amendments thereto.

ARTICLE 24 ELIMINATION OF FIRE SERVICE

If the fire service function of the City of Morro Bay is merged into another agency, or if another agency assumes said function, then prior to such action, the City shall meet and confer with MBFF concerning the effects of such action.

ARTICLE 25 CAL FIRE

- ~~25.1 Should the CITY elect to contract for service with CAL FIRE, this article shall take affect.~~
- ~~25.2 The CITY and L3725 recognize that a transitional MOU between the CITY and L3725 must be negotiated as part of the process of transitioning L3725 into the state civil service system.~~
- ~~25.3 Should the CITY not contract for service with CAL FIRE, this clause is null and void and the contract remains in full force for its defined term.~~

ARTICLE 2625 NO STRIKE, NO LOCK-OUT

2625.1 During the life of this agreement, the City will not lock out any employees nor will the MBFF cause, authorize, advise or encourage any interruption of work or any other concerted refusal to render services or to work, including overtime or any other curtailment or restriction of work at any time during the term of this Agreement. The term "interruption of work" shall mean any work stoppage or strike (including economic and unfair labor practice strikes) or any intentional slow down of work.

2625.2 There shall be no refusal to work on, handle or produce any materials or equipment because of a labor dispute.

2625.3 Any employee engaging in any action prohibited by this Article shall be subject to immediate discharge or such other discipline as the CITY may assess. Such discharge or discipline shall not be reviewable through the Grievance Procedure.

ARTICLE 2726 FULL UNDERSTANDING, MODIFICATION, WAIVER

2726.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

2726.2 It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein.

2726.3 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved by the CITY and ratified by the membership of the MBFF.

2726.4 The waiver of any breach of any term, or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE 2827 SEVERABILITY

If any provision(s) are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

Date: _____

Date: _____

MORRO BAY FIRE FIGHTERS

CITY OF MORRO BAY

Todd Gailey

William Avery, Chief Negotiator

Jeff Simpson

Andrea Lueker, City Manager

~~George Rees~~

Susan Slayton, Admin. Svcs. Director



AGENDA NO: A-4

MEETING DATE: 9/25/12

Staff Report

TO: Honorable Mayor and City Council

DATE: September 16, 2012

FROM: Andrea K. Lueker, City Manager

SUBJECT: Delayed Project Status Report

RECOMMENDATION

Staff recommends the City Council review the quarterly Delayed Project Status Report.

FISCAL IMPACT

Not applicable.

BACKGROUND

At the August 28, 2012 City Council meeting, the City Council adopted Resolution No. 45-12 which directed a timeline for completion of capital projects approved by the City Council. The Resolution directed staff to include estimated completion dates for City projects on the Schedule of Capital Projects, Schedule of Measure Q Budget Request page(s) and/or Schedule of Proposed Maintenance Projects in excess of \$25,000. Also directed was the preparation of a quarterly report that outlined the delayed projects. This report was to appear on the Consent Calendar of the City Council meetings and include the following information:

1. Project name;
2. Brief Description of the project (unless the name is self-explanatory);
3. Name of responsible Department Head/City Staff for the project;
4. Brief explanation for the delay; and,
5. Revised completion date.

DISCUSSION

Resolution No. 45-12 was adopted following the adoption and printing of the current budget and as a result, the aforementioned pages (Capital Projects, Measure Q and Maintenance Projects) did not include a date for the project to begin nor be completed. Staff has produced and attached a draft spreadsheet with some preliminary information for Council's review. A complete spreadsheet with project start and projected completion dates will be provided for information at the October 9, 2012 meeting.

Prepared By: AL

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

City of Morro Bay - Project Status Report							
Last updated: 9/19/12							
Project Name	Department	Project Description	Project Status	Delay Description	Original Start Date	Revised Start Date	Projected Completion Date
Capital Projects							
Fire Station #53, Phase II	PS		Construction is 75% complete, dedication scheduled for 12/8/12	Compliance with FEMA funding requirements	10/1/09	8/1/11	12/1/12
Nutmeg Tank	PS		Environmental review/county permitting	n/a			
Desal Upgrade/Energy Recovery	PS						
Blanca Pipeline	PS		In design	n/a			
Brackish Water Reverse Osmosis	PS		In design	n/a			
Chorro Creek Stream Gauges	PS		Permitting	n/a			
Lift Station 3	PS		In progress	n/a			
Lift Station 2	PS		Substantially complete	n/a			
North Main St. Trunk Line	PS		WWTP Delay	n/a			
Hydro Building	PS						
Section 6 Rehabilitation	PS		Complete	n/a			
North-T Pier	Harbor		Staff currently in conversation with Coastal staff on permit application and waiver requirements	Employee death, consultant illness and Harbor staffing reductions			Summer 2013
Least Site Audits	Harbor		Underway	n/a			
Replace Storage yard metal roof	Harbor		Essentially complete. Staff working with contractor on some minor finishing details.				
Measure Q Projects							
Streets-curbs, gutters, potholes	R/P		3rd party + in-house staff to fill potholes, No. Morro Bay to south	n/a	10/1/12		
Streets - Pavement Mgt Plan	PS		Change Order signed - work to continue	n/a			
Storm Water Management Plan	PS		Storm Drain work in progress at Surf Street	n/a			
Maintenance Projects							
Upgrade HVAC at Public Services	R/P			n/a			

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING
OCTOBER, 2012 AS**

“RIDESHARE MONTH”

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

WHEREAS, the City Council of the City of Morro Bay recognizes that 74 percent of commuters in San Luis Obispo County commute to work by driving alone, which significantly contributes to air pollution, road congestion and decreased quality of life locally and throughout the state; and

WHEREAS, the City Council of the City of Morro Bay recognizes transportation choices including carpooling, vanpooling, taking the bus, walking, biking or working from home preserve air and water quality, improve personal health, reduce road congestion, and reduce commute costs; and

WHEREAS, SLO Regional Rideshare, as a division of the San Luis Obispo Council of Governments, provides information, programs and services on sustainable transportation choices for people living, working and visiting San Luis Obispo County; and

WHEREAS, Rideshare Month 2012 is executed by Rideshare and sponsored by APCD, City of San Luis Obispo, RTA and Verdin Marketing to encourage people to use sustainable transportation; and

WHEREAS, Rideshare Month will include cash incentives and outreach events to incentivize transportation choices.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Morro Bay does hereby declare October 2012 as “**Rideshare Month**” in the City of Morro Bay.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 25th day of September, 2012

WILLIAM YATES, Mayor
City of Morro Bay, California



AGENDA NO: D-1

MEETING DATE: 09/25/12

Staff Report

TO: Honorable Mayor and City Council

DATE: September 4, 2012

FROM: Susan Slayton, Administrative Services Director/City Treasurer
Rob Livick, Public Services Director

SUBJECT: Discussion of the Request by 600 Morro Bay LP for the Removal of Affordable Housing Deed Restrictions at 600 Morro Bay Blvd and to also Waive the Affordable Housing In-lieu Fee

RECOMMENDATION

Staff recommends that the City Council abide by the City's adopted 2009 Housing Element, and either leave the Affordable Housing deed restrictions in place or require the payment of the affordable housing in-lieu fee.

SUMMARY

The owners of 600 Morro Bay Blvd. are requesting the removal of the affordability deed restrictions on their units 105 and 106. They are also asking for a waiver of the Affordable Housing in-lieu fee that would be required if the deed restriction is lifted. Staff is recommending to the City Council that they support the City's commitment to affordable housing by either retaining the deed restriction or requiring the in-lieu fee.

BACKGROUND

On June 13, 2005, the City Council approved Mitigated Negative Declaration, Tract Map, Conditional Use Permit, Coastal Development Permit, and Parking Exception for the project located at 600 Morro Bay Blvd. As a mitigation measure in the Mitigated Negative Declaration, the project has the following requirement: "POPULATION/HOUSING: The applicant shall deed restrict either one (1) or two (2) of the units to maintain affordability for very low, low or moderate income families for a 30-year period. The form and content of the deed restriction shall be as approved by the City Attorney. If the applicant chooses to only provide one affordable unit on-site and pay in-lieu fees for the balance, the fees shall be calculated as described above, and as described further in the Housing Element. Pursuant to Section 17.50.060 of the Zoning Ordinance, said fee shall be determined by City Council and must be paid prior to the recordation of the final Tract Map and prior to the issuance of a building permit. The deed restriction shall also be recorded prior to the issuance of a building permit, and prior to, or in conjunction with, recordation of the final Tract Map. After such mitigation, the project does not have the potential to have significant impacts related to housing." Then in December 2009, the City entered into an Affordable Housing Agreement with Sam Gilstrap, President of 600 Morro Bay, LP, where two (2) residential units of the 19 residential/commercial

Prepared by: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

units to be built at that site would be rented or sold at the moderate income range for a period of 30 years. This deed restriction means that those two units will be sold to eligible purchasers, who have been income-qualified at the moderate income level. Per the City's Housing Element, the Regional Housing Needs Allocation (RHNA) for Morro Bay set a target of 180 affordable home sites to be built by 2014. At that time, the City had 82; these two units bring that total to 84, which is 47% of the target number of affordable home sites.

DISCUSSION

In August 2012, Staff met with Mel McColloch, the representative for Sam Gilstrap, on the issue of removing the affordable deed restriction from units 105 and 106, located at 600 Morro Bay Blvd. According to Mr. McColloch, the units are not selling because of the deed restriction. In our current economic condition, Mr. McColloch stated that the affordable housing price is higher than the market rate.

If the deed restriction is allowed to be removed, per the Council-adopted Conditions of Approval, the developer, Mr. Gilstrap, would be required to pay the affordable housing in-lieu fee for his project, which is approximately \$336,000. The actual in-lieu fee is the cost of providing the affordable units. This fee is charged when a developer, whose project results in the construction of 8 or more units, does not wish to provide the required affordable housing. The fee is set aside, and made available for other developers who choose to build affordable housing projects. Mr. Gilstrap has sent the City an e-mail, requesting a waiver of in-lieu fee (e-mail attached). Should the Council desire to waive the housing in-lieu fee, a public hearing would be required to amend the environmental document and project-required conditions of approval.

The Housing Element, in force at the time of project approval, was adopted in 1995. In the 1995 Housing Element, Policy H-12 and H-12.1 required that new subdivisions of housing projects construct at least 10 percent of the units to provide housing to lower income households. If the construction of new units was determined to be infeasible pursuant to California Government Code Section 65590, et seq, then the developer shall pay the in-lieu fee equal to the cost of providing the affordable units. Prior to making the determination of infeasibility, an independent study of infeasibility is required.

One of the objectives in the 2009 Housing Element is to "provide a continuing supply of affordable housing to meet the needs of existing and future Morro Bay residents in all income categories." The document further states that "the City shall continue to implement the housing element policies, programs and procedures to achieve its fair share of the regional housing allocation, including the number of units for each income classification." According to the 2009 Housing Element, the number of housing units needed to meet the fair share allocation is 180. Morro Bay only had 82 units built as of January 2007; these two units brought that number up to 84, still less than half of the City fair-share of affordable housing units.

In addition to the City's Housing Element, the Local Coastal Plan (LCP) and California Coastal Act provide policy regarding housing affordability. Projects located within coastal zones are required to preserve existing units for affordable to low or moderate income households, and where feasible, include low and moderate income housing in new developments.

CONCLUSION

Staff is recommending that, in accordance with City-adopted policy and regulations along with the requirements of the development, the affordability deed restriction be left in place to support the City's Housing Element. If the City Council chooses to remove the deed restriction, staff recommends that the developer provide an independent study showing the infeasibility of having two onsite affordable units, and be required to pay the affordable in-lieu housing fee estimated at \$336,000, providing opportunities for other builders to provide affordable housing units. Other options for Council include:

- Allow the developer to construct two deed restricted affordable units off site, then rescind the deed restriction on the onsite units.
- Schedule a Public Hearing to amend the environmental document and project conditions of approval, if findings can be made that providing affordable units or paying the in-lieu fee is infeasible.



August 9, 2012

Honorable Mayor and City Council,

It is with great pleasure that we congratulate the Council on the record collection of \$2,026,184 in Transient Occupancy Tax for the year ending June 30, 2012. Passing the \$2,000,000 mark is a milestone for Morro Bay. The Morro Bay Tourism Business Improvement District Board (TBID) is proud to have been a part of such a significant success. Some relevant statistics indicate that TOT for 2012:

- Broke the prior record for TOT of \$1,961,600 established in 2008
- Increased by \$157,857 or 8% from the prior fiscal year
- Exceeded the TOT Adopted Budget for 2012 by over \$176,000
- Exceeds the Adopted Budget for fiscal 2013 by over \$121,000
- Lodging inventory remained steady without addition as in other municipalities

These results confirm that the plan the Morro Bay TBID put into place 3 years ago, in concert with the City's Community Promotions Committee and the Chamber of Commerce, is now paying off. It has been difficult for some to see how the changes implemented would benefit the City as a whole but we think the numbers speak for themselves.

We feel when the Sales Tax reports for the year are complete and compared to the prior year, they also, will reflect increases.

With the positive results shown in the past year, we do not think this is a good time to step back on the City's marketing and promotional efforts. We would hope that the City is in agreement with this and would reconsider its contribution to the marketing and promotional campaigns directed by the MBTBID in support of the City's entire tourism industry. With this in mind we are requesting the City fund the TBID with the full amount of the monies granted in the prior year to the Community Promotions Committee, a total of \$116,000. This would be an addition of \$58,500 to what the City has already budgeted for marketing efforts in Morro Bay. This will enable the TBID to continue the successful marketing plan without having to contend with a diminished funding from the City.

In addition, the TBID is in the process of identifying an asset to which we will relocate the Visitor's Center. Improvements will be needed to the space. The TBID has allocated some money to do the necessary improvements. We recognize that the Visitor Center is part of Tourism and the City's marketing as a whole. Therefore, we would also request the City step forward and split these costs with the TBID and grant additional funding not to exceed \$10,000 for site improvements. The City will benefit from the improvements of the identified asset therefore; we believe that it would be reasonable that the City participate as a partner in the improvement. We firmly believe streamlining efforts in combining the City's marketing and promotional

activities with Visitor Center services will create a more efficient and effective program benefiting both the tourism industry and the residents of Morro Bay.

Congratulations again on the record collections of TOT. Thank you for your support of Destination Marketing for Morro Bay. We appreciate your consideration of the requests presented by the Morro Bay Tourism Improvement District Board on behalf of the Morro Bay hoteliers and the entire tourism community.

Respectfully,

Morro Bay Tourism Business Improvement District



Joan Solu
Chair Person



Michele Jacquez
Vice Chair



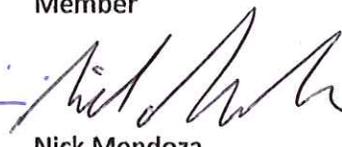
Alex Amini
Member



Jayne Behman
Member



Karen Biaggini
Member



Nick Mendoza
Member



John Meyers
Member

Morro Bay Hoteliers:

Print Name

Signature

List Hotel Representing

PRISCILLA KO
JAYNE Behman
Karen Biaggini
Joan Solu
Sandra Nesbitt
Alex Lin
Claudia Foster
Amalia A. Mason
Vin Patel

Priscilla Ko
Jayne Behman
Karen Biaggini
[Signature]
Sandra Nesbitt
Alex Lin
Claudia Foster
Amalia A. Mason
Vin Patel

MORRO BAY SANDPIPER
Bayfront Inn
Embarcadero Inn
Beach Bungalows Inn & Suites
Pleasant Inn Motel
Sundown Inn
Muir Inn
Anderson INN
Bestwestern Tradewind

~~Nick Patel~~

Michele Jacques

Michele Jacques

Ascot suites

Twin dolphin

Bayview Inn

Travelodge

Pacific shores Inn

Vina Patel

Ashish Ranat

Michele Jacques

~~Nick Hantzen~~

Alex Amivi

RITA PANCHAL

JACK PANCHAL

LALITTA PATIL

Josephine Gray

GRAY GORMLEY

~~AS~~

Ms Jacques

Ms Jacques

~~MS~~

~~MS~~

~~MS~~

~~MS~~

~~MS~~

VPattil

~~VPattil~~

Ms Jacques

~~MS~~

~~MS~~

RJ Panchal

~~RJ~~

Lalita Patel

Joseph Gray

Gray Gormley

Doelview Inn & suites

Best western Plus San Marcos Inn

Masterpiece Hotel

Hemant Patel

Hemant Patel

Poodeep Patel

Poodeep Patel

Hemant Patel

Day Inn - MB.

Holland Inn & Suites

La Serena Inn

Blue Sail Inn

Breakers Motel

Villager motel

ECONO LODGE

Sea air Inn

Grays Inn

Pacific Cottage



AGENDA NO: D-3

MEETING DATE: 9/25/12

Staff Report

TO: Honorable Mayor and City Council

DATE: September 16, 2012

FROM: Andrea K. Lueker, City Manager

SUBJECT: Report on Findings of Planning Study Committee

RECOMMENDATION

Staff recommends the City Council review the results from the Planning Study Committee process held in May 2012 as well as the changes that have been incorporated to date, and provide staff with further direction to include continuing to work toward solutions from the Planning Study Committee results.

FISCAL IMPACT

Not applicable.

BACKGROUND

The City Council, during their Goal setting process in March 2012, identified “Improving and Streamlining the Planning and Permitting Process” as a top goal. Following the goal setting process, staff convened a blue ribbon committee, the Planning Study Committee, to discuss the Planning process in Morro Bay. The Planning Study Committee was facilitated by Bill Peirce with membership consisting of:

- Building Contractors (2)
- A Planning Commissioner
- A City Councilmember
- A Project Consultant
- An Engineer
- A Planner
- Our Fire Chief
- A Chamber of Commerce (Economic Development) Representative

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The Planning Study Committee met on May 7, 2012 and discussed the constraints of the planning and permitting process, “what is working and not working” and what were the “priority areas for solutions”. The second meeting, held on May 21, 2012 focused on the results from the first meeting, and discussed solutions for the top 5 issues that were identified as “not working”. Those issues were then discussed, solutions identified and prioritized. The 5 issues identified by the Planning Study Committee are as follows:

- Over-regulation, specifically on single family residences
- Better information, more specific handouts
- Incomplete submittals from applicants
- Lack of information from staff and lack of status during the process
- Start with the Planning Division vs. the Building Division/clarity regarding the process

DISCUSSION

The Planning Study Committee was helpful in looking at areas that needed improvement within the Planning process. The committee, made up of a variety of individuals, had several spirited discussions regarding the 5 identified issues and possible solutions. Attached to the staff report, is a synopsis of the “Issues of Concern and Solutions”. Unfortunately, after confirming with each member of the committee the issues of concern and solutions, there were some significant personnel changes in the Department causing further work to be slowed. To the Department’s credit, the following implementations have been made to date:

1. Business Licenses are now routed electronically to all Departments for review
2. Hired intern to work on special projects, current planning projects, survey for completed applications
3. In Progress - Updating of applications and flow charts for permitting process
4. In Progress – digitizing of all address files



City of Morro Bay
Office of the City Manager
595 Harbor Street ♦ Morro Bay, CA 93442

PLANNING STUDY COMMITTEE
Results from May 21, 2012 meeting on solutions
for “What is not Working”

- Issue:** **Over-regulation, specifically on SFR. Making mountains out of molehills****
- Solutions:**
1. Update the General Plan/Local Coastal Plan/Zoning Ordinance
 - 1a. Include more administrative approval vs. Planning Commission approval
 2. Exemptions for remodels/additions for smaller houses.
 - 2a. Review criteria for exemptions of 25% to a larger %
 3. Develop small scale neighborhood standards
 4. Modify parking requirements
 5. Modify lot size standards in order to decrease non-conforming projects (subdivision ordinance)

**The discussion with the above issue included the fact that once the GP/LCP was updated, items 2-5 would likely be remedied. An update to the City’s GP/LCP and Zoning Ordinance will require a substantial monetary investment as well as significant employee time. In the recent unsuccessful grant the City applied for, it was estimated that just the GP/LCP update would cost approximately \$900K.

- Issue:** **Better information, more specific handouts and information**
- Solutions:**
1. Comprehensive, project specific planning handouts/online information on decks, fences, lighting plans, etc.
 2. Modified (digital) document retention schedule to retain plot plans and building permit plans
 3. Better base mapping for determining proximity to archaeological sites
 4. A “You May Also Need These Studies” handout to include: soils, biological, archaeological, traffic, etc. Applicants to be notified of potential studies required at the beginning of the process
 5. A flow chart to explain the process

- Issue:** **Incomplete submittals**
- Solutions:**
1. Pre-Application Meeting - by appointment, to help applicant submit a complete application. A fee (\$300) is paid for the pre-application meeting, that fee is then

credited back to the cost of the permit. If a permit is not pursued, the fee is non-refundable. All affected Department representatives attend the pre-application meeting and provide comments.

- 1a. Submittal of a site-plan – non mandatory, a site plan or detailed concept plan should be submitted prior to the Pre-Application Meeting. The applicant submits the site plan and within 2 weeks a Pre-Application Meeting is scheduled. Staff would review the site plan and then be able to provide comments at the Pre-Application Meeting.
2. Intake meeting – by appointment, to accept the application (which should be complete based on the Pre-Application Meeting). This meeting is with a Planner only.

Typically larger and more complex projects would take advantage of the Pre-Application Meeting rather than smaller project such as a single family residence, unless the applicant requested the meeting.

Issue: **Lack of Information/Status during the Process**

- Solutions:**
1. Investigate software to better track/interface with existing Digital Permitting – E-Permit
 2. Electronic submittals
 3. Electronic notification to interested/affected staff of any submittal (electronic or not).

The ability to send one e-mail, at the same time, to all Departments for project review. The plans could be attached electronically so paper copies don't need to be sent (PDF documents).

Issue: **Start with the Planning Division First = Clarity/Education Regarding Process** - The group consensus was that these issues were already addressed in the above solutions.



AGENDA NO: D-4

MEETING DATE: 9/25/12

Staff Report

TO: Honorable Mayor and City Council

DATE: September 19, 2012

FROM: Mike Lewis, Chief of Police

SUBJECT: Discussion of Draft of Menacing and Aggressive Animal Ordinance

RECOMMENDATION

Staff recommends the City Council review the draft Menacing and Aggressive Animal Ordinance, make amendments to said Ordinance and schedule the Introduction and First reading for the October 9, 2012 City Council meeting.

FISCAL IMPACT

There are no direct General Fund impacts associated with this action as enforcement of the Ordinance would occur during the normal shifts of both the Morro Bay Police and County Division of Animal Services Officers. No appreciable costs are anticipated to be incurred as a result of the enactment of this Ordinance.

SUMMARY

The City of Morro Bay is one of seven cities within San Luis Obispo County to contract with the San Luis Obispo County Division of Animal Services for the provision of animal care and control services. Under the terms of this Agreement, the City of Morro Bay is required to enact Municipal Codes which are similar to and consistent with the County's codes regarding the care, keeping, and management of animals.

BACKGROUND

In May of 2012, the San Luis Obispo County Board of Supervisors adopted a new Ordinance addressing menacing and aggressive animals. In the process of developing this Ordinance, all seven Police Chiefs in San Luis Obispo County were consulted resulting in a general consensus of support for the Ordinance, with no objections voiced. Also discussed was the fact that it is within the purview of each affected City Council to decide whether or not to enact the "landlord responsibility" section of the County's Ordinance. This section is intended to address landlords who knowingly allow their tenants to keep menacing and aggressive animals on their property and states that the landlord "may" be liable for penalties if the violation has not been corrected subsequent to a two week notice. Staff recommends inclusion of this language to provide an additional problem-solving tool to address public safety concerns in what would be anticipated to be a minority of cases.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The County Division of Animal Services found a need for a new Ordinance because of a gap in the current statutes regarding aggressive animals. Current laws do not address aggressive or menacing dogs that have not yet attacked a person, dogs that have attacked or killed “only” one animal, dogs that have been previously designated as a potentially and vicious animal, and other dangerous or aggressive animals.

In addressing the gap, the new County Ordinance requires owners to ensure that aggressive animals are securely confined, and it establishes penalties for owners of animals that fit the defined criteria with the intent to prevent attacks.

CONCLUSION

Staff recommends review of the draft Ordinance, which defines aggressive animals, menacing animals, and severe bodily injury, in addition to penalties consistent with the City’s existing fine schedule for violation of the noise ordinance and other misdemeanor Municipal Code violations related to public peace and safety. Additionally, staff also recommends violations remaining unmitigated beyond a 24-hour period be treated as new violations. Finally, inclusion of language excluding police or military canines utilized in an official capacity from the definition of a “menacing animal” is also recommended. Staff has also made other minor modifications in wording, different from the County Ordinance, for consistency regarding how menacing and aggressive behavior is to be established (i.e. through observable behaviors creating a reasonable fear for personal safety or that of a pet), as well as reordering and reformatting the Ordinance for consistency with the City’s Municipal Code.

Attachments

1. Draft Ordinance
2. San Luis Obispo County Menacing and Aggressive Animal Ordinance

u.w.council.staff report aggressive and menacing animals 9 2012

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF MORRO BAY
ANNOUNCING FINDINGS AND ADDING SECTION 7.04.170 (MENACING AND
AGGRESSIVE ANIMALS) TO CHAPTER 7.04 OF THE MORRO BAY
MUNICIPAL CODE**

THE CITY COUNCIL
City of Morro Bay

WHEREAS, the City contracts with the San Luis Obispo County Division of Animal Services for the provision of animal care and control services; and

WHEREAS, the City is required to enact Municipal Codes, which are similar to and consistent with the County's Codes regarding the care, keeping, and management of animals; and

WHEREAS, the City Council desires to support the safe and responsible keeping of animals within the City; and

WHEREAS, the City desires to protect the safety and welfare of responsible pet owners and their pets from animals demonstrating aggressive or menacing behavior that threatens to cause or actually causes harm to city residents and their pets; and

WHEREAS, the City Council finds that current laws governing aggressive and menacing animals are insufficient to address the adverse health, safety and welfare impacts of aggressive and menacing animals within the City; and

WHEREAS, the County of San Luis Obispo recently enacted an Ordinance to strengthen the regulation of aggressive and menacing animals, which the City Council finds to serve the best interests of the citizens of the City of San Luis Obispo.

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

SECTION 1. Section 7.04.170 (Menacing and aggressive animals) is hereby added to Chapter 7.14 of the Morro Bay Municipal Code, to read as follows:

7.04.170 Menacing and aggressive animals – Animal owner and property owner responsibility.

A. It is unlawful for any person to keep, harbor, or maintain any aggressive or menacing animal which threatens, harasses, or intimidates a person who is peaceably and lawfully upon public or private property, unless it is contained in an enclosure of a construction adequate to keep it securely confined and prevent its escape.

B. It is unlawful for any person to permit any animal owned, harbored, or controlled by him or her to attack and cause severe bodily injury or death to another domestic or captive animal while off the property of its owner or keeper.

C. Upon notification of a violation of subsection A, the animal owner(s) must immediately confine the animal to an enclosure or location which mitigates the aggressive and menacing behavior.

D. For the purposes of this section, the following definitions apply:

1. "Aggressive animal" any animal whose observable behavior causes a person observing that behavior to reasonably believe that the animal may attack a person or another animal without provocation.

2. "Menacing animal" means any animal which, through its behavior, causes a person observing or subject to that behavior to be in reasonable fear for his or her safety, or the safety of animals kept by him or her. Police or military service canines being utilized in an official capacity are excluded from this definition.

3. "Severe bodily injury" means any physical injury which results in deep lacerations with separation of subcutaneous tissues, muscle tears or lacerations, fractures or joint dislocations, or permanent impairment of locomotion or special senses.

E. Penalties for violation:

1. \$350 for the first violation.

2. \$700 for the second violation of subsection A or B within one year.

3. \$1000 for each additional violation of subsection A or B within one year.

4. For the purposes of this section, a first violation of subsection A will be deemed to have occurred if the menacing or aggressive animal is not confined as required by subsection C within 24 hours of notification; a separate violation of subsection A shall be deemed to exist for each 24 hour period following notification in which an animal's menacing or aggressive behavior continues unmitigated.

F. Liability of property owners

1. Owners of properties upon which a tenant keeps, harbors, or maintains any aggressive or menacing animal may, along with the animal owner(s), may be jointly and severally liable for penalties related to violations of subsection A, provided that they have received at least 14 days prior written notice of the existence of such violation and the violation has not been abated. No penalty shall be imposed upon the property owner if the property owner can demonstrate, within 14 days following notification that a violation has occurred, that the property owner has initiated action to abate the illegal activity on the property.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Morro Bay hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 3. This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, with the names of the City Council members voting for and against the same, in a newspaper of general circulation published in the City of Morro Bay.

INTRODUCED at a regular meeting of the City Council held on _____ by motion of Councilmember _____ and second by Councilmember _____

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, on the _____ day of _____ 2012, on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

William Yates, Mayor
City of Morro Bay

ATTEST:

Jamie Boucher, City Clerk
City of Morro Bay

APPROVED AS TO FORM:

Robert W. Schultz, Esq.
City Attorney

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 9.16 OF THE COUNTY CODE, GENERAL PROVISIONS

The Board of Supervisors of the County of San Luis Obispo, State of California, does ordain as follows:

Section 1: Chapter 9.16, Animals, Poultry and Household Pet, is hereby amended add section 9.16.030:

9.16.030 - Menacing and aggressive animals

a) It is unlawful for any person to keep, harbor, or maintain any aggressive or menacing animal which threatens, harasses, or intimidates a person who is peaceably and lawfully upon public or private property, unless it is contained in an enclosure of a construction adequate to keep it securely confined and prevent its escape.

b) Upon notification of a violation of subsection (a), the animal owner(s) must immediately confine it to an enclosure or location which mitigates the aggressive and menacing behavior.

c) It is unlawful for any person to permit any animal owned, harbored, or controlled by him to attack and cause severe bodily injury or death to another domestic or captive animal while off the property of its owner or keeper.

d) For the purposes of this section, the following definitions apply:

- (1) An "aggressive animal" includes, but is not limited to, any animal whose behavior indicates it is prone to unprovoked attacks against a person or other animal.*
- (2) A "menacing animal" includes, but is not limited to, any animal which, through its behavior, demonstrates an intention to inflict harm or otherwise places a person in reasonable fear for his or her safety, or the safety of animals kept by him or her.*
- (3) "Severe bodily injury" means any physical injury which results in deep lacerations with separation of subcutaneous tissues, muscle tears or lacerations, fractures or joint dislocations, or permanent impairment of locomotion or special senses*

e) Penalties for violation:

- (1) \$100 for the first violation.*
- (2) \$200 for the second violation of subsection (a) or (c) within one year.*
- (3) \$500 for each additional violation of subsection (a) or (c) within one year.*
- (4) For the purposes of this section, a separate violation of subsection (a) shall be judged to exist for each 24 hour period in which an animal's menacing and aggressive behavior continues unmitigated.*

f) Liability of property owners

- (1) Owners of properties upon which a tenant keeps, harbors, or maintains any aggressive or menacing animal may, along with the animal owner(s), be jointly and severally liable for penalties related to violations of subsection (a), provided that they have received at least 14 days prior written notice of the existence of such violation and the violation has not been abated.*

Section 2: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall

not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The Board of Supervisors of the County of San Luis Obispo hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 3: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names, of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

Introduced at a regular meeting of the Board of Supervisors held on the _____ day of _____, 20____, and passed and adopted by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

Chairperson of the Board of Supervisors
of the County of San Luis Obispo
State of California

ATTEST:

County Clerk and Ex-Officio Clerk of
the Board of Supervisors, County of
San Luis Obispo State of California

APPROVED AS TO FORM AND LEGAL EFFECT:
WARREN R. JENSEN

By: _____
Deputy County Counsel

Dated: _____



AGENDA NO: D-5

MEETING DATE: 9/25/12

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 19, 2012

FROM: Robert Schultz, City Attorney

SUBJECT: Review of Draft Amendments to Chapter 10.76 of the Morro Bay Municipal Code entitled Coasters, Roller Skates, Skateboards, Scooters, EPAMDs and Similar Devices

RECOMMENDATION

Review the attached draft Chapter 10.76 entitled Coasters, Roller Skates, Skateboards, Scooters, EPAMDs and Similar Devices and direct staff to return this item with any changes for Introduction and First Reading at a public hearing.

FISCAL IMPACT

There is no financial impact associated with providing policy direction to staff on regulation ordinances. Existing resources in the City Manager's Office and City Attorney's Office will be sufficient to enable staff to draft ordinances based on the City Council's direction.

BACKGROUND

At the June 26, 2012 City Council meeting, the City Council gave direction to staff to prepare a draft Ordinance that would update and modernize our Skateboard regulations, including electric scooters and Segways, to allow for their use in all parts of town.

Attached hereto is a draft redline version of Chapter 10.76 that has been prepared by staff that allows Coasters, Roller Skates, Skateboards, Scooters, EPAMDs and Similar Devices in all areas of the City unless the City Council specifically regulates and/or prohibits the use.

In addition, the attached draft Ordinance updates and modernizes Chapter 10.76 pursuant to City Council direction by including electric personal assistive mobility devices (EPAMD) also known as Segways.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Staff Report – City Attorney
Meeting Date: 9/25/12
Amendment to MBMC regarding Skateboards

Finally, the attached draft Ordinance updates and modernizes Chapter 10.76 pursuant to City Council direction by including definitions and also prohibits skateboards, roller skates, scooters and EPAMD upon handicapped access ramps and upon stairways, corridors or any plazas leading to or within a public building. It also requires skateboards, roller skates, scooters and EPAMDs to yield the right of way to pedestrians and to obey traffic and pedestrian signals.

CONCLUSION

Council should review the attached draft Ordinance and provide direction on any changes and have the agenda item returned for Introduction and First Reading at a future meeting.

Chapter 10.76 - COASTERS, ROLLER SKATES, SKATEBOARDS, SCOOTERS, EPAMDS AND SIMILAR DEVICES

10.76.010 - Definitions.

~~10.76.020 - Use of prohibited on streets and sidewalks.~~

10.76.020 - Regulation of Skateboards, Roller Skates, Scooters and EPAMD.

10.76.030 - Skateboards, Roller Skates, Scooters and EPAMD prohibited upon handicapped access ramps.

10.76.040 - Skateboards, Roller Skates, Scooters, or EPAMD upon stairways, corridors or any plazas leading to or within a public building.

10.76.050 - Application of foreign substance.

10.76.060 - Yielding the right-of-way.

10.76.070 - Obeying traffic and pedestrian signals.

10.76.080 - Reckless skateboarding and roller-skating.

10.76.090 - Rules and regulations applicable to the Morro Bay Skate Park.

10.76.100 - Violations and penalties.

10.61.010 - Definitions.

- A. "Skateboard" means any platform of any composition or size without a seat to which two or more wheels are attached and which is intended to be ridden or propelled by one or more persons standing or kneeling upon it.
- B. "Roller skate" means any shoe, boot or other footwear to which is attached one or more wheels.
- C. "Business district" shall have the meaning set forth in Sections 235 and 240 of the California Vehicle Code.
- D. "Pedestrian mall" means any commercial property or plaza connecting or abutting commercial buildings or establishments, within which the sidewalks and ways are restricted to the use of pedestrians as that term is defined in Section 467 of the California Vehicle Code.
- E. "Sidewalk" means that portion of a highway or roadway set apart by curbs, barriers markings or other delineation for pedestrian travel and shall include any driveway, curbing, bulkhead, retaining wall or other works for the protection of

any sidewalk, as well as any paved or improved pathway for pedestrian travel, whether or not abutting highway.

- F. "Public building" means any building or structure constructed, owned or occupied by any public agency, entity or public benefit corporation.
- G. "Scooter" means a human powered mobile device having 2 (two) to 4 (four) wheels, a deck to stand on, and handlebars.
- H. "Electric assistive mobility devices" or "EPAMD" means those devices defined in Section 313 of the California Vehicle Code. (Ord, 6948 § 2, 2003; Ord. 6544 § 1 (part), 1993)

10.76.010 – Use of prohibited on streets and sidewalks.

- ~~A. Skateboarding and roller skating shall be prohibited on any public street, sidewalk, parking lot or other public property when such area is prohibited or restricted by resolution of the city council.~~
- ~~B. Skateboarding and roller skating shall be prohibited on any private property when the owner or person in charge of the property has posted an appropriate sign restricting or prohibiting such use.~~
- ~~C. Skateboarding and roller skating shall be prohibited on downtown streets between Market Avenue and Shasta Avenue on Morro Bay Boulevard and between Dunes Street and Pacific Street on Main Street when posted.~~

10.76.020 - Regulation of skateboards, roller skates, scooters and EPAMD.

Based on demonstrated pedestrian traffic safety needs, the City Council may regulate and/or prohibit the use of skateboards, roller skates, scooters and /or EPAMD upon the roadways, sidewalks, business districts, pedestrian malls, or public buildings in any part of the city and shall so designate by Resolution and by posting such area wherein their use is regulated and/or prohibited.

Exception—The regulation and/or prohibition on the use of EPAMD authorized in this section shall not apply to the use of EPAMD by any governmental agency, public utility on the U.S. Postal Service or to any disabled person (as that term is defined in Vehicle Code Section 295.5(a)(c)) who displays a state-issued disabled placard.

10.76.030 - Skateboards, roller skates, scooters and EPAMD prohibited upon handicapped access ramps.

It is unlawful for any person to ride or propel a skateboard, roller skates, scooter or EPAMD upon any ramp or passageway designed or built to afford access to buildings or structures by handicapped or disabled persons.

Exception—The prohibition set forth herein shall not apply to the use of an EPAMD by a disabled person (as that term is defined in Vehicle Code Section 295.5(a)(c)) who displays a state-issued disabled placard.

10.76.040 - Skateboards, roller skates, scooters, or EPAMD upon stairways, corridors or any plazas leading to or within a public building.

It is unlawful to ride or propel a skateboard, roller skates, scooter, or EPAMD upon any stairway or corridor leading to or within any public building or upon any plaza or courtyard within any public building.

Exception—The prohibition set forth herein shall not apply to the use of an EPAMD by a disabled person (as that term is defined in Vehicle Code Section 295.5(a)(c)) who displays a state-issued disabled placard.

10.76.050 - Application of foreign substance.

It is unlawful for any person to apply any foreign substance, including wax, oil or other similar material, whether as a solid or a liquid, on to or remove any non-slip material from any curb, stair, railing, ramp, sidewalk, bench or other abutment for the purpose of aiding any stunt, turn or other acrobatic action while riding a skateboard or roller-skates. Such application is prohibited from any public or private property without notice.

10.76.060 - Yielding the right-of-way.

Any person riding upon or propelling any roller skate, skateboard, scooter or EPAMD shall yield the right-of-way to pedestrians on any sidewalk or crosswalk upon which it is lawful to ride or propel a skateboard, roller skates, scooter or electric personal assistive mobility device.

10.61.070 - Obeying traffic and pedestrian signals.

It is unlawful for any person riding upon or propelling any skateboard, roller skates, scooter or EPAMD to fail to obey any traffic control signal or pedestrian control signal.

10.76.080 - Reckless skateboarding and roller-skating.

It is unlawful for any ~~No person to operate shall use or operate~~ riding upon or propelling any skateboard or roller-skate, or scooter or EPAMD on any public or private property in such a negligent and/or reckless manner with disregard for the safety of persons or property, and/or interfere with the orderly flow and right-of-way of vehicular traffic in such a manner as to be a hazard to pedestrians, vehicular traffic, the skateboarder/roller-skater themselves, or any other persons.

10.76.090 - Rules and regulations applicable to the Morro Bay Skate Park.

- A. It shall be unlawful and a violation of this section for any person to engage in, or for any adult responsible for the supervision of a minor child to permit a minor child to engage in, any activity prohibited under this section.
- B. The Morro Bay Skate Park is an unsupervised facility. Riding or otherwise using a skateboard or any other permitted coasting device in the skate park, or entering into the skate park for the purpose of engaging in such activity, without wearing a helmet, elbow pads, and knee pads is prohibited.
- C. Use or occupation of the skate park during non-open hours is prohibited and constitutes trespassing.
- D. Use of alcoholic beverages, tobacco, and/or drugs at the skate park is strictly prohibited.

10.76.100 - Violations and penalties.

Any person who is convicted of violation of any provision of this Chapter is guilty of an infraction, punishable by:

- A. A fine not exceeding fifty dollars for a first violation;
- B. A fine not exceeding one hundred dollars for a second violation of the same Chapter within one year;
- C. A fine not exceeding two hundred fifty dollars for each additional violation of the same Chapter within one year.