

City of Morro Bay

City Council Agenda

Mission Statement

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

**REGULAR MEETING
TUESDAY, JUNE 11, 2013**

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

ESTABLISH QUORUM AND CALL TO ORDER

SUMMARY OF CLOSED SESSION ITEMS - The Mayor will read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENTS - Members of the public may address the City Council on any matter that is listed on this Closed Session agenda. Unless additional time is authorized by the City Council, remarks shall be limited to three minutes.

THE CITY COUNCIL WILL MOVE TO CLOSED SESSION

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 following employee organizations and giving instructions to the Designated Representative: Firefighters Association (FFA), Police Officer's Association (POA), and Service Employee's International Union, SEIU Local 620.

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

- **Property: A1-3 Mooring Zone next to 541 Embarcadero**
Negotiating Parties: Morro Bay Yacht Club and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: APN 068-168-022, Vacant Lot next to 1320 Main Street**
Negotiating Parties: Michael Lemos and City of Morro Bay
Negotiations: Lease Terms and Conditions

CS-3 CONFERENCE WITH LEGAL COUNSEL DUE TO ANTICIPATED LITIGATION -- GOVERNMENT CODE SECTION 54956.9(b): Exposure to litigation exists based upon existing facts and the advice of legal counsel as to one matter.

- Parties: First American Title Company/First California Bank and City of Morro Bay

RECONVENE TO OPEN SESSION – Announcement of reportable action from closed session, if any.

**PUBLIC SESSION
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
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council 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 AGENDA

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 BUDGET WORKSHOP ON OF MAY 22, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR COUNCIL MEETING OF MAY 14, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING EMAIL ACCESSIBILITY TO CITY GOVERNMENT; (CITY ATTORNEY)

RECOMMENDATION: Review the attached letter and authorize its submittal to the Grand Jury.

- A-4 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC SERVICES)

RECOMMENDATION: Staff recommends that this report be received and filed.

- A-5 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA AMENDING RESOLUTION 43-10 FOR A CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GRANT FOR MODIFICATIONS TO THE DESALINATION PLANT; (PUBLIC SERVICES)

RECOMMENDATION: Approve Resolution 35-13.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS

- C-1 REVIEW OF THREE PROPOSED CONCEPT PLANS FOR IMPROVEMENTS TO CENTENNIAL STAIRCASE; (CITY ATTORNEY)

RECOMMENDATION: Review and discuss the three different Concept Plans for Improvements to Centennial Staircase and direct Staff to schedule this item for review at the Recreation and Parks Commission and the Planning Commission and return to the City Council with their recommendations.

D. NEW BUSINESS

D-1 CONSIDERATION OF JOINT REDEVELOPMENT PROJECT PROPOSED FOR LEASE SITES 86/86W (801 EMBARCADERO LLC – CALDWELL) AND 87-88/87W-88W (V. LEAGE); (HARBOR)

RECOMMENDATION: Council to consider the three proposed alternatives and provide staff direction.

D-2 CONSIDERATION OF REDEVELOPMENT PROJECT PROPOSED FOR LEASE SITE 62/62W (KAYAK HORIZONS – KRUEGER); (HARBOR)

RECOMMENDATION: Council to consider the three alternatives and provide staff direction; staff is recommending Alternative A.

D-3 STATUS REPORT ON AMENDMENTS TO THE ZONING ORDINANCE (TITLE 17) AS IT RELATES TO SECTION 17.48.32 (SECONDARY UNITS), SECTION 17.44.020.1 (NORTH MAIN STREET COMMERCIAL AREA PARKING) AND SECTION 17.27 (ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES); (PUBLIC SERVICES)

RECOMMENDATION: Review the materials presented in the packet by staff and direct staff to submit to Coastal Commission a Local Coastal Plan amendment to include all three Zoning Ordinance Amendments..

D-4 APPROVAL OF LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SCOTT MEISTERLIN FOR PROPERTY LOCATED AT 307 MORRO BAY BLVD. FOR A PUBLIC RESTROOM AND OPEN SPACE AREA; (CITY ATTORNEY)

RECOMMENDATION: Approve the lease agreement with Scott Meisterlin for the use of property located at 307 Morro Bay Blvd. (corner of Morro Bay Blvd. and Main St.) for a public restroom and open space area.

D-5 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

RECOMMENDATION: Discuss in open session, the progress to date on the Water Reclamation Facility (WRF) and provide direction to staff as necessary.

D-6 APPOINTMENT OF VOTING DELEGATE(S) TO THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY; (ADMINISTRATION)

RECOMMENDATION: Council to appoint Mayor Irons as the official representative of the City of Morro Bay on the California Joint Powers Insurance Authority (CJPIA). It is also recommended that City Attorney Robert Schultz and City Manager Andrea Lueker are appointed as alternates.

E. COUNCIL 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: 6/11/2013

MINUTES - MORRO BAY CITY COUNCIL
BUDGET WORKSHOP – MAY 22, 2013
VETERAN’S MEMORIAL HALL – 5:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief
	Eric Endersby	Harbor Director
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

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

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

PUBLIC COMMENT - For Special Meetings, members of the audience may address the Council only on items that are listed on the agenda.

Craig Schmidt, CEO of the Morro Bay Chamber of Commerce, referred Council to page 16 of the proposed budget. He thanked Council for their continued commitment to economic development and understanding that a healthy business community is a necessary component to the well-being of Morro Bay. They currently have 2 start-up businesses in the business incubator with the goal of nurturing them to the point where they can grow and occupy vacancies in the community. The Chamber is asking for funding in the amount of \$58,424 with all funds being used for salaries for the Economic Development Coordinator and part time business liaison position whose efforts will be focused on economic data collection, business retention and growth, recruitment of new businesses and creation of a nurturing entrepreneurial climate for the start-up and growth of new businesses.

Jayne Behman, hotelier and member of the MBTBID spoke requesting \$116,850 for the Tourism Bureau/Visitor’s Center from the 2013/14 budget. Their marketing efforts have been working and any cut in local spending will result in a cut to what the TBID can spend in their marketing efforts which will result in lower revenues.

Karin Moss, the Director of the Morro Bay Tourism Bureau, stated that she was here tonight to answer any questions or provide any feedback the Council may have regarding the TBID’s

budget request. She urged Council to keep the Bureau's budget intact as it will continue to keep the Morro Bay brand in the public eye. She made the following points: ~look at marketing dollars as an investment, not as an expense; ~cuts will only yield short term gains; ~ if we cut advertising we are cutting our market share; ~marketing in a recession will give you a competitive edge; ~marketing is never stagnant, if you're not moving forward, you are moving backwards.

Christine Rogers of the Economic Vitality Corporation thanked Council on EVC's behalf for their continued support over the past year. The EVC continues to work with local business owners to make sure they have access to resources they need to continue to grow and thrive. Listening to our business owners about what they need and working with them to provide what they need is at the heart of the economic strategy project. The 6 clusters of industry identified as providing the majority of our job growth in our new businesses continue to be our local economic drivers. What the EVC is doing is meaningful and now isn't the time to stop.

Lynda Merrill asked Council that when they make decisions about spending the City's money, pretend that you yourself earned the money.

Joan Solu stated that local tourism has had substantial economic gains during the recession. The TBID/Tourism Bureau has a vision into the future, part of which are goals for economic growth in the tourism industry. They are partnered hand in hand with the Chamber of Commerce's Economic Development Department who has put together a good program with solid research and measurable goals. Please support both of those programs as they move forward. She also requested Council set aside monies in the budget for some funding and/or partnership of events celebrating the City's 50th Anniversary Celebration.

Neil Farrell, President of the Public Art Foundation has been working with the 50th Anniversary Committee and hopes that Council will set aside some funding for a public art project at the round-a-bout. He will be urging others in the community to get on board with this project as well. He feels the entire project could cost approximately \$100,000.

John Headding sees a significant need to develop a singular point of contact for Economic Development, recruitment and retention. With that as a driving force, things can happen quicker, less costly and more efficiently.

The public comment period was closed.

PRESENTATION & DISCUSSION OF THE 2013/14 FISCAL YEAR BUDGET

Administrative Services Director Susan Slayton gave an overview of the City's budget process. She then presented the FY 2013/14 Budget. She stated that the budget was balanced. Each Department Head then gave a brief overview of their department's requests. Discussion was then brought back to the City Council for questions and comments.

Councilmember Christine Johnson hoped to begin discussions on the additional funding requests received, revenue generating opportunities, and budget philosophy (zero based philosophy vs a program based philosophy).

Mayor Irons hoped to wait for discussions on revenue generating ideas in hopes of waiting for Councilmember Nancy Johnson to be here.

Councilmember Smukler also thought it important to touch base on Measure Q.

There was a discussion on the difference between zero based budgeting and program based budgeting. Administrative Services Director Susan Slayton reviewed the concepts/philosophies of each. The program based philosophy, while possible, would take much more staff time to implement. There would be surveys, workshops, priority selection, etc. and would almost have to be started soon after this budget was adopted. This led Councilmember Christine Johnson to try and consider getting community feedback on the budget during the goal setting process and then tying our goals to our budget. Both Councilmember Smukler and Mayor Irons agreed that having the nexus of goals to budget and community involvement would be important.

There was discussion of funding requests which included:

- Friends of the Library - \$5,000;
- 50th Anniversary Celebration – amount TBD
- SLO County Housing Trust - \$,1000
- EVC - \$5,000
- Tourism Bureau - \$58,500
- Community Art Foundation – amount TBD

Councilmember Christine Johnson spoke regarding the SLO County Housing Trust stating that their request is focused on low, very low and moderate income building/housing projects. She hoped they could fund this request stating that maybe the funds could come from the Affordable Housing Fund.

Councilmember Smukler spoke on the Tourism Bureau request stating that he would need to see clearly how funding this would affect us positively in the City's revenue stream and how we would track the impacts of those funds; how those funds would be involved in events and regional marketing components; and the "Shop Local" campaign. He doesn't want those funds generically rolled into their overall budget. He doesn't want to just see their detailed budget presentation; he wants to see the plan and strong justification behind the budget.

Councilmember Smukler also spoke on Measure Q hoping for more detail on the overall streets maintenance picture. He also wants detail on City contracts and consulting costs. Further, he wants a clear description of cost allocations to different funds – a "clear map" of where employee costs are allocated. He would also like to begin hearing recommendations on how to start budgeting/funding for the 420 million we have in asset replacements. And finally, he wanted to look at alternative healthcare options outside of PERS.

Mayor Irons concurred that reflecting on the adopted goals each year in an effort to determine where the funding will come from in our attempt to fund those goals is important.

The meeting concluded; the next Budget Workshop is scheduled for Wednesday, June 12, 2013 beginning at 5:00pm at the Veteran's Hall.

ADJOURNMENT

The meeting adjourned at 8:33pm.

Recorded by:

Jamie Boucher
City Clerk

AGENDA NO: A-2

MEETING DATE: 6/11/2013

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 28, 2013
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Eric Endersby	Harbor Director
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Rob Livick	Public Services Director
	Rick Sauerwein	Capital Projects Manager

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

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – City Attorney Robert Shultz reported that City Council met in Closed Session on the following items: Government Code Section 54956.8, Property Transactions instructing City’s real property negotiator regarding the price and terms of payment for the purchase, sale, exchange or lease of real property as to three parcels: Vacant Lot/Corner of Coral/San Jacinto; 887 Atascadero Road; and 307 Morro Bay Blvd. No reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT

Jason Scheer spoke advertising the opening of their new restaurant, The Grill Hut, located at 3118 No Main Street. It is a family owned bbq restaurant that offers take out, eat in, and catering. All their meat is fresh, never frozen, and all their recipes are family produced. They are open Sunday, Monday, Tuesday and Thursday from 11am-8pm; Friday and Saturday, 11am-9pm; and closed Wednesdays. They hope everybody comes out and gives them a try.

Barry Brannin spoke regarding a closed session item, the vacant lot/corner of Coral/San Jacinto. He stated that property was originally supposed to be a Fire Station but now has been subdivided into developable lots. The City has recently gone through the Cloisters annual assessment and he hopes that if this property is sold, that each parcel would be subject to the Cloister assessment amount as they should share in the cost.

Roger Ewing spoke in support of Item D-3, request from the Morro Bay Citizen's Tree Committee for the listing of Landmark Trees. This process has taken many years and he is pleased that PWAB is recommending all 20 trees. He is glad that we can once again call ourselves a Tree City. He publicly thanked Councilmember Noah Smukler, Wally McRea and Taylor Newton as the energy behind this movement.

Richard Sadowski followed up on the property at Coral and San Jacinto. He stated that Jeff Edwards was a facilitator for Shea homes. He also attended the Brown Act Study Session and wanted to let the public know that District Attorney Shea is the first responder to Brown Act violations. Also, in 2007 he co-wrote a report on the shortcomings of the current JPA agreement with Cayucos. He feels that to move in a reasonable direction, the City needs to protect its citizens as currently there is a risk of the sewage coming into the City from Cayucos.

Ken Vesterfelt spoke on the very successful car show that was held the first weekend in May. He especially thanked David Owens for putting on the BBQ and John Lewan and the Police Explorer Unit for all their help. There were 532 vehicles on the street of which only 8% were from within the County. He also stated that Dennis Gage said that the event was well organized and that the City is a gem. His television show taped during the car show will tape next April.

Lynda Merrill also spoke on Item D-3 thanking the Tree Committee for their efforts to bring awareness to these spectacular trees. Some of the unfunded mandates in Item A-3, the annual update on current legislative bills pending in Sacramento, scare her. She also spoke on Item A-5, the status report on the MMRP for the existing wastewater treatment plant stating that no doubt, we need to keep the old plant functioning, it's too bad it will be so expensive. And finally, she spoke in support of Item A-7, a Resolution supporting increased funding to the California Coastal Commission to support enhanced local coastal plan planning and updates.

Jim Davis advertised an upcoming event, the 3rd Annual Veteran's Benefit to support the Veteran' Shuttle Bus. It is being held on Sunday, June 23rd from 1-4pm. The event will feature a bbq, live music, and a silent and live auction. All funds go towards the support of the shuttle bus.

Bill Martoney announced the passing of his long time neighbor, Eleanor Kolb.

Adrienne Harris, Executive Director of the Morro Bay Natural Estuary Program stated that they have the finalized comprehensive management plan completed and on the website for the Morro Bay Estuary and Watershed. (www.mbnep.org) She also thanked all the community members who commented on this document as well as City staff. They also have the best management practices for harbor maintenance, boating and projects that they have been working on with City staff for many years.

Taylor Newton advertised the upcoming Green Light Eco-Faire being held this Sunday, June 2nd at St. Timothy's Church from noon – 5pm. The event is being sponsored by Eco Rotary. He also thanked those helping out and getting the Landmark Trees presented and passed. The point of a Landmark Trees is to educate our adults and children about the history and heritage of trees in our community.

Gary Hixon is still doing Mirror Vision, the Gary Tyler Moore Show and Ozzy Osbourne. He also thinks that everybody is doing a great job.

Mayor Irons closed the public comment period.

A. CONSENT AGENDA

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 CITY COUNCIL MEETING OF MAY 14, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 EXECUTION OF A GRANT AGREEMENT WITH THE NATURE CONSERVANCY FOR \$35,000 TO FINALIZE CREATION OF THE MORRO BAY COMMUNITY QUOTA FUND NON-PROFIT AND TO SUPPORT REGIONAL FISHING ASSOCIATION DEVELOPMENT; (ADMINISTRATION/HARBOR)

RECOMMENDATION: Authorize execution of the attached \$35,000 grant agreement with The Nature Conservancy (TNC) to provide staff and outside legal counsel support for formation of the Morro Bay Community Quota Fund (MBCQF) and support of regional fishing associations.

A-3 ANNUAL UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO; (CITY ATTORNEY)

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

A-4 APPROVAL OF TRACT MAP 3031 (1885 IRONWOOD AVE.) AND ACCEPT THE DEDICATION FOR A PUBLIC UTILITY EASEMENT (MORRO DEL MAR PROPERTIES LLC, SUBDIVIDER); (PUBLIC SERVICES)

RECOMMENDATION: Approve the Tract Map 3031 with the acceptance of associated Public Utility Easement.

A-5 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC SERVICES)

RECOMMENDATION: Staff recommends that this report be received and filed.

A-6 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, SUPPORTING THE EFFORTS IN CELEBRATING THE CITY OF MORRO BAY'S 50TH ANNIVERSARY OF INCORPORATION; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 31-13.

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, SUPPORTING INCREASED FUNDING TO THE CALIFORNIA COASTAL COMMISSION (CCC) TO SUPPORT ENHANCED LOCAL COASTAL PLAN PLANNING AND UPDATES

RECOMMENDATION: Adopt Resolution 30-13

Mayor Irons opened up the public comment period for items on the Consent Calendar; seeing none, the public comment period was closed.

Councilmember Smukler pulled Item A-2 and Mayor Irons pulled Item A-3 from the Consent Calendar.

MOTION: Councilmember Nancy Johnson moved the City Council approve Items A-1, A-4, A-5, A-6 and A-7 of the Consent Calendar as presented. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

A-2 EXECUTION OF A GRANT AGREEMENT WITH THE NATURE CONSERVANCY FOR \$35,000 TO FINALIZE CREATION OF THE MORRO BAY COMMUNITY QUOTA FUND NON-PROFIT AND TO SUPPORT REGIONAL FISHING ASSOCIATION DEVELOPMENT; (ADMINISTRATION/HARBOR)

Councilmember Smukler pulled this item to allow Rick Algert the opportunity to provide status on this project.

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

A-3 ANNUAL UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO; (CITY ATTORNEY)

Mayor Irons pulled this item to ask the City Attorney questions and to speak on the recommendations. City Attorney Rob Schultz stated that he takes his lead from the League of California Cities. His primary concern is to review the bills that could bring loss of local control.

MOTION: Mayor Irons moved the City Council approve Item A-3. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS – NONE

D. NEW BUSINESS

D-1 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report/time line.

Mayor Irons hoped to begin moving this item to a monthly report, being heard at the second meeting starting in June.

Councilmember Christine Johnson would rather see this every two weeks, especially as more things are starting to happen.

Both Councilmembers Nancy Johnson and Leage felt hearing this once a month is plenty, especially given the fact that the agendas are so full.

Councilmember Smukler thought we should keep this flexible with the possibility of having a consent calendar item at the off-meeting which could then be moved to New Business if there is significant progress to announce.

There was a majority of Councilmembers requesting this be heard once a month, at the second meeting, with the understanding that if something major occurs, it would be brought up.

Public Services Director Rob Livick announced that there is a new Notify Me Module on the City's website for the WRF project that people can now enroll in.

Mayor Irons opened up the public comment period for Item D-1; seeing none, the public comment period was closed.

This report was received and filed.

D-2 HISTORY AND STATUS OF WATER RIGHTS ISSUES IN THE CHORRO VALLEY; (PUBLIC SERVICES/CITY ATTORNEY)

City Attorney Rob Schultz and Public Services Director Rob Livick presented the staff report.

Mayor Irons opened the public comment period for Item D-2; seeing none, the public comment period was closed.

Councilmember Smukler wants to ensure the Council is kept in the loop with use of outside counsel and costs of that use. He also announced that the NEP has grants with NOAH and Trout Unlimited to develop a water budget and stewardship plan for that area and they are very

interested in working with the City on this. He was happy with the presentation, it's important to respect the 1633 order; to work towards the stream gauge and get it installed to gather the data; and to honor our water delivery commitments out there. State water has been a blessing but has also caused us to lose track of our local sources/resources. This is a good reminder we need to try and be as self-sustaining/self-sufficient as possible. He is comfortable with staff's recommendation of moving forward carefully. He would also like to involve PWAB more in this; they can be used as a sounding board as updates become timely as well as provide community awareness.

Mayor Irons totally agrees with the use of PWAB as it will bring more attention of this to the public. We need to move forward with the stream gauge. He feels that Chorro Valley water needs to be looked at as part of our portfolio. He also wants to make sure we can protect and hopefully enhance our water portfolio.

Councilmember Christine Johnson also hoped that Council would keep abreast of outside counsel costs.

To summarize, this item will be brought back as a yearly update; staff is directed to work with the NEP to participate in their project; and this item should be brought to the PWAB.

D-3 RECOMMENDATION FROM THE PUBLIC WORKS ADVISORY BOARD REGARDING THE REQUEST FROM THE MORRO BAY CITIZEN'S TREE COMMITTEE FOR LISTING OF LANDMARK TREES; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Mayor Irons opened up the public comment period for Item D-3.

Nancy Bast stated that trees are a miracle of nature. She congratulated PWAB and the Tree Committee for bringing this forward. She urged Council to accept the recommendation. She feels that an iconic grove of trees has been overlooked; she would like Council to put on the list for consideration of heritage status, the trees that are on the Jordan Terrace public right of way at Cerritos Peak.

The public comment period for Item D-3 was closed.

Councilmember Nancy Johnson wanted to ensure the public was aware that anybody can nominate a tree or group of trees for landmark status. This can be done via email, letter or phone call to the Public Services office along with the criteria of why they feel it qualifies as a Landmark Tree. The information would be then analyzed and forwarded to PWAB who would then forward their recommendation to the Council.

Councilmember Smukler presented the criteria for being declared a landmark tree which included significant habitat value, size and beauty, cultural heritage, age, agricultural significance, important functional role in City parks or City Planning, of special significance planted by early settlers, and depended on by indigenous cultures (Chapter 12.08 of the Code).

He also wanted to publicly recognize the three Tree Committee members Wally McRae, Bob Shriber, and Taylor Newton for all their work on putting this together. He hopes the landmark tree concept will be included in the Urban Forest Management Plan as well as include the expansion of a public education and awareness component into the plan. He also stated he'd had the opportunity to talk to the Historical Society who plans to incorporate these trees into their walking tour for the City's 50th Anniversary Celebration. He supports this and feels we should assist the Historical Society in the mapping and outreach effort. He would also like to try and identify sponsors for these trees to help with their care and maintenance.

Councilmember Leage also supports staff's recommendations and wanted to thank those involved.

Councilmember Christine Johnson would like to accept the entire recommendation from the committee and staff and say congratulations as well.

Mayor Irons acknowledged the great work from the Committee and staff as well.

Councilmember Smukler would like to see how we could include trees other than those in the public right of way as part of the general plan update.

MOTION: Councilmember Smukler moved to approve, with the comments made, the 20 Landmark Trees. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-4 DISCUSSION AND DIRECTION ON FUTURE EXPIRING LEASES AND CONSIDERATION OF PROPOSALS RECEIVED FOR LEASE SITES 30W-33W (COAKLEY – BAY FRONT MARINA), 34W (CRIZER), 35W-36W (VACANT), AND 37W (MEYER – MORRO BAY MARINA INC.); (HARBOR)

Harbor Director Eric Endersby presented the staff report.

Jay Coakley made his presentation; in 1947 when the State of California turned the lease sites over to the County, the bylaws stated that lease sites south of Tidelands Park should rent to upland owners as long as they are good tenants and in his opinion, they are good tenants. He also doesn't feel that combining the lease sites is a good idea as there won't be adequate parking and you will have to get a Coastal Permit which will be very hard. He is asking for a long term lease because at the end of the lease which is January, he doesn't want to have to remove the pier as it will prove to be very costly. He would rather keep it there and be responsible for pier maintenance and upkeep.

Bob Crizer is the current leaseholder of lease site 34W which is not contiguous with upland property. In that process they went thru creating easements for site access and the use of bathroom facilities, water and power. These easements went through and were acceptable to the City Attorney. Parking also came with the lease site. His proposal is a clear lease renewal based on good stewardship of the lease site. Records will reflect that he has met the lease requirements and has met them on time. He continues to maintain his lease, dock floats, updated fire

suppression system and rotten timbers. Best practices would allow him to provide new structures and have the City provide an automatic extension of the lease once he has made those improvements. He can't financially budget for these improvements without an automatic extension.

Bill Martoney spoke on behalf of lease sites 34W and 35-36W. Regarding 34W, he doesn't feel the lease for the site should be extended as the document is defective and flawed. That aside, this water lease site has always been attached to the land. He feels the restrooms haven't been maintained and he will replace the failing walkway. He also feels it makes common sense that along with having parking rights, to reattach to the land as it would be a much more usable scenario as well as eliminate lot of potential future legal issues. Regarding Lease Site 35-36W, he would like to move forward with the mariculture proposal. The side tie floating dock will be 120 foot long and will have 240 running feet of side tie floating capability. This can be used for multiple uses, it doesn't all have to be mariculture. This is not a complicated area; if you have upland property owners leasing the lease sites then your problem is solved; if you mix and match owners and outside leases you will create a can of worms.

Mayor Irons opened up public comment for Item D-4.

Nancy Bast spoke regarding the general policy of the City. She feels that a majority of the City's promotional monies are aimed at waterfront and associated businesses. One of her concerns is the City be compensated accordingly for the residents' promotional monies that go into the success of the Embarcadero businesses. The Embarcadero used to have a vast diversity of individual businesses. Now an entire block of lease sites can be bought and consolidated into one. The direction towards consolidations of lease sites has cost the City money as there was no financial certification of subleases. These and all lease sites should be used for the highest and best interest for the people of California. She asked what this Council's policy towards consolidation was.

Barry Brannin feels it obvious that the property owners immediately adjacent to the water lease can do the best job, provide public services and actually run a business. He urged Council to look at alternative uses other than boat slips; look for what the public wants; the City needs industry. He felt it important for the people who have the land lease to have the opportunity for the water lease sites.

Bernadette Pecarick, owner of the Cannery property, spoke regarding Lease Site 34W stating that they have the fire access to that entire area and Mr. Crizer doesn't, all he has is a fire hose. If there were a fire, it could be a huge liability to all the properties down there.

The public comment period for Item D-4 was closed.

Councilmember Leage feels these discussions should have taken place in Closed Session first before hearing it in open session because of the legal questions. He also believes that an upland owner should have the lease site which would then eliminate consolidation. He also feels that a master plan for the sites with the individual leaseholders for the entire area would be a good idea.

Councilmember Christine Johnson posed a general question to the Council – do we want to take a once in a lifetime view of this area. She felt it might be important to hear from the public and their vision for this area one more time before sending this to closed session.

Councilmember Smukler was ready to make some decisions this evening but is inclined to bring this back to the next meeting to hear from the public on the community's vision for the area. Council's first responsibility should be to take this new process calmly and provide the public input opportunities by posing the question to the community directly.

Councilmember Nancy Johnson also feels that a master plan for the area is important. She feels that going to closed to discuss this should be the first step as there are legal questions.

As there were questions to applicants, public comment was re-opened; seeing none, public comment period was closed.

Mayor Irons sees Lease Site 30-33W as something we can direct staff to go to the applicant and begin negotiations with unless we decide we want to consolidate.

Councilmember Smukler feels fairly confident that the community doesn't want consolidation in that area. He feels we can move forward with most of this as the proposals don't make much of a change.

There was Council consensus to move forward with negotiations on Lease Site 30-33W; in addition, Councilmember Smukler asked staff to explore public access, the vertical boardwalk concept and investment versus lease length.

There was Council consensus to move forward with negotiations on Lease Site 37W with a request for staff to consider public access, lease term versus investment, as well as evaluating some hazardous materials containment options.

Regarding Lease Site 35W-36W, Mayor Irons was hesitant to tie this lease site up if there isn't a viable project or something that will be followed through on. Before moving forward, it might be helpful to have more of a business plan.

Councilmember Leage still feels that having a master plan for the entire area would be very helpful. All the lease site holders could work together to provide an overall view.

Councilmember Christine Johnson felt that the concept of mariculture was intriguing and would like to see a strong robust business proposal before sending it on.

Both Councilmembers Nancy Johnson and Smukler thinks we need to move everything forward so staff can begin negotiations and would like to see more details on the proposal for 35W-36W.

MOTION: Councilmember Nancy Johnson moved to proceed to negotiations with upland owners on Lease Sites 30W-33W, 35W-36W, 37W and 34W. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-5 REVIEW OF THE 2008 MANAGEMENT PARTNER STUDY (ASSESSMENT OF CITY ORGANIZATION AND FINANCIAL OPTIONS), INCLUDING PROGRESS ON THE 21 EXPENDITURE CONTROL STRATEGIES, 13 REVENUE CREATION STRATEGIES AND 4 LONG RANGE STRATEGIES AND PROVIDE FURTHER DIRECTION TO STAFF; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Mayor Irons opened up public comment for Item D-5; seeing none, the public comment period was closed.

Mayor Irons thinks that revising this now is a good idea as we are entering into our budget process.

Councilmember Smukler feels it is important to have this discussion now so that if we want to do something, it can be addressed in the budget. He would want to know that what we spent would come back to us in value. He is cautious about throwing money at this when the City can discuss and move forward on many of these items ourselves.

Councilmember Christine Johnson wants/needs us to think about cost. If we need to reevaluate expenditures and revenues then we would possibly go in a different direction. She is very willing to look at a different study, possibly paying half as much, and using a different group with a different point of view.

Mayor Irons wants to be prudent with the investment we make so he understands the hesitation on Council's behalf. The ability to explore the 2008 version and do a self-check assessment every 5-7 years is very valuable.

Councilmember Smukler stated that 5 years is a long time, if we were to wait another year before we address this study, we will be able to see how some of these changes have worked; ie: new management of the lease sites and the economic development program. He feels good about deferring this until next year where we will have even more information and results to evaluate. He also feels regardless of what way Council goes, annual updates of this report will be valuable.

Councilmember Nancy Johnson concurs that annual updates and reviews are valuable. It is important though to look at revenue generating possibilities now. There needs to be discussion and public input on what is practical for citizens to do to increase revenues.

Councilmembers Leage states that Council talks about bringing more revenue into town but we don't talk about making it as easy as possible to bring business into town which he feels we are neglecting to do.

Councilmember Christine Johnson agrees which is why putting dedicated money into economic development and tourism marketing should show a payoff.

There was no motion or action taken on this item. It will be agendized for annual update/review as an informational item.

D-6 STATUS REPORT ON AMENDMENTS TO THE ZONING ORDINANCE (TITLE 17) AS IT RELATES TO SECTION 17.48.32 (SECONDARY UNITS), SECTION 17.44.020.1 (NORTH MAIN STREET COMMERCIAL AREA PARKING) AND SECTION 17.27 (ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES; (PUBLIC SERVICES)

Mayor Irons opened up public comment for Item D-6; seeing none, the public comment period was closed.

This item was never heard and was continued to a future meeting.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS - NONE

ADJOURNMENT

The meeting adjourned at 10:29pm.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A-3

Meeting Date: June 11, 2013

Staff Report

TO: **Honorable Mayor and City Council**

DATE: **June 4, 2013**

FROM: **Robert Schultz, City Attorney**

SUBJECT: **Request To Approve a Response to the Grand Jury Regarding Email Accessibility to City Government**

RECOMMENDATION

Staff recommends the Council review the attached letter and authorize its submittal to the Grand Jury.

ALTERNATIVES

1. After Council review of the response, the Mayor signs the letter as written.
2. After Council review of the response, revisions can be made as deemed necessary, and then the Mayor can sign the letter as revised.

FISCAL IMPACTS

No fiscal impacts result as a result of this action.

DISCUSSION

The City has received a report from the San Luis Obispo County Grand Jury regarding "Email Accessibility to City Government". The Grand Jury Report is attached to the staff report. According to the report, the City is required to respond to Finding 5 and Recommendation 2 which states the City must to add to our website, a Brown Act disclosure related to the use of official City emails by both Councilmembers and staff. This disclosure has been added to the website as instructed. The added verbiage to the City Council site reads as follows: "*Note: E-mail correspondence sent to and from members of the City Council via the City's website are considered public records and may be subject to disclosure and additional distribution pursuant to the Public Records Act and/or the Brown Act.*" The added verbiage to the City Staff Directory site reads as follows: "*Note: E-mail correspondence sent to and from the following people via the City's website are considered public records and may be subject to disclosure and additional distribution pursuant to the Public Records Act and/or the Brown Act.*" The City of Morro Bay is required to respond to this request by July 1, 2013. Staff has developed the attached response letter for the Council's review.

CONCLUSION

Staff recommends that Council review the letter and authorize its submittal to the Grand Jury.

Prepared By: JB

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6205

June 4, 2013

Ed Kreins, Foreperson
2012-2013 SLO County Grand Jury
PO Box 4910
San Luis Obispo, CA 93403

Mr. Kreins,

This letter is in response to your April 30, 2013 request for information regarding "Email Accessibility to City Government". First and foremost, we would like to thank you for your Commendation for our rapid transference of City Council members' personal emails to City domain emails for conducting official business.

Secondly, as of June 5, 2013 the City of Morro Bay placed a Brown Act Disclosure related to the use of official City emails on both the City Council page as well as each of our Department's Staff Directory pages. The verbiage for each reads as such:

Councilmember: "Note: E-mail correspondence sent to and from members of the City Council via the City's website are considered public records and may be subject to disclosure and additional distribution pursuant to the Public Records Act and/or the Brown Act."

Staff: "Note: E-mail correspondence sent to and from the following people via the City's website are considered public records and may be subject to disclosure and additional distribution pursuant to the Public Records Act and/or the Brown Act."

If you have further questions, please do not hesitate to call.

Sincerely,

Jamie L. Irons
Mayor

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
595 Harbor Street

POLICE DEPT.
850 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way



RECEIVED
City of Morro Bay

APR 30 2013

Administration

GRAND JURY

April 30, 2013

Confidential

Jamie Irons, Mayor
City of Morro Bay
595 Harbor St
Morro Bay CA 93422

Dear Mayor Irons:

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

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

Please check the last page of text of the report for the timing of your response, if any, as required by the Penal Code. § Sections 933 through 933.05 of the Penal Code are attached for your reference. Also attached is a form for your responses to its findings and recommendations.

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

Respectfully,

Ed Kreins, Foreperson
2012-2013 Grand Jury

2 Enclosures
EK:sm

EMAIL ACCESSIBILITY TO CITY GOVERNMENT

SUMMARY

Transparency in local government is a fundamental concern and an expectation of the citizens of San Luis Obispo County. Email communication is one way that the public gains access to their local public officials. The 2012/2013 San Luis Obispo County Grand Jury, responding to a complaint by a citizen, investigated and concluded that all but one locality provided their constituents access to their public city emails.

INTRODUCTION

Based on a citizen complaint alleging Brown Act¹ violations and transparency issues with the City of Morro Bay's email system, it was determined to investigate the City of Morro Bay and the other six municipalities (Arroyo Grande, Atascadero, Grover Beach, Paso Robles, Pismo Beach and San Luis Obispo) in San Luis Obispo County with regard to the allegations.

The purpose of this investigation is to look at the seven municipalities and how they use email to communicate with each other about city business. In addition, the investigation sought to learn if those communications are available to the public. In each city-based system, the question was to determine if council members use private email, and if there was a possible Brown Act violation or the appearance of one.

¹ California Brown Act 54950: The people of this State do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created....A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communication of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the matter of their jurisdiction of the legislative body. ...The use of direct communications, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken by the members of the legislative body is prohibited.

AUTHORITY

Under the California Penal Code Article Two, Section 925, "The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the offices, departments, functions and methods or system of performing the duties of any such city or joint powers agency and make recommendations as it may deem proper and fit."

METHODS AND PROCEDURE

In order to obtain a better understanding, and for comparison sake, the Grand Jury sent letters to each of the County's seven municipalities (Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and San Luis Obispo) asking for their policies and procedures regarding how their elected officials use email to correspond. The Grand Jury also interviewed the City Manager of Grover Beach and the City Manager of Morro Bay.

NARRATIVE

From the cities' responses, the Grand Jury found that the City of Morro Bay had changed to city emails for council members by city resolution in October 2012. Responses also indicated that the City of Grover Beach was the only county municipality that continued to use private email to conduct city business.

During an interview with the Grover Beach City Manager, the Grand Jury was informed that the reason Grover Beach continues to use personal email addresses by their city council members was that to transfer them to the city domain was cost prohibitive. The Grand Jury conferred with the Morro Bay City Manager to determine if there was significant cost in transferring their city council members to the city's domain. The Grand Jury was informed that there was no cost to the City of Morro Bay. The transfer was the same as adding or deleting employees' emails to the

Morro Bay domain. Emails may be found by searching a particular city's website (domain). Incorporating council members' city domain emails into the city website helps to give transparency to city council business, as well as keeping communications within the guidelines established by the Brown Act.

The cities of Arroyo Grande and San Luis Obispo each have Brown Act disclosures related to the use of official city emails on their city websites. For example, the following extract is from the website of the City of San Luis Obispo: "E-Mail correspondence sent to and from members of the City Council via the City's website are considered public records and may be subject to disclosure and additional distribution pursuant to the Public Records Act and Brown Act."

CONCLUSIONS

All municipalities (except the City of Grover Beach) require employees and council members to use individual city domains (i.e., city.org) when conducting business by email. Citizens should not have to seek information regarding their city's business via any official's personal email address.

The websites of each municipality (except the City of Grover Beach) list an official city domain email address for each of its council members, city manager and department heads. The websites are available to the public.

Although no evidence of Brown Act violations were discovered, the use of personal email in discussing public business can easily and unnecessarily give the impression of such.

Grover Beach residents do not have email access to their elected council members, and therefore are hindered in gaining direct access to their elected officials. All city business, including emails, should be open for public inspection as guaranteed by the Freedom of Information Act.

FINDINGS

1. The City of Grover Beach does not list email addresses for City Council members on their official city website.
2. Grover Beach City Council members use personal emails for city business and the email addresses are not published on the official city website.
3. Information regarding city business discussed on personal emails is not available to the public.
4. No evidence of Brown Act violations were discovered; however, the use of personal email in discussing public business can easily and unnecessarily give the impression of such.
5. The cities of Arroyo Grande and San Luis Obispo each have Brown Act Disclosures relating to the use of official emails on their city websites.

RECOMMENDATIONS

1. The City of Grover Beach should create an official city email address for each city council member and department head and list them on the city website.
2. The cities of Grover Beach, Pismo Beach, Morro Bay, Atascadero and Paso Robles should provide a Brown Act disclosure, similar to that provided by the City of San Luis Obispo, regarding the use of city-based emails as a way of demonstrating that they are in conformance with the Brown Act.

COMMENDATIONS

The City of Morro Bay is commended for the rapid transference of their city council members' personal emails to city domain emails for conducting official business.

REQUIRED RESPONSES

1. The City of Grover Beach should respond to Findings 1 through 5 and Recommendations 1 and 2.

2. The cities of Pismo Beach, Morro Bay, Atascadero and Paso Robles should respond to Finding 5 and Recommendation 2.

California Penal Code

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

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

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

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

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

(1) The respondent agrees with the finding.

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

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

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

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

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

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

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

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

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

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



AGENDA NO: A-4

MEETING DATE: June 11, 2013

Staff Report

TO: Honorable Mayor and City Council DATE: June 4, 2013

FROM: Rob Livick, PE/PLS - Public Services Director/City Engineer

SUBJECT: Status Report of a Major Maintenance & Repair Plan (MMRP) for the Existing Wastewater Treatment Plant

RECOMMENDATION

Staff recommends that this report be received and filed.

ALTERNATIVES

As no action is requested, there are no recommended alternatives.

FISCAL IMPACT

No fiscal impact at this time as a result of this report. Fiscal impact is addressed through the budget process.

DISCUSSION

This staff report is intended to provide an update on the development of the MMRP for the WWTP. At the February 14, JPA meeting the Council and District Board approved of the development of an MMRP and made the following motion:

- Direct staff to prepare a time sensitive and prioritized MMRP for the WWTP with an anticipated rolling 2 year budget;
- That the JPA solicit proposals from a qualified firm, or firms, to provide technical advice and analysis on an as needed basis as determined by Morro Bay's Public Services Director and Cayucos Sanitary District Manager; and
- That the Morro Bay Public Services Director and Cayucos Sanitary District Manager report back to the JPA on a semi-annual basis on the progress and costs associated with the MMRP.

Development of an MMRP will assist the City and District in projecting the budgeting of expenditures required to keep the current plant operating in compliance with regulatory requirements.

Staff continues to make steady progress in the development of the MMRP during the last month. Staff's primary focus has continued to be on the next Fiscal Year and the projects contained within the proposed FY13/14 budget. Staff has completed an initial review of maintenance & repair expenditures over the past 10 years to determine maintenance trends and identify a prospective project list for FY13/14 through FY17/18. It is important to recognize

Prepared by: RL Dept. Review: RL

City Manager Review: _____

City Attorney's Review: _____

that, except for the current budget year, this is a very tentative list which will be refined and prioritized as the results of additional investigation and analyses are completed. The next steps include gathering essential data to further assess equipment and facilities' condition, developing detailed project scope, and prioritizing each project based on the following criteria: critical for plant safety, essential for regulatory compliance, reduces risk of plant malfunction, reduces O&M costs, and reduces energy consumption/cost. The current work plan anticipates an MMRP budget for FY 14/15 that is similar to the \$1.3M that was recommended for FY 13/14. The following table shows the draft MMRP schedule by Fiscal Year including the proposed project. Staff will continue to actively work on further refinement of existing studies, structural conditions, and equipment assessments to continue to fine tune the MMRP.

DRAFT MMRP SCHEDULE

FY 13/14	FY14/15	FY15/16	FY16/17	FY 17/18
Headworks Screening	Primary Clarifier Repairs	Primary Clarifier Repairs		
Clean/Repair Digester #2	Clean/Repair Digester #1		Clean/Repair Digester #3	
Chlorine Contact Tank Repairs			Secondary Clarifier Repairs	SCADA
Interstage Pump Project	Electrical Upgrade			Electrical Upgrade
Chlorine Building Rehabilitation	Biofilter Rehabilitation	Biofilter Rehabilitation		
	Flood Related Issues			
Miscellaneous Equipment Repair and Replacement				
Facility Maintenance				
Est. Cost = \$1.3M				

During the past month, staff toured several wastewater facilities to evaluate treatment processes and equipment. Staff toured the Paso Robles WWTP to better understand their upgrade plans and goals, and to examine some of their existing equipment that might be useful during the interim maintenance of the MBCSD plant. They have an influent screening unit that is in good condition that they would sell at salvage value but unfortunately it will not be taken out of service for 18-20 months. The rapidly deteriorating condition of our macerators (grinder pumps) make it too risky to wait that long. In addition, staff toured the Thousand Oaks WWTP and the Carpinteria WWTP to mine the experience of other operators on various processes and equipment alternatives including influent screens. All the tours were very informative and reinforced the need to upgrade various portions of the existing plant to maintain reliability and redundancy.

MBCSD staff is proceeding to acquire specialty services to assist staff with further evaluation and cost estimating. Specifically these experts would assist in the non-destructive testing of

the digesters to gain more knowledge about their structural condition prior to developing the project scope to drain the digesters for cleaning, coating, and repairs. This should help expedite repairs and limit the down time of the digesters. Additionally, they would be tasked with reviewing the 2006 Carollo Wastewater Treatment Plant Electrical Facilities Overview (Appendix H of the 2006 Facility Master Plan) and provide an updated condition assessment of critical electrical infrastructure.

Finally, a review of certain portions of Chapter 6 of the FMP would also be completed to provide current analysis and recommendations for the rehabilitation of the primary and secondary clarifiers. This assessment will assist staff in prioritizing the proposed work tasks as well as refine cost estimates. The electrical evaluation could begin early in the new Fiscal Year; however staff would recommend not starting the clarifier assessments until September, after peak summer flows have subsided. This still allows ample time to incorporate this information for planning and budgeting for the next fiscal year.

CONCLUSION

Staff will continue to bring a status report on the development of the MMRP at City Council meetings on a monthly basis.

AGENDA NO: A-5

MEETING DATE: June 11, 2013

RESOLUTION NO. 35-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING RESOLUTION 43-10 FOR A CALIFORNIA DEPARTMENT OF
PUBLIC HEALTH GRANT FOR MODIFICATIONS TO THE DESALINATION PLANT**

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

WHEREAS, on the 14th day of, December 2009 the City of Morro Bay made application to the State of California for \$600,000.00; and

WHEREAS, on the 5th day of August 2010 the State of California issued a Letter of Commitment to the City of Morro Bay committing grant funds under the Proposition 84 Program for the Desalination Facility Energy Recovery Project P84G-4010011-801, subject to terms and conditions; and

WHEREAS, the City Council adopted Resolution 43-10 authorizing the Utilities/Capital Project Manager to act on behalf of the City in the execution of various documents relating to the grant; and

WHEREAS, subsequent to the passage of Resolution 43-10, the City Council reorganized the Public Services department and eliminated the position Utilities/Capital Project Manager and designated the Public Services Director to fill the role of overall utilities management.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Public Services Director, a Registered Engineer in the State of California, is hereby authorized to perform those duties that Resolution 43-10 direct the Utilities/Capitol Projects Manager to perform; and

BE IT FURTHER RESOLVED AND ORDERED, that all other terms and conditions stipulated in Resolution 43-10 remain in effect per the requirements of the Proposition 84 Program for the Desalination Facility Energy Recovery Project, P84G-4010011-801.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of June, 2013 on the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk



AGENDA NO: C-1

Meeting Date: June 11, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: June 4, 2013

FROM: Robert Schultz, City Attorney

SUBJECT: Review of Three Proposed Concept Plans for Improvements to Centennial Staircase

RECOMMENDATION

Staff recommends that City Council review and discuss the three different Concept Plans for Improvements to Centennial Staircase and direct Staff to schedule this item for review at the Recreation and Parks Commission and the Planning Commission and return to the City Council with their recommendations.

ALTERNATIVES

1. Review proposed concept plans, schedule this item for review at Recreation and Parks Commission and Planning Commission.
2. Review proposed concept plans, make a recommendation and send to Planning Commission.
3. Reject proposed designs.

BACKGROUND

The City purchased two abutting parcels of land in June 2003. One was the former trailer park at 714 Embarcadero and the other was known as the Hungry Tiger property at 781 Market Avenue (also formerly Anthony's and Brannigan's). The former trailer park is currently used as a public parking lot and the Hungry Tiger property sat vacant for several years as result of an inability to attract an investor interested in a Hotel/Conference Center Public/Private Partnership.

In 2009, the City Council decided to sell the property at 781 Market Street to George Salwasser. After the sale, Mr. Salwasser made major improvements to the vacant building and it is now a restaurant and wine bar. As part of the Purchase and Sales Agreement, the City negotiated for Mr. Salwasser to pay the costs to design, engineer, and install a lift station to improve access between the Embarcadero and Market Street.

In November 2012, the City Council reviewed two Concept Plans attached as Exhibit A and B. One design was for a funicular, the other a traditional elevator. After deliberating, Mayor Yates

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

moved for support of the funicular, directed Staff to communicate the Council's decision to Mr. Salwasser and send the project directly to the Planning Commission. The motion was seconded by Councilmember Leage and passed unanimously 5-0.

After the Council Meeting, staff communicated with Mr. Salwasser regarding moving forward with the funicular. Mr. Salwasser stated that his position was that the City was welcome to put in a funicular but according to his interpretation of the Agreement he was only responsible to pay for a lift station, and that the added cost to install the funicular would have to be borne by the City. Staff requested cost estimates from Mr. Salwasser for both proposed designs, as well as the cost and plans for the installation of a lift station that would comply with the sales agreement. In response to that request, Mr. Salwasser has submitted a design of an elevator shown as Exhibit C for a cost of \$325,000. Cost estimates for Exhibits A & B have not been provided.

DISCUSSION

Mr. Salwasser has submitted three different designs for the installation of a lift station where the Centennial Staircase currently exists. The first design (Exhibit A) is for a funicular, which is a cable attached to tram-like vehicle on rails that moves people up and down a slope. The second design (Exhibit B) is for a more traditional elevator. The third design is also for a traditional elevator that would satisfy the requirements of the agreement. Both designs A and B greatly exceed the costs of Exhibit C. The City Council should review the plans and decide which design to move forward with, or decide to send it to various advisory bodies for their input.

CONCLUSION

City Council should review and discuss the Concept Plan for Improvements to Centennial Staircase and direct Staff accordingly.



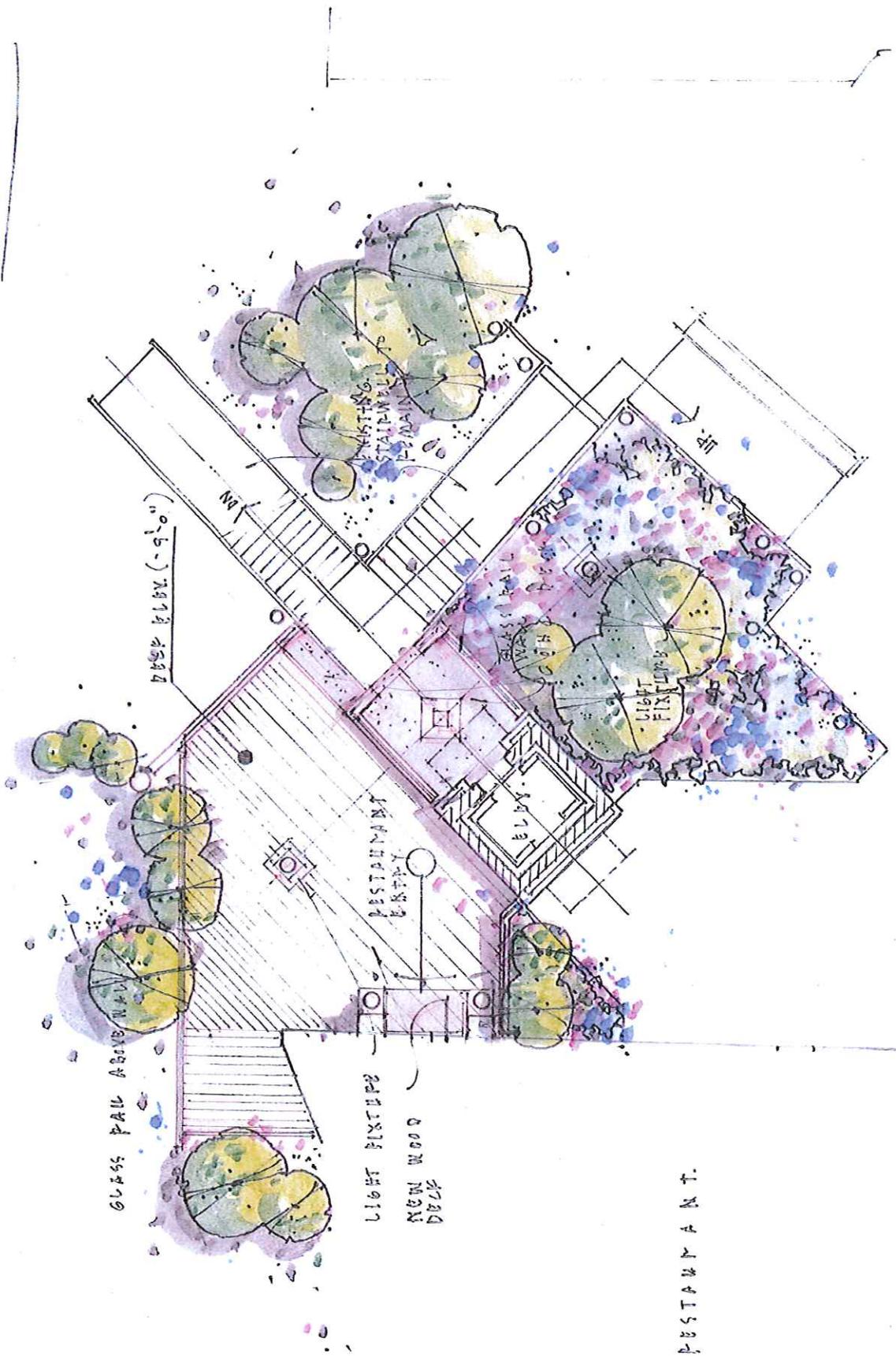
MORRO BAY PLAZA
FUNICULAR PLAZA CONCEPT



MORRO BAY PLAZA
ELEVATOR PLAZA CONCEPT

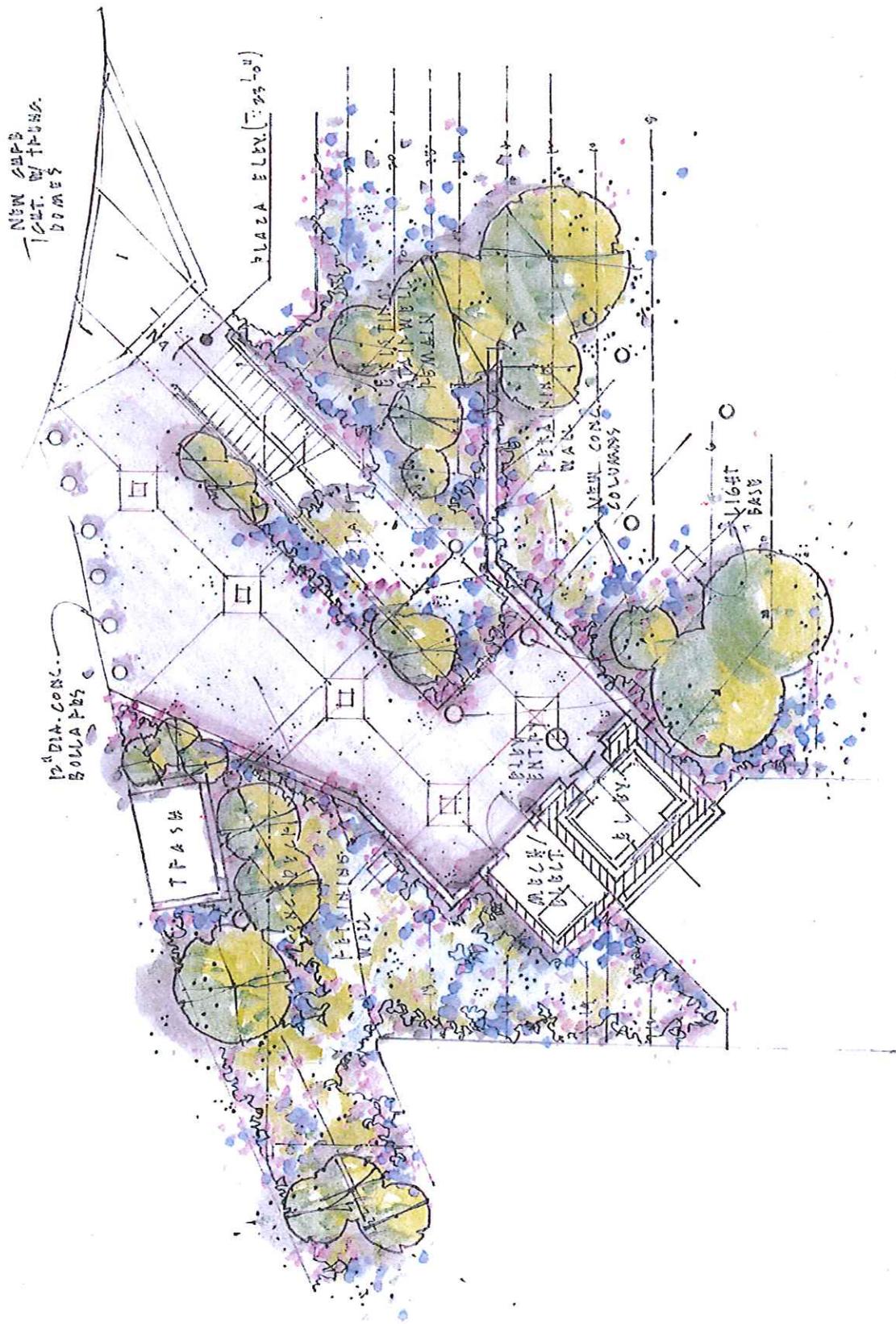
EXHIBIT C





RESTAURANT.

M I D - L E V E L D E C K
 S C A L E : 1/8" = 1'-0" M A R T I N D E B A Y P L A Z A



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100
 SCALING: 1/8" = 1'-0"



AGENDA NO: D-1

MEETING DATE: June 11, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 4, 2013

FROM: Eric Endersby, Harbor Director

SUBJECT: Consideration of Joint Redevelopment Project Proposed for Lease Sites
86/86W (801 Embarcadero LLC – Caldwell) and 87-88/87W-88W (V. Leage)

RECOMMENDATION

Staff recommends the Council consider the three proposed alternatives and provide staff direction.

ALTERNATIVES

- A. Accept the Leaseholders' proposed joint project and direct the Leaseholders to file their Application with the Planning Division and authorize staff to begin lease negotiations with the Leaseholders for their proposed redevelopment.
- B. Reject the proposed joint project and direct Leaseholders to resubmit separate proposals for their respective lease sites.
- C. Direct staff to prepare and bring back Requests for Proposals (RFPs) for each site.

FISCAL IMPACT

There is no fiscal impact at this time. Positive fiscal impact is expected if the sites are redeveloped jointly or separately and additional percent gross revenues are realized over time.

SUMMARY

The Leaseholders on lease sites 86/86W and 87-88/87W-88W have proposed a joint land and water lease redevelopment project. As requested by the City, they have submitted preliminary plans for public comment and Council consideration. Council is being asked to consider their proposal and provide staff direction on the alternatives.

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

BACKGROUND

Lease Site 86/86W is a 50-year Pipkin lease that expires in September 2018. Lease Site 87-88/87W-88W originated in 1970, had several term extensions for a total term of 48 years, and expires in March 2018. Both of these lease sites are within the last five years of their lease term, and pursuant to the Lease Management Policy the tenants have submitted a written proposal for a joint redevelopment project instead of two separate redevelopment projects.

DISCUSSION

For Tidelands Trust Leases from Beach Street to Tidelands Park, the City's Lease Management Policy states:

“In this area, the City controls land and water areas. In this area tenants are encouraged to propose redevelopments of lease sites to improve public benefits on these sites, enhance the Embarcadero business environment, and renegotiate leases to modern terms. To help accomplish this, and to provide tenants motivation not to let long-term leases run to the very end of their terms with degraded building/improvements, and under market lease terms, the City will generally not renew leases with existing tenants in this area if they allow their leases to run to a term of less than five years remaining.”

In addition, the City's Lease Management Policy states that it will use the following standards for determining whether it should negotiate a new lease with a tenant:

- A. The tenant has a good history of performance and lease compliance and the improvements on the site are well maintained. Example standards for determining “good history” of lessee performance are:
1. The tenant's record with respect to the prompt and accurate payment of rent due the City;
 2. The tenant's record of compliance with existing lease conditions;
 3. The appropriateness of the proposed tenant business with respect to the total mix of uses and services available to the public and with respect to the long-term planning goals of the City;
 4. The tenant's financial and personal investment in tenant business and the leasehold improvements;
 5. The contribution to the surrounding business community made by the tenant's business;
 6. The quality of direct services to the public provided by the tenant and its business;
 7. The value received by the public in goods or services.
 8. The total financial return to City from the leasehold;
 9. Other pertinent considerations as may be appropriate as determined by the City Council.

Pursuant to the Lease Management Policy, Caldwell and Leage have submitted a proposed redevelopment. The joint Caldwell/Leage proposal consists of a complete demolition of both sites, retention of the open space between 87-88/87W-88W and the neighboring lease site to the north with the addition of more outside public and restaurant seating, and one new side-tie dock spanning the entirety of both sites. The new building is proposed to consist of one overall lower floor with mixed restaurant/bar, retail, hotel lobby and hotel rooms, and a second floor that is proposed to be all hotel rooms. A copy of their joint proposal is included with this staff report.

The Leaseholders have proposed to staff that they each retain ownership of their existing lease sites, and operate the jointly built/owned facilities in an LLC or other partnership arrangement.

Three alternatives for Council to consider are being provided. Alternative A is in keeping with current Council direction and the Leaseholders' desires, however, it is also the most complicated in terms of scope and how the partnership would be proposed, operated, and legally exist with separate lease site ownership. Should Alternative A be chosen, the Leaseholder will move forward with their project by filing an Application with the Planning Division for a CUP/CDP. Thereafter, there will be noticed public hearings before the Planning Commission and City Council to either approve, deny or modify the project. In addition, staff will work with both Leaseholders on the details on their proposal and the joint ownership/operation arrangement, as well as on preliminary lease terms and conditions while their Application is being processed through the Planning Division. Staff will report back to Council in closed session on the status of these negotiations.

Alternative B would retain the current lease site ownership, but require that each individual Leaseholder submit a proposal for their individual site only, assuming that they are both interested in continuing on separately. Should Alternative B be chosen, staff will direct the individual Leaseholders to submit individual plans. Once the individual plans are submitted, the item would come back to Council in open session to decide whether to allow the proposed project to move forward through the CUP/CDP process and to begin negotiations. Staff recommends a three month deadline for submittal should this alternative be selected.

Alternative C would put both sites out for RFPs. The existing Leaseholders could submit proposals in this alternative. Should this alternative be chosen, staff will begin work on crafting the RFPs for future Council approval.

CONCLUSION

Staff recommends that City Council take public input, consider the Leaseholders' proposal as submitted, and provide staff direction on the alternatives being presented. Both Leaseholders are tenants in good standing and are considered to have a "good history of lessee performance."

December 12, 2012

Mr. Eric Endersby
City of Morro Bay Harbor Dept.
1275 Embarcadero Road
Morro Bay, CA 93442



RE: 801 & 833 Embarcadero Road

Dear Eric,

This letter is in regards to your letter dated September 13, 2012 regarding the leases at the above mentioned address. As per the Council direction, we are respectfully providing the City with a preliminary concept plan for the two lease sites.

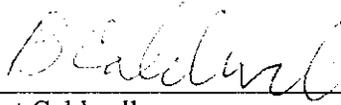
We have had several discussions regarding the potential new development of both of our lease sites and feel that the best approach is one that will allow us to retain our individual sites however incorporate a design that is much more functional and beneficial from the overall area approach. Hence, we have designed two separate buildings that will utilize a common entry with both sites incorporating retail shops and hotel rooms. In addition we will provide common public amenities such as the hotel lobby area, elevator, stairs and restrooms. In our discussions regarding the design we felt it was important to present an overall plan that would complement each site rather than, for example, each of us providing a restaurant and retail shops that would make it difficult for the operator and ultimately not in the best interest of the City from a revenue standpoint.

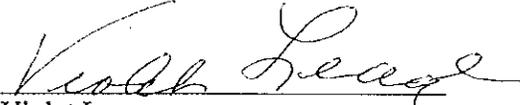
We understand from your letter that you will be taking these preliminary concept plans to the City Council for their consideration and would also like to make clear that the plans presented to you at this time are merely preliminary concept plans as instructed in your letter. We recognize that there are additional details and materials that would need to be further developed and provided to the City prior to a formal submission for a Conditional Use Permit.

In closing, we would certainly be available to give the Council a presentation on the plans, address any specific questions and entertain comments that could be included in a future plan. Once the Council has had the opportunity to review these plans we would respectfully ask for the City to enter into a Development Agreement with us. We see that this Agreement would prevent any undue hardships for us as the applicants to expend considerable time and money to pursue the proposed development and also to provide Staff direction that can be considered in their review of this proposed project.

Please feel to contact us if you have any further questions and for the next steps as you see it with a presentation to Council.

Sincerely,


Burt Caldwell


Violet Leage

Attachments: One 24 X 36 plan set & one 11 X 17 plan set reduction

cc: Andrea Lueker
Rob Schultz, City Attorney
Lori Stilts, Harbor Business Coordinator

Copyright © 2012
 C. P. PARKER ARCHITECT
 10000 Wilshire Blvd., Suite 1000
 Los Angeles, CA 90024
 Tel: 310.274.1100
 Fax: 310.274.1101
 www.cpparker.com

C. P. PARKER
 ARCHITECT

CHARLOTTE M. PARKER
 ARCHITECT
 10000 Wilshire Blvd., Suite 1000
 Los Angeles, CA 90024
 Tel: 310.274.1100
 Fax: 310.274.1101
 www.cpparker.com



CONSULTANTS

PROJECT
**NEW RESTAURANT,
 RETAIL SHOPS &
 HOTEL**
 FOR
**BURT CALDWELL
 VIOLET LEASE**

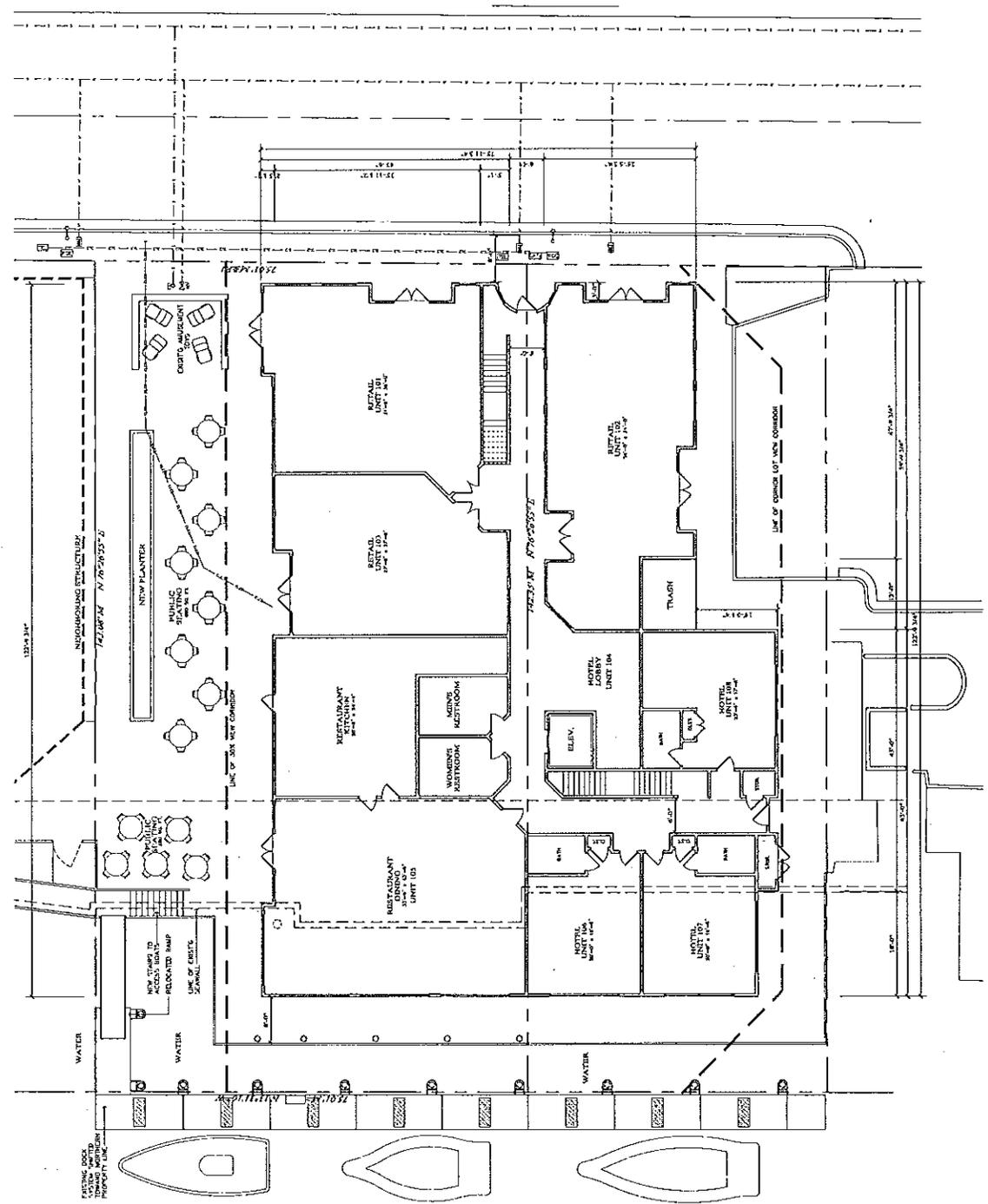
DESIGN
 DEVELOPMENT

DRAWING PREPARED BY
 C. P. PARKER ARCHITECT
 10000 Wilshire Blvd., Suite 1000
 Los Angeles, CA 90024
 Tel: 310.274.1100
 Fax: 310.274.1101
 www.cpparker.com

Checked By	DATE
Drawn By	DATE
Updated	DATE
Scale	AS NOTED
Notes	REVISIONS

SHEET TITLE
**LOWER
 FLOOR PLAN**
 SHEET NO.

2.1



□ SITE / LOWER FLOOR PLAN

Copyright © 2012
 All rights reserved. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the copyright owner.

C. P. PARKER
 ARCHITECT

CHARLOTTE, NORTH CAROLINA
 ARCHITECT
 440 W. HARRIS STREET, SUITE 100
 CHARLOTTE, NORTH CAROLINA 28202
 PHONE: 704.333.1111
 FAX: 704.333.1112
 WWW.CPPARKER.COM



CONSULTANTS

PROJECT
 NEW RESTAURANT,
 RETAIL SHOPS &
 HOTEL
 FOR
 BURT CALDWELL
 VIOLET LEAGE

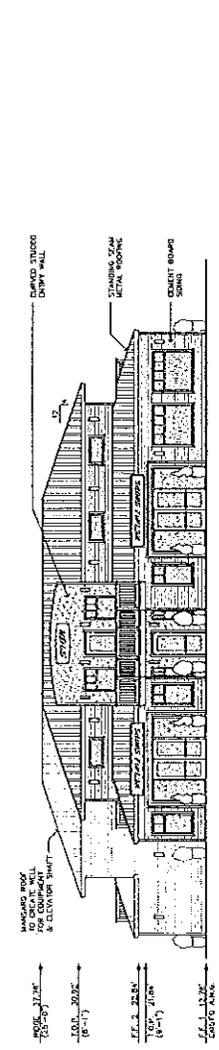
NO. 141 LOMAX AVENUE
 WILMINGTON, NORTH CAROLINA
 28403
 910.342.1111

DESIGN
 DEVELOPMENT

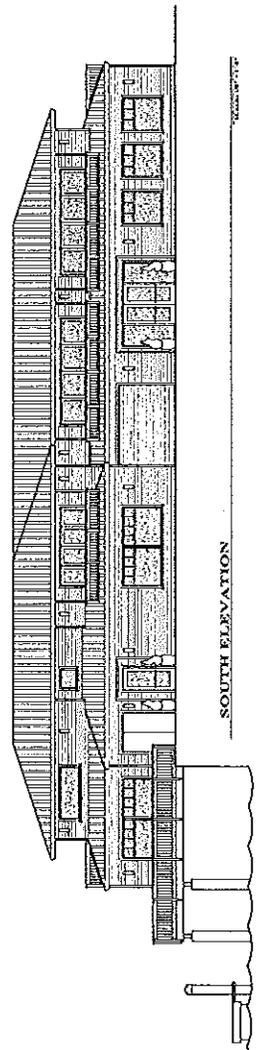
Project No.	12189
Issue No.	01
Issue Date	12/05/12
Updated	
Scale	AS NOTED
EXCEPTIONS	

SHEET TITLE
 EXTERIOR
 ELEVATIONS &
 ROOF PLAN
 SHEET NO.

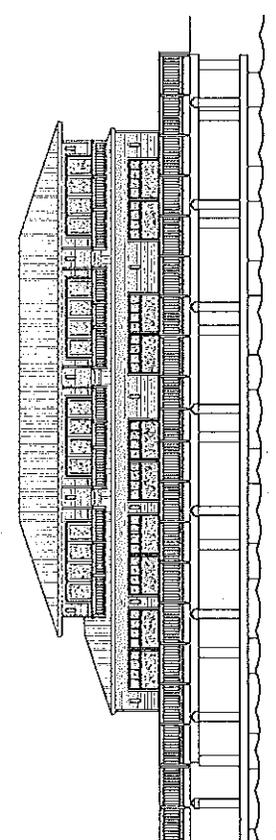
3.1



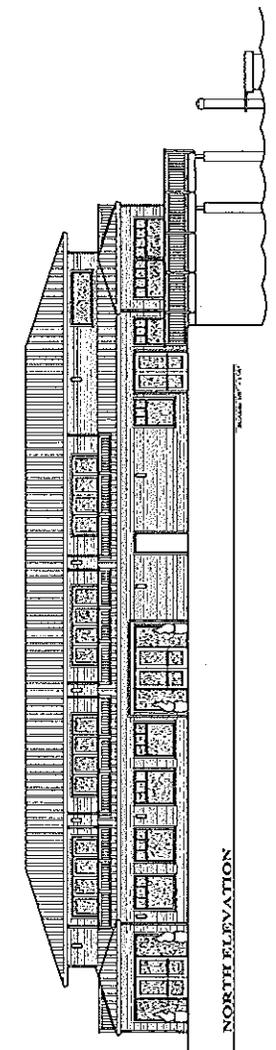
EAST ELEVATION



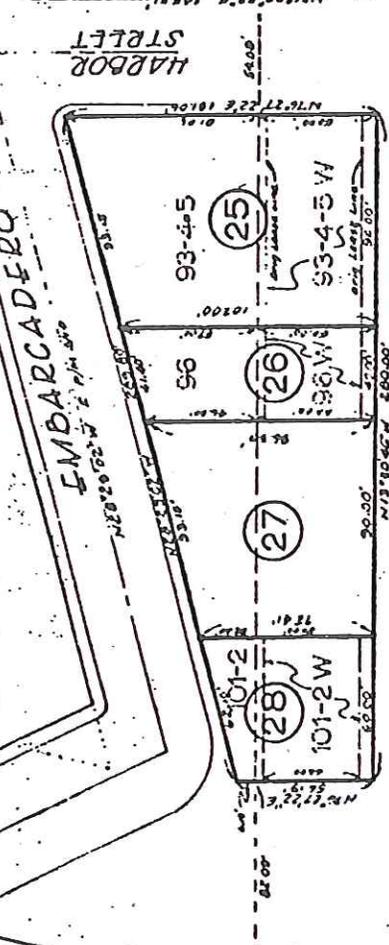
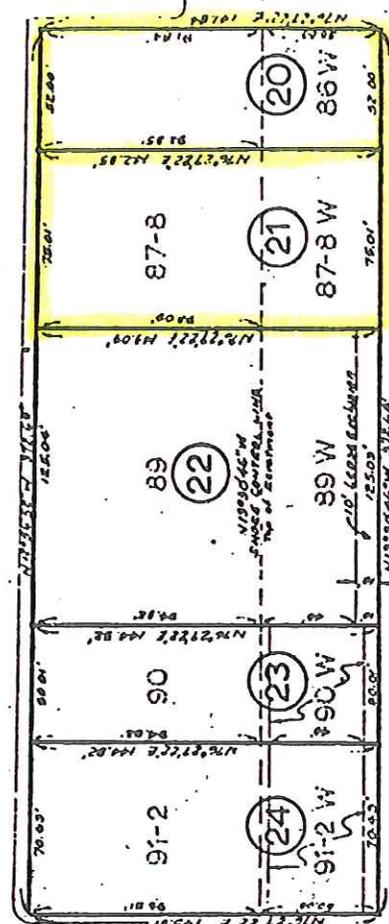
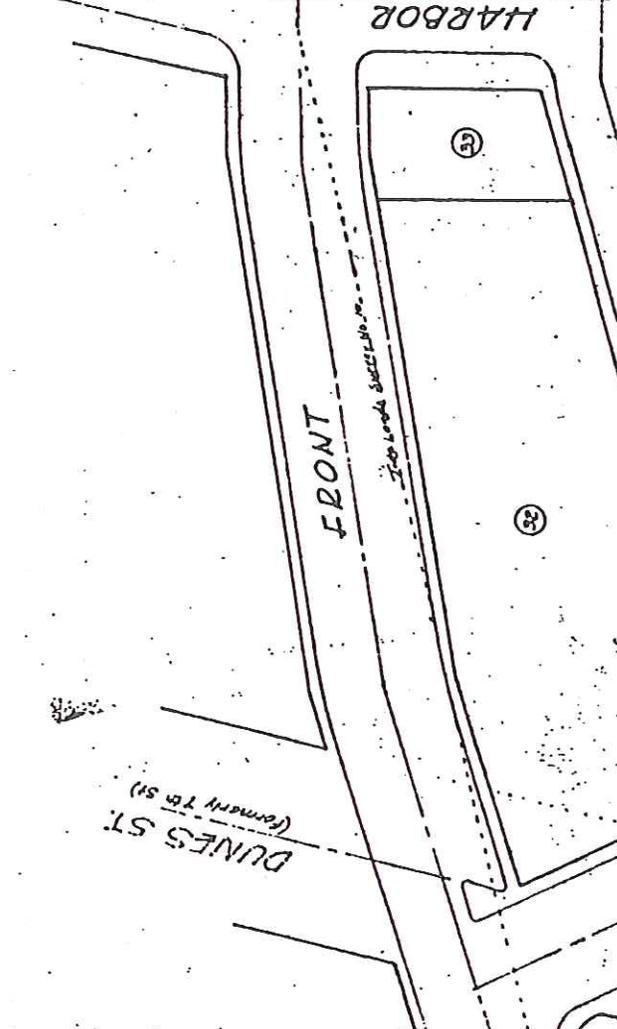
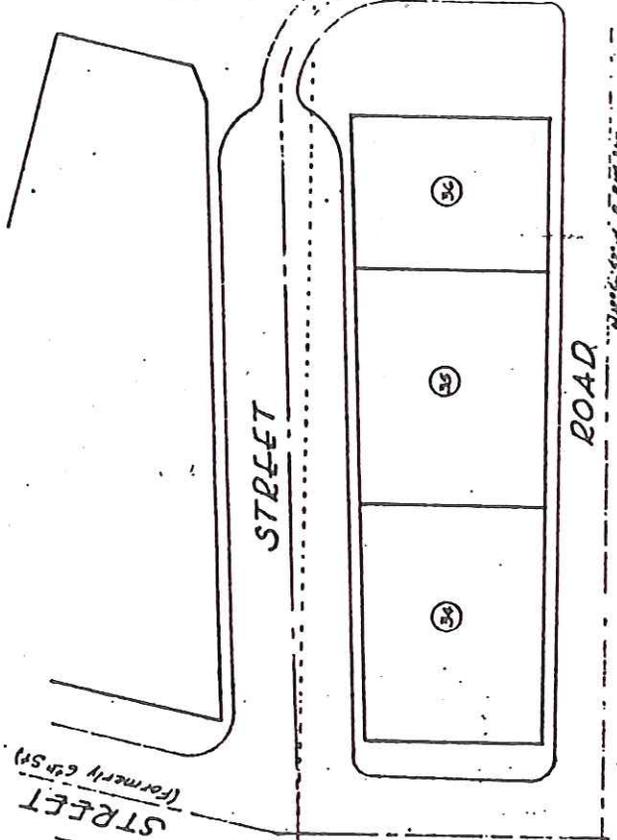
SOUTH ELEVATION



WEST ELEVATION



NORTH ELEVATION



CHANNING LINE





AGENDA NO: D-2

MEETING DATE: June 11, 2013

Staff Report

TO: Honorable Mayor and City Council DATE: June 4, 2013

FROM: Eric Endersby, Harbor Director

**SUBJECT: Consideration of Redevelopment Project Proposed for Lease Site 62/62W
(Kayak Horizons – Krueger).**

RECOMMENDATION

Staff recommends the Council considers the two alternatives and provide staff direction. Staff is recommending Alternative A.

ALTERNATIVES

- A. Accept the Leaseholder's proposed project and direct the Leaseholder to file their Application with the Planning Division and authorize staff to begin lease negotiations with the Leaseholder for the proposed redevelopment.
- B. Direct staff to prepare and bring back Requests for Proposals (RFPs) for the site.

FISCAL IMPACT

None expected. The existing lease is relatively modern and contains modern terms and conditions.

SUMMARY

The Leaseholder on lease site 62/62W has proposed a redevelopment project on their site. As requested by the City, they have submitted a preliminary proposal for public comment and Council consideration. Council is being asked to consider the proposal and provide staff direction on the alternatives.

BACKGROUND

Lease site 62/62W is a 23-year City lease originally entered into in 1995 that expires in September 2018. This site is within the last five years of its lease term, and pursuant to the Lease Management Policy the Leaseholders have submitted a written proposal for a modest redevelopment project on the site. This site is one of the smallest lease sites on the waterfront.

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

City Manager Review: _____

City Attorney Review: _____

DISCUSSION

For Tidelands Trust Leases from Beach Street to Tidelands Park, the City's Lease Management Policy states:

“In this area, the City controls land and water areas. In this area tenants are encouraged to propose redevelopments of lease sites to improve public benefits on these sites, enhance the Embarcadero business environment, and renegotiate leases to modern terms. To help accomplish this, and to provide tenants motivation not to let long-term leases run to the very end of their terms with degraded building/improvements, and under market lease terms, the City will generally not renew leases with existing tenants in this area if they allow their leases to run to a term of less than five years remaining.”

In addition, the City's Lease Management Policy states that it will use the following standards for determining whether it should negotiate a new lease with a tenant:

- A. The tenant has a good history of performance and lease compliance and the improvements on the site are well maintained. Example standards for determining “good history” of lessee performance are:
1. The tenant's record with respect to the prompt and accurate payment of rent due the City;
 2. The tenant's record of compliance with existing lease conditions;
 3. The appropriateness of the proposed tenant business with respect to the total mix of uses and services available to the public and with respect to the long-term planning goals of the City;
 4. The tenant's financial and personal investment in tenant business and the leasehold improvements;
 5. The contribution to the surrounding business community made by the tenant's business;
 6. The quality of direct services to the public provided by the tenant and its business;
 7. The value received by the public in goods or services.
 8. The total financial return to City from the leasehold;
 9. Other pertinent considerations as may be appropriate as determined by the City Council.

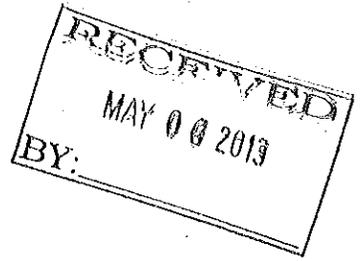
Pursuant to the Lease Management Policy, the Leaseholder has submitted a redevelopment proposal. The proposal consists of removal of the existing one-story storage building in the southwest corner of the site to open up the views, addition of the water-side walkway to eventually connect to the neighboring lease site to the north, remodeling of the existing dock including addition of a small storage shed on the dock, and general updating and refurbishing of the site and main building. A copy of their proposal is included in this report.

Alternative A is would accept the Leaseholder’s proposal and direct staff to begin negotiating preliminary terms and conditions of a new lease, while the Leaseholder would concurrently file an Application with the City Planning Division to begin the development process. In addition, staff would work with the Leaseholder on furthering the details of their proposed project. Staff is recommending Alternative A.

Alternative B would put the lease site out for RFPs. The existing Leaseholder could submit a proposal in this alternative. Should this alternative be chosen, staff will begin work on crafting an RFP for future Council approval.

CONCLUSION

Based on the Leaseholder’s modest redevelopment proposal on their small but successful lease site, staff recommends Alternative A as outlined. This Leaseholder is a tenant in good standing and is considered to have a “good history of lessee performance.”



City of Morro Bay Harbor Department
1275 Embarcadero
Morro Bay, CA 93442
Attn; Eric Endersby, Lori Stilts & Robert Schultz

From: Dennis and Deborah Krueger
Leaseholders Site 62,62W
551 Embarcadero
Morro Bay, CA 93442

Request for consideration for lease renewal.

- 1) Brief history of the use of lease site 62/62w by Kruegers dating from Aug. 2004.
- 2) Conceptual Plan for redevelopment of lease site.
- 3) Summary and Formal Request to City to renew the lease.

History

My wife and I agreed to purchase from previous lease holders in the spring of 2004. Price to include Improvements, Existing Business/Equipment (Kayak Horizons) and Leasehold rights.

I had several meetings with city staff prior to making an offer on the property. My biggest concern, naturally, was that the existing lease ended in 2018. We were assured that existing lease holders were given a fair chance to renew the lease under the guidelines of the Harbor Lease Management Policy 2001. After going over these guidelines with city staff we decided to go through with the purchase.

Our goals when we took over the existing lease was to be a good leaseholder, get along with the neighboring lease sites, build the existing business and do what was necessary to get the city to grant a new lease for a longer period.

Eight years later I can say that we have been good tenants, built the business and developed a friendly working relationship with adjoining leaseholders, the Yacht Club and Grays Inn. We've stayed in contact with the city proposing different development ideas and seeking input.

On page 4 of the Harbor Lease Management Policy 2001, under Lease Renewal, there are 9 standards used when considering whether to negotiate a new lease with existing tenants. Please take the following information into consideration when applying these standards.

#1 "prompt accurate payments". Our lease payments have always been on time, as have insurance binders, gross receipts forms, etc. We have been audited by the city and congratulated on our record keeping. Property taxes paid when due.

#3 "appropriateness of proposed tenant to mix of uses". Kayak Horizons has been at this location on the waterfront since 1995, one of the longest running businesses on the Embarcadero. My goal was to build the business and have been very successful at that.

#4 "Tenants financial and personal investment". We have a huge financial investment in property and business. Literally hundreds of thousands of dollars. Without a new lease there is no value. No one would pay to take over the lease or buy my business knowing they could lose the site in 2018.

#5 "contribution to surrounding business community". How many businesses actually draw people into Morro Bay? I have people come to my business everyday that have driven here to kayak. While here they eat, buy gas and shop other businesses. Kayak Horizons contributes to the overall health of our business community. We are Members of the Morro Bay Chamber of Commerce and Merchants Assoc.

#6 "quality of direct services to the public". We have built the business by being friendly and professional. Thousands of people come to our business each year. Many are repeat customers. They leave having experienced our Bay in its best form, on the water. I am an Ambassador for Morro Bay and enjoy sharing my love for the water and all that goes with it. I volunteer with the Morro Bay Estuary program and have gained a lot of knowledge about the local eco-system that I share with tourists and locals.

#7 "value received by public". Kayaking is an activity that can be enjoyed by the whole family. We use top of the line equipment combined with friendly professional service. Customers get good value for their money. Our business promotes a healthy activity, causes no pollution, and generates no garbage. In fact, our customers routinely bring back garbage they've found while enjoying the bay and sand spit. In addition, Kayak Horizons contributes to many fundraising activities including, Big Brother's Big Sister's, Women's shelter, Senior Nutrition Program, School Booster clubs, PTA's, Friends of the Elephant Seal, etc. Approx. 35/50 a year.

#8 "total return to city". Clean, healthy family oriented business. Locally owned. Lease site has great curb appeal and adds to the charm of "Morro Bay as an old fishing town" ambiance. A lot of customers come to Morro Bay to rent from us, then stay to eat, shop and enjoy our community.

Category "B" under Lease Renewal, lists the zoning areas on the waterfront and the considerations for lease renewal. Site 62,62W falls under #2, Beach Street to Tidelands Park. It states tenants are encouraged to propose redevelopment prior to 5 years to end of the lease. Our lease ends in Sept. 2018. So, am trying to get an early start communicating to the city our desire to continue on as lease holders and propose redevelopment ideas for your consideration in the hope that you will renew this lease.

Existing Use Of Lease Site 62/62W

The lease site is located on the NW corner of Embarcadero and Driftwood St. Land site 62 is approx. 80 x 30 ft. Water site 62W is approx. 65 x 30 ft. which includes a 15 ft. extension out into the channel that other lease holders don't have. Street address is 551 Embarcadero. The improvements consist of a two story structure, a small equipment shed, deck areas and docks. Buildings take up approx. 60% of land site. There are two off street parking spaces currently on street side of buildings. The structures are older, in good condition and have good curb appeal as you drive, or walk the Embarcadero.

The business, Kayak Horizons, is run out of the main level of the two story structure. We have a retail store there. There is a small office space on second floor. The shed houses rental equipment and the docks are where we store the rental kayaks and put the people on the water. There are new and used kayaks on racks in front of the building and around the other structures.

Conceptual Plan

I've studied the guidelines of the Morro Bay Waterfront Master Plan. View Corridors, sidewalk setbacks, waterfront walkways, second floor setbacks, maximum square footage requirements, height requirements, Coastal Commission, etc. all come into play when considering the different options to redevelop the site. My goal is to work with the city to come up with a plan that gives them what they require while taking into consideration lease site size, location, curb appeal and potential return on investment.

We would redevelop site 62/62W using the guidelines in the Master Plan for a corner lot. Eight foot sidewalks, with setbacks. 45% corners street side and water side to enhance view corridors. Minimum 8 foot walkway water side for pedestrian traffic tied in to adjoining walkways for other lease holders. New Ramp and upgrade of floating dock on water lease.

Finished product would feature the removal of existing one story storage building on SW corner of land lease that is used now for drying the Life Jackets and misc. This would open up the view corridor substantially. Water side walkway would be built over existing escarpment with new ramp to docks below. Existing structure and other improvements would be upgraded during construction period to refresh whole property at the same time. Improvements would include remodeling the dock and replacing anything that needed to be replaced. Adding a small addition to existing building (water side) to store life jackets and rental gear. Paint and other upgrades to main structure that now houses the Kayak Accessories Store and Office Rental upstairs. Basically, a general make-over enhancing the existing ambiance the property already has.

We'd be asking the city to re-write the existing lease that expires September 30, 2018 to add another ten years. New lease to expire September 30, 2028. We understand that this would be a completely new lease reflecting current Morro Bay guidelines for leaseholders.

Summary

We feel the finished product will enhance the water side of the Embarcadero and continue to make it a pleasant place for tourists and locals to bring their families.

We would very much like to continue as the leaseholders of site 62/62W. We have a large financial and emotional investment in the property. And have tried to be the best lease holders that Morro Bay has. Our business, Kayak Horizons, is well known and contributes to the overall health of the Morro Bay business community. A very small percentage of our customers are walk up, spur of the moment, paddlers. People come to Morro Bay to kayak and then stay and eat, buy gas, shop in the waterfront shops or visit other businesses here. We advertise extensively and contribute to over 40 different fundraising activities in SLO county and other places.

Dennis Krueger

2471 Koa Ave.
Morro Bay, CA 93442
Hm. 805-771-9619
Cell. 805-215-9816
Bus. 805-772-6444

MORRIS AVENUE

SOUTH STREET

ANCHOR STREET
(formerly 1st St.)

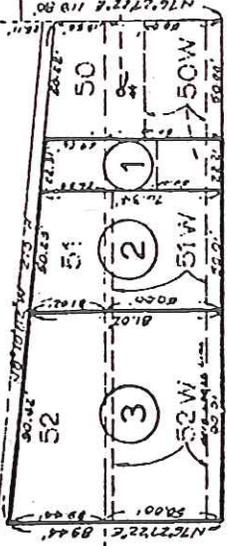
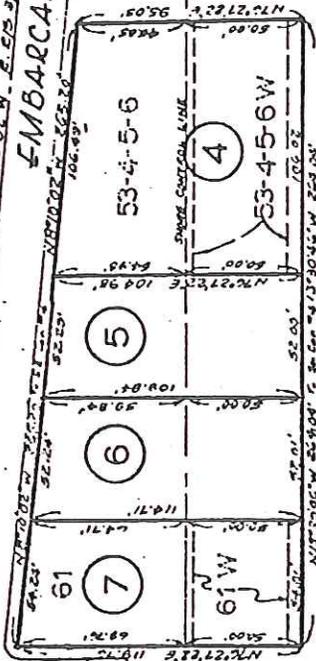
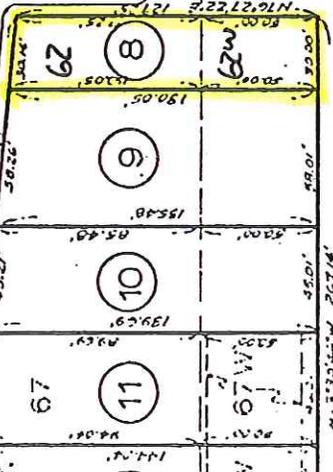
DRIFTWOOD STREET
(formerly 2nd St.)

ROAD

EMBARCADERO ROAD

CHANNEL LINE

Tidelands Survey No 10







AGENDA NO: D-3

MEETING DATE: 6/11/13

Staff Report

TO: Honorable Mayor and City Council

DATE: June 4, 2013

FROM: Rob Livick, Public Services Director

SUBJECT: Status report on Amendments to the Zoning Ordinance (Title 17) as it relates to Section 17.48.32 (Secondary Units), Section 17.44.020.1 (North Main Street Commercial Area Parking) and Section 17.27 (Antennas and Wireless Telecommunications Facilities)

SUMMARY

This item was agendized for the May 28, 2013 City Council meeting as Item D-6. It became apparent that there was not enough time to hear all the New Business items that evening; as such, it was decided to open up for public comment from those in attendance and then continue this item to a future meeting.

Attached is the staff report from the May 28, 2013 meeting in its entirety.

Prepared By: RL

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____



AGENDA NO: D-6

MEETING DATE: May 28, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 22, 2013

FROM: Kathleen Wold, Planning Manager

SUBJECT: Status report on Amendments to the Zoning Ordinance (Title 17) as it relates to Section 17.48.32 (Secondary Units), Section 17.44.020.1 (North Main Street Commercial Area Parking) and Section 17.27 (Antennas and Wireless Telecommunications Facilities)

RECOMMENDATION

Staff recommends that the Council review the materials presented in the packet by staff and direct staff to submit to Coastal Commission a Local Coastal Plan amendment to include all three Zoning Ordinance Amendments.

ALTERNATIVES

An alternative would be to consider the three Zoning Ordinances separately and direct staff to submit to Coastal Commission one, two, or three of the amendments or any combination thereof.

FISCAL IMPACT

There is no fiscal impact to this report as it only presents a status update on Zoning Ordinance Amendments.

BACKGROUND

Staff has provided for you a packet of information for each Ordinance change. In reviewing the minutes from each project, staff determined that there were no members of the public who spoke regarding the Wireless or the Main Street parking amendment during the public hearing process either pro or con. In addition, the motions that were made on these two amendments were passed unanimously by City Council. Since these two Ordinance Amendments were approved by Council without concerns, staff will focus on the Secondary Unit Ordinance Amendment. In order to provide the issues that were brought up during the Public Hearing in a concise manner, staff has excerpted from the February 14, 2012 minutes item B-2, which are as follows:

Councilmember Smukler asked for a review of history as to how we came to the

Prepared By: KW

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

existing regulations of the 900 square feet to both Public Services Director Livick and City Attorney Schultz. He followed up with a question of whether we did a review of other coastal communities in our county of what their regulations are for secondary units.

Mayor Yates opened the hearing for public comment.

Jamie Irons brought up the fact that there is no data from Planning staff or the public that the current Ordinance even had a problem. He also questioned why it wasn't certified back in 2005. There was a 3 day public workshop when this Ordinance was originally crafted and now Council majority is asking to revise that process; he asked that Council reconsider these actions and send it back to a public workshop to do it the right way.

Betty Winholtz concurred with Mr. Irons. She is concerned with the potential of being able to build 2 homes on a lot, each 1200 square feet and then subdivide them and sell both off. She feels there are 3 things being repeated in the staff report that she wants to correct. She feels it is in error that: we are fixing our Ordinance in regards to compliance with State law; that we are increasing small affordable housing units; and, that we are ensuring compatibility with existing neighborhoods. We should listen to public input and shouldn't undermine the public process.

John Barta commented that the granny unit issue is not about land being subdivided and sold separately, never was and never will be. Granny units are there because they allow us to have a healthy community. No one is going to be required to build a 1200 sq foot granny unit. From 2005 to the present we have had a more restrictive process and as a result, very few granny units have been built. In order to have a viable community where people can afford to live, we will need a robust granny unit program.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler felt that there wasn't enough data to move forward with this tonight. He also feels we would be abandoning the public process by moving forward. If we plan on changing, we should have another public workshop. He feels that 900 square feet is a fair and more affordable number and wants to stick with the existing Ordinance that was developed through the public process and move forward with the certification of that.

Councilmember Leage thinks the owner of the property should have the choice of up to 1200 square feet and agrees that just because you can, doesn't mean you

will. He doesn't feel 1200 square feet is too big as long as the property owner feels they can rent it out.

Mayor Yates doesn't see a problem with this and feels it's irrelevant to compare us with what other communities are doing. He also doesn't feel that 1200 square feet is too big nor does she feel that everybody building a secondary unit to 1200 square feet will occur.

Councilmember Johnson is good with this as well. She feels that 1200 square feet is still a reasonably sized smaller home and that this subject has been "work shopped" enough as we've had 2 public hearings already.

Councilmember Borchard agreed, public process has been on-going on this issue and in fact we are having a public process on it right now. A 1200 square foot limit would help the applicants expedite a project as well as save costs without having to go to a CUP. This should also help with our housing inventory.

MOTION: Councilmember Borchard moved the City Council approve Item B2 as presented in the staff report. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Smukler voting no

The minutes indicate that there was discussion by the public and the Council over the issue of the appropriate size of a secondary unit and whether or not the existing Ordinance is flawed.

CONCLUSION

Staff recommends that the Council review the materials presented in the packet and provide direction on how to proceed. If the Council determines that the three Ordinance amendments are ready to submit to the Coastal Commission as presented in this staff report, staff will immediately prepare an application and submit to the Commission by June 14, 2013. If the Council does not feel that all three are ready, staff will prepare any amendment deemed ready for submittal to the Coastal Commission.

ATTACHMENTS

1. Section 17.48.32 (Secondary Units) materials
2. Section 17.44.020.1 (North Main Street Commercial Area Parking)
3. Section 17.27 (Antennas and Wireless Telecommunications Facilities).

ATTACHMENT 1

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – FEBRUARY 14, 2012
CITY HALL CONFERENCE ROOM - 5:00 P.M.

AGENDA NO: A-1
MEETING DATE: 02/28/2012

Mayor Yates called the meeting to order at 5:00 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
	Susan Slayton	Administrative Services Director
	Bill Avery	Chief Negotiator

CLOSED SESSION

Mayor Yates adjourned the meeting to Closed Session.

Mayor Yates read the Closed Session Statement.

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

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

- **Property: 3300 Panorama Drive**
Negotiating Parties: US General Services Administration and City of Morro Bay
Negotiations: Purchase and Sale
- **Property: 895 Monterey Street**
Negotiating Parties: Woolley and City of Morro Bay
Negotiations: Voluntary Purchase and Sale

The meeting adjourned at 5:50pm.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 14, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

have spoken and there is no damage here. The applicant isn't asking for anything beyond the existing wall and feels there is a simple solution which would be to ask for a simple easement.

Mayor Yates closed the hearing for public comment.

Councilmember Borchard asked staff if an easement was an option which Public Services Director Livick responded that even with an easement, the driveway would still encroach into a portion of the 25 foot ESH buffer.

Councilmember Johnson asked clarification of staff regarding the following issues: the project's conditions of approval; drainage issues; the cutting down of willows; location of the proposed driveway; what part does the existing wall play in the ESH; if the driveway is permitted, can we require it be constructed of a permeable surface; and, possible granting of an easement. She is willing to stand by the 2010 Planning Commission decision to use a common driveway.

Councilmember Leage feels that they could be able to use the common driveway and still get around the corner to which Public Services Director said was a possibility though it isn't the proposal submitted by the applicant.

Councilmember Smukler also feels there is sufficient room with the existing driveway to utilize a common driveway. The 2010 Planning Commission also thought so; and it's his intent to stand by the 2010 Planning Commission decision.

Mayor Yates feels it is wrong to force someone to use an existing driveway when they want 2 separate stand-alone properties without an easement; they are staying on the same side of the existing retaining wall; he doesn't have a problem with granting this.

MOTION: Councilmember Borchard moved the City Council uphold the appeal and direct the project to follow the 2010 Planning Commission approval. The motion was seconded by Councilmember Smukler and carried 4-1 with Mayor Yates voting no.

B-2 REVIEW OF DRAFT ZONING TEXT AMENDMENT A00-013
AMENDING SECTION 17.48.32 (SECONDARY UNITS); (PUBLIC SERVICES)

Public Services Director provided his staff report regarding the status of secondary units. City Council last heard this item back on March 22, 2011 where there was direction to return with the discussed amendments to MBMC Section 17.48.320, at a future meeting. The proposed secondary unit revision was then discussed at the December 7, 2011 and January 4, 2012 Planning Commission meetings where they also made recommendations which are a part of this report.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING - FEBRUARY 14, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Smukler asked for a review of history as to how we came to the existing regulations of the 900 square feet to both Public Services Director Livick and City Attorney Schultz. He followed up with a question of whether we did a review of other coastal communities in our county of what their regulations are for secondary units.

Mayor Yates opened the hearing for public comment.

Jamie Irons brought up the fact that there is no data from Planning staff or the public that the current Ordinance even had a problem. He also questioned why it wasn't certified back in 2005. There was a 3 day public workshop when this Ordinance was originally crafted and now Council majority is asking to revise that process; he asked that Council reconsider these actions and send it back to a public workshop to do it the right way.

Betty Winholtz concurred with Mr. Irons. She is concerned with the potential of being able to build 2 homes on a lot, each 1200 square feet and then subdivide them and sell both off. She feels there are 3 things being repeated in the staff report that she wants to correct. She feels it is in error that: we are fixing our Ordinance in regards to compliance with State law; that we are increasing small affordable housing units; and, that we are ensuring compatibility with existing neighborhoods. We should listen to public input and shouldn't undermine the public process.

John Barta commented that the granny unit issue is not about land being subdivided and sold separately, never was and never will be. Granny units are there because they allow us to have a healthy community. No one is going to be required to build a 1200 sq foot granny unit. From 2005 to the present we have had a more restrictive process and as a result, very few granny units have been built. In order to have a viable community where people can afford to live, we will need a robust granny unit program.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler felt that there wasn't enough data to move forward with this tonight. He also feels we would be abandoning the public process by moving forward. If we plan on changing, we should have another public workshop. He feels that 900 square feet is a fair and more affordable number and wants to stick with the existing Ordinance that was developed through the public process and move forward with the certification of that.

Councilmember Leage thinks the owner of the property should have the choice of up to 1200 square feet and agrees that just because you can, doesn't mean you will. He doesn't feel 1200 square feet is too big as long as the property owner feels they can rent it out.

Mayor Yates doesn't see a problem with this and feels it's irrelevant to compare us with what other communities are doing. He also doesn't feel that 1200 square feet is too big nor does he feel that everybody building a secondary unit to 1200 square feet will occur.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 14, 2012
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Johnson is good with this as well. She feels that 1200 square feet is still a reasonably sized smaller home and that this subject has been “workshopped” enough as we’ve had 2 public hearings already.

Councilmember Borchard agreed, public process has been on-going on this issue and in fact we are having a public process on it right now. A 1200 square foot limit would help the applicants expedite a project as well as save costs without having to go to a CUP. This should also help with our housing inventory.

MOTION: Councilmember Borchard moved the City Council approve Item B2 as presented in the staff report. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Smukler voting no.

C. UNFINISHED BUSINESS -- None.

D. NEW BUSINESS

D-1 DISCUSSION ON THE CLOSURE OF ATASCADERO STATE BEACH (MORRO STRAND); (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report requesting the budget amendments as presented.

San Luis Obispo Coast District Superintendent, Nick Franco also spoke. He stated that the park closures were as a result of state-wide budget cuts. Morro Strand State Park was one of 70 parks slated to be closed. There are 3 options to keeping a park open: donor agreements, concession agreements and operating agreements. In an effort to keep our park open, there have been on-going discussions with Cal Poly. If there is nothing in place by March or April, the State will have to move forward with plans to close the park but they will still keep the talks open.

All Councilmembers were in total support of keeping the park open.

Mayor Yates stated that July was probably the worst possible time for this to occur. He also knows of someone who has expressed interest in running the park.

Councilmember Smukler thinks the discussions with Cal Poly are promising as that fits within our mission.

Councilmember Leage wants to do all we can to keep the park open.

Councilmember Johnson wanted to know how people can get ahold of Mr. Franco. (805) 927-2065; nfranco@hearstcastle.com

the maximum allowable amount of 1,200 square feet as per State guidelines.

2. Architectural compatibility. The architectural design, exterior materials and colors, roof pitch and style, reasonable compatible of the second unit....
3. Parking. The parking space can be open and uncovered; however neither may be in tandem with required parking....
4. Conditional Use Permit. Remove entire requirement.

Staff has researched the Secondary Unit regulations and found that the changes proposed in 2005 were never certified by the California Coastal Commission (CCC). Because the changes approved by the City Council in 2005 were never certified by the CCC staff has used the prior secondary unit regulations as the base document and made changes to that document as instructed by the City Council. All changes proposed are consistent with Government Code Section 65852.150 and 65852.2 which pertain to Secondary Units.

The proposed revisions to Chapter 17.48 are as follows (words in italics are added and words with strikethrough will be deleted):

17.48.320 GRANNY SECONDARY UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. *The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements;* Pursuant to ~~Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions:~~

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

~~B. A. Location~~

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

~~C. B. Lot Coverage~~

Maximum lot coverage allowed for the District that they are located in.

~~D. C. Design~~

Said unit shall be ~~consistent~~ *reasonably compatible* with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

~~E.~~ D. Size

The total floor area, not including a garage, for a granny secondary unit shall not exceed 1,200 square feet *as per State guidelines*.

~~F.~~ E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. That it is not permitted anywhere else in the City.

~~G.~~ Water Equivalencies and Other Public Facilities

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

~~H.~~ F. Compliance with Title 14

A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

~~I.~~ Use Limitation

~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

In addition to the above changes there are also the following changes:

- Remove requirement for a Conditional Use Permit in the AG, R-A, R-1, R-2, R-3, R-4 and CRR zone districts; and,
- Change title from Granny Unit to Secondary Unit within Section 17.44 (Parking), Section 17.12 (Definitions).

Staff has included both Attachment A the redlined version of the proposed changes and Attachment B which shows the final version of the text for your convenience.

In addition to changes to the Secondary Unit regulations, staff is recommending the following changes to the Guesthouse regulations to be consistent with State law.

17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

~~B. Use Permit Requirements~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

B. Location. Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.

Environmental Determination

A Negative Declaration was prepared for this project, as defined by CEQA, as there were no environmental impacts associated with the project. The environmental document was posted for review and comment for a thirty day period beginning on October 31, 2011 and ending on November 29, 2011.

Public Notification

Notice of this item will be published as a 1/8th page in the San Luis Obispo Tribune newspaper prior to the "first reading" notifying all Morro Bay residents of these proposed changes.

Planning Commission Recommendations

This proposed secondary unit revision was discussed at the December 7, 2011 Planning Commission meeting and then continued to their meeting of January 4, 2012. Six members of the public spoke in regards to modifications to the ordinance. The commissioners considered the public testimony and adopted planning commission resolution with the following amendments to the proposed ordinance:

1. Change language in 17.48.320 C to read " said unit shall be consistent and/or reasonably compatible".

2. The increased floor area of an attached second unit shall not exceed 30-percent of the existing living area, per state law.
3. A detached unit shall not exceed 1,200 square feet.

CONCLUSION:

The proposed Text Amendment will bring the City's regulations regarding Secondary Units into conformance with Government Code Section 65852.150 and 65852.2 and incorporate the recommendations given to staff by the Planning Commission and previous direction from City Council. And, to bring this ordinance revision, along with the revisions to definitions and parking sections, to insure consistency with terminology, back to City Council for "First Reading" on February 28, 2012.

ATTACHMENTS

1. Planning Commission Meeting Minutes of January 4, 2012
2. Current City of Morro Bay Section 17.48.320

SYNOPSIS MINUTES -- MORRO BAY PLANNING COMMISSION
REGULAR MEETING -- JANUARY 4, 2012

Commissioner Irons asked to pull Item A-1 for discussion. Irons noted that on page 3 regarding discussion of item B-3, 2 State Park Road, there was a letter and an email from a resident received which was brought forward and Commissioners discussed the concerns stated in the letter. He asked the minutes be corrected to include that we brought forth the email from the public and discussed the concerns with staff and the applicant.

MOTION: Commissioner Irons moved to approve the minutes as corrected. The motion was seconded by Chairperson Grantham and carried unanimously. (5-0)

B. PUBLIC HEARINGS

- B-1 *Continued Item from the December 7, 2011 Meeting*
Case No.: #A00-013
Site Location: Citywide
Applicant/Project Sponsor: City of Morro Bay
Request: Zoning Text Amendment proposing to amend Section 17.48.320 (Secondary Units) modifying the section to be consistent with State regulations.
CEQA Determination: Mitigated Negative Declaration
Staff Recommendation: Forward a favorable recommendation to the City Council to approve the proposed Zoning Text Amendment and adopt the Mitigated Negative Declaration.
Staff Contact: Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report.

Chairperson Grantham opened the Public Comment period.

Amy Perry, resident of Morro Bay, spoke against the zoning text amendment. She stated that on her block the secondary units have caused parking and noise problems and urged the Commission not to ease the current restrictions.

Betty Winholtz, resident of Morro Bay, spoke against the zoning text amendment. Winholtz stated that allowing second units to go from 900 to 1,200 square feet does not take into consideration the impacts to noise, parking, and circulation on neighborhoods and stated the current law is already compliant with State law; just more restrictive. Winholtz disagreed that the proposed changes will further affordable housing.

Dorothy Cutter, resident of Morro Bay, spoke against the zoning text amendment and expressed concern about allowing two large houses on one small lot. Cutter stated that residents will not want rental homes to surround them cutting off their views, light and air. Cutter stated the State law only states the granny units can be up to 1,200 square feet, but can be less. She stated this is not about affordable housing but about greed.

John Barta, resident of Morro Bay, spoke in favor of the zoning text amendment and stated as a former Planning Commissioner, he was involved with granny units. Barta read from the State law which cites that granny units can ease a rental housing shortage, maximize limited land

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 4, 2012

resources, infrastructure and assist low to moderate income homeowners with supplemental rental income. Barta stated he supports staff's proposal.

Dan Reddell, resident of Morro Bay, spoke in favor of the zoning text amendment, stating he supports reducing these restrictions and that rental income from a second unit could help struggling homeowners.

Roger Ewing, resident of Morro Bay, spoke against the zoning text amendment. Ewing stated that while he agrees with Mr. Reddell, he disagrees with Mr. Barta. Ewing stated 1,200 square feet is not affordable housing and questioned why changes are proposed when this was not approved by the Coastal Commission. He said the Commission should not make changes at the expense of neighbors and urged the Commission to consider the whole community.

Hearing no further comment, Chairperson Grantham closed the Public Comment period.

Commissioner Napier stated as a renter, she appreciates the smaller size for its affordability. The increased cost of renting a secondary unit at 1,200 square feet would not be affordable.

Commissioner Solu asked staff to clarify lot size versus home size in terms of the "building envelope." Wold clarified that the State guidelines allow the density to increase, not the lot coverage to increase.

Commissioner Irons asked for Commission support on the following suggested changes:

1. Secondary units to be consistent with the primary unit noting we do not have design guidelines that require neighborhood compatibility and line out "and the neighborhood".
2. Zoning be left as "consistent" and to line out "reasonably compatible."
3. The total floor area for a detached secondary unit shall not exceed 1,200 square feet which is consistent with State law.
4. Restrict attached guest houses to not exceed 30% of the primary existing unit size and limited to owner occupied housing in the primary dwelling.

Solu and Nagy were not in support of dictating design requirements. Nagy stated regarding size, the lot size requirements are still present. Having a requirement which limits size to a percentage of the main house does not work if the main house is small.

Napier stated her support for Irons' suggestion on design requirement and also size limitations, noting that a developer is still limited to the building envelope.

Grantham stated his support and noted that reasonable compatibility provides flexibility.

MOTION: Grantham moved to pass as amended B-1. Solu seconded the motion.

Discussion included:

Commissioner Solu requested to amend the motion secondary unit subsection Item C to include "said unit shall be consistent and/or reasonably compatible."

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 4, 2012

Commissioner Irons requested to amend the motion to state the increased floor area of an attached second unit shall not exceed 30% of the existing living area to bring us into conformance with State code and also the guest unit on "A" (Section 17.48.315) for an attached unit. A detached unit shall not exceed 1,200 square feet.

Commissioner Irons amended the motion on the floor and Chairperson Grantham seconded. Rob Schultz confirmed State law.

VOTE: The motion carried 3-2 with Commissioners Napier and Irons voting no.

B-2 Case No.: #S00-109 and #AD0-065

Site Location: 821 Pacific and 700, 710 and 710 ½ Bernardo

Applicant/Project Sponsor: Ruth Viau/ Cathy Novak

Request: Requesting Planning Commission to amend the previously approved project conditions by deleting Planning Commission Condition 1, which requires parking to be provided on parcel two east of the power pole.

CEQA Determination: Categorically Exempt Section 15305, Class 5

Staff Recommendation: Conditionally approve amendment to #S00-109 and #AD0-065

Staff Contact: Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report and discussed with Commissioners the non-conforming status of the property including the previously approved parking exception.

Chairperson Grantham opened the Public Comment period.

Cathy Novak, Applicant's Representative, explained the Applicant's request and asked the Commission to support the modified parking request.

Chairperson Grantham closed the Public Comment period.

Commissioners discussed the request with staff.

Irons stated he was not in support of the Applicant's request to delete the parking condition as it is not an unreasonable condition. Irons addressed his concerns made known at the previous Commission meeting where he had requested the garage setback be made conforming at 5 feet from the existing 1 foot. And also his concern regarding the parking, which could be a safety issue having the parking spot straddle the right of way which he felt was not appropriate.

MOTION: Commissioner Nagy made a motion to approve Lot Line Adjustment #S00-109 and Variance #AD0-065, subject to the modified conditions of approval as stated in Exhibit B. The motion was seconded by Chairperson Grantham and carried 3-2 with Commissioners Napier and Irons voting no.

B-3 Case No.: #SP0-141

Site Location: Off premise signs at: Corner of Beach and Market, entry to parking lot of former Virg's location on the Embarcadero, boat launch ramp.

ORDINANCE NO. 576

AN ORDINANCE OF THE CITY OF MORRO BAY ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17 OF THE MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR MINISTERIAL REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES IN ALL ZONES WHERE SINGLE FAMILY HOMES ARE A PERMITTED USE.

THE CITY COUNCIL
City of Morro Bay, California

Case No. A00-013 (Local Coastal Plan/Zoning Ordinance Amendment)

WHEREAS, it is the purpose of the Zoning Ordinance of the City of Morro Bay to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

WHEREAS, California State Law §65852.2 requires Cities to establish standards to allow for ministerial secondary dwelling units so as to increase the supply of smaller, affordable housing while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, the proposed amendments meet the intent of the State Law by providing for an option to build a secondary dwelling unit or guest house in all zones that permit single family dwellings and have no more than one single family home existing on the property; and

WHEREAS, it is important to have clear, consistent, easy to use regulations within the Zoning Ordinance; and

WHEREAS, the Planning Commission of the City of Morro Bay, on December 7, 2011 after a duly noticed PUBLIC HEARING, did forward a recommendation, by adoption of Planning Commission Resolution No. 01-11 that the City Council amend Title 17 (Zoning Ordinance) to comply with the State legislation (AB 1866) as contained in attached Exhibit "A"; and

WHEREAS, on the 13th day of March 2012, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating Secondary Unit and Guesthouse as contained in attached Exhibit "A" and

WHEREAS, the City Council finds that a Negative Declaration was prepared to evaluate the environmental impacts of the proposed ordinance amendments, and determined that no significant impacts would result from the adoption of these amendments; and

WHEREAS, following the PUBLIC HEARING, and upon consideration of the testimony of all persons, both written and oral, the City Council accepted the Planning Commission recommendation and approved the amendment based on the following findings:

1. The Zoning Ordinance Amendment proposal is consistent with the State Statute AB 1866 and includes similar language, which was previously in effect.

3. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well being of the persons residing or working in the neighborhood.

4. That the proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan.

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

SECTION 1: Title 17 of Morro Bay Municipal Code (Zoning Ordinance) is amended as contained in Exhibit "A", attached hereto and made a part of this ordinance:

SECTION 2: To implement the amendment adopted herein, the City Council of the City of Morro Bay, California, hereby directs as follows:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter; and

2. The City Council of the City of Morro Bay hereby finds that the Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act; and

3. Pursuant to Section 17.64.080 No amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission.

INTRODUCED at the regular meeting of the City Council held on the 13th day of March 2012, by motion of _____ and seconded by _____ .

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

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

William Yates, Mayor
City of Morro Bay

Jamie Boucher, City Clerk
City of Morro Bay

APPROVED AS TO FORM:

ROBERT W. SCHULTZ, Esq.
City Attorney

ATTACHMENT A

17.48.320 SECONDARY UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements. Nothing in Government Code Sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j)) Noticing for interested parties and those properties within 100 feet of the second unit property will be required. Approvals of second units in the appealable zone will continue to be appealable to the Coastal Commission.

A. Location

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

B. Lot Coverage

Maximum lot coverage allowed for the District that they are located in.

C. Design

Said unit shall be consistent and/or reasonably compatible with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

D. Size

The total floor area, not including a garage, for a detached secondary unit shall not exceed 1,200 square feet as per State guidelines. The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.

E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setbacks areas and in tandem if both spaces are for the secondary unit. The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

F. Compliance with Title 14

A secondary unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

17.12.545 Secondary Dwelling Unit.

“Secondary dwelling unit” means an attached or detached residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling. This term also means “second unit” for the purposes of Sections 65852.150 and 65852.2 of the California Government Code.

17.44.020.C. e.iii. Secondary Dwelling Unit. In accordance with the provision of Section 1748.320(E) of this title.

17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

B. Location.

Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.

ATTACHMENT 2

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 22, 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 Pond	Fire Chief
	Mike Lewis	Interim Police Chief
	Eric Endersby	Harbor Operations Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS & PRESENTATIONS

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

PUBLIC COMMENT

Paul Gilliland owns Associated Pacific Contractors, a home grown business for the last 30+ years. Associated Pacific has a unique niche in the marketplace as they perform waterfront and marine construction activities between Santa Cruz and San Diego. Associated Pacific offers expertise in a broad range of technical areas. They are excited about the upcoming dredging contract they have with the City.

Joey Ricano, Director of the California Ocean Outfall Group, stated he had serious reservations about awarding a contract for the dredging project as dredging can be done on a maintenance basis only. Since the area hasn't been dredged in over 63 years, he doesn't feel this is a maintenance project. He also feels this will violate the Marine Protected Area.

Amit Patel, owner/operator of the Day's Inn and former Community Promotions Member spoke in support of the Morro Bay TBID in their attempts to market Morro Bay. Since the inception of the TBID there have been positive changes. He hopes that Council will continue to support and fully fund the request of Morro Bay Tourism Bureau. Please don't cut the efforts off just as business is starting to rebound.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 22, 2012

Mayor Yates closed the hearing for public comment.

Councilmember Smukler requested a timeline for getting the non-profit status. City Attorney Schultz stated that the Articles of Incorporation have been filed; the Bylaws are being worked on and will be given to the Council and the MBTBID in June for their review. The TBID will continue to function as an advisory board until then. Councilmember Smukler then spoke to the correspondence received from a hotelier in the north end which stated that some areas are not receiving the same benefits of the assessment as others in the City. City Attorney Schultz responded that those hoteliers need to become more a part of the process and felt it best to wait for the new Tourism Bureau to be put together before addressing the issue. It would take an amendment to the current Ordinance if a change were to be made.

Councilmember Johnson concurred with Councilmember Smukler's comments.

Councilmember Borchard spoke on the letter Council received from Mr. Gromley regarding the benefits he feels he isn't receiving. She would like to earmark the North end motels for conversation when we start adding vacation rentals into the MBTBID.

MOTION: Councilmember Borchard moved for adoption of Resolution 25-12 declaring the intention to continue the program and assessments for the 2012/13 fiscal year for the Morro Bay Tourism Business Improvement District. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.

B-2 INTRODUCTION AND 1ST READING OF THE ORDINANCE 578 AMENDING MODIFYING SECTION 17.44.020.1 PROVIDING SPECIFIC REGULATIONS AS TO WHEN ADDITIONAL ONSITE PARKING WILL BE REQUIRED FOR EXISTING COMMERCIAL BUILDING(S) CONVERTING FROM ONE USE TO ANOTHER WITHOUT NEW CONSTRUCTION OR NEW ADDITIONS, FOR THE MAPPED SPECIFIC NORTH MAIN STREET COMMERCIAL AREA; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report. At the December 13, 2010 Council meeting, it was requested that staff provide a report on the status of parking in the North Main Street area to include options for modifications or amendments to City requirements. Based on the request, staff provided various options to Council for their consideration. The proposed amendment went to Planning Commission on April 18, 2012 who gave a favorable recommendation by Resolution 19-12. The change to the existing Ordinance would provide that "Except in the North Main Street Commercial parking Area (as defined) as codified at the end of this chapter where all changes in uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking." A Negative Declaration was prepared, it was properly noticed, and is now before Council for their consideration.

Mayor Yates opened the hearing for public comment; seeing none, the public hearing was closed.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 22, 2012

Councilmember Borchard thanked staff; it was her goal to offer relief to some of the North Main Street businesses with parking issues. This also works into the ongoing efforts to review the Zoning Ordinance and Local Coastal and General Plan update which takes a long time. She hopes this will help in the interim.

Councilmember Johnson is happy to see that we are making progress on this issue as it has been a very long and difficult process. She sees this as a help to those businesses in North Morro Bay.

Councilmember Smukler is in support of this as it encourages renovations of existing structures. He would still like to see stronger language. He would like to see the word “commercial” added as follows: “...chapter where all changes in **commercial** uses including...”

MOTION: Councilmember Borchard moved for approval of Ordinance No. 578 by number and title only with the inclusion of the word “**commercial**” in the last sentence. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.

C. UNFINISHED BUSINESS

C-1 DISCUSSION ON LOCAL SPORTFISHING BUSINESSES; (HARBOR)

Harbor Director Eric Endersby presented the staff report stating that he was given direction to meet with the local sportfishing businesses to come to some general consensus regarding potential areas where a common “co-op” or other joint advertising and/or informational area could be established to promote the sportfishing industry. After discussions, the idea to install two kiosks, one near the South T-Pier and one near the giant chessboard were proposed. Staff is looking for Council support to carry this forward. Staff also requested that this concept be vetted through the Harbor Advisory Board before coming back to Council.

Councilmember Smukler wondered if the Harbor Department would be willing to include the Chamber in their further discussions to which Harbor Director Endersby said yes.

Councilmember Johnson felt it was important to send this to the Harbor Advisory Board in an effort to come up with a plan. Thinks it's a good idea to include the Chamber in the discussions.

Councilmember Borchard also feels it's appropriate to send this concept to the Harbor Advisory Board as well as work with the Chamber. It would also be good to include other coastal dependent businesses that might benefit from the kiosk concept

Mayor Yates stated that this is all great but feels there is some urgency and this all seems too slow of a process. He hopes it would be possible to do something temporarily that would help the sportfishing industry now, while other discussions are ongoing.

Councilmember Smukler questioned whether or not Sharon Moore (Virg's) was comfortable with adding additional water dependent activities to this concept to which she said, yes – down the road. He then asked if Council attempted to encompass all of this now, would that take too much time to which she responded, yes.



AGENDA NO: B-2

MEETING DATE: May 22, 2012

Staff Report

TO: Honorable Mayor and City Council

DATE: May 14, 2012

FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Kathleen Wold, AICP – Planning and Building Manager

SUBJECT: Introduction and 1st Reading of the Ordinance 578 Amending Modifying Section 17.44.020.1 Providing Specific Regulations as to when Additional Onsite Parking will be Required for Existing Commercial Building(s) Converting from One Use to Another Without New Construction or New Additions, for the Mapped Specific North Main Street Commercial Area

RECOMMENDATION

Staff recommends that the City Council:

- 1) Open the public hearing and receive testimony;
- 2) Accept the Planning Commission recommendation to adopt the proposed Ordinance amendment that would allow for modification to Section 17.44.020.1; and
- 3) Make a motion to approve Ordinance No. 578 by number and title only.

BACKGROUND

At the December 13, 2010 City Council meeting, Councilmember Borchard requested that staff provide a report on the status of parking in the North Main Street area to include options for modifications or amendments to City requirements which would address buildings where the number of stalls is non-conforming to today standards. At the February 8, 2011 meeting, staff presented a report which contained various options for the Council to consider prior to giving direction to staff. City Council's direction to staff was to prepare a boundary map and an exemption for Section 17.44.020.A.1. On June 14, 2011 staff took forward a boundary map and specific language for the text amendment. Council took action to approve the submitted map and language with the additional language "to not include new construction or new additions" and directed staff to process the Zoning Text Amendment.

Staff presented the amendment to the Planning Commission at their April 18, 2012 meeting as follows:

Except in the North Main Street Commercial Parking Area as defined in Figure 17.44.020(3) as codified at the end of this chapter where all changes in uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Staff modified the amendment to exclude the following language “as defined in Figure 17.44.020(3) as codified at the end of this chapter” to ensure that the North Main Street Commercial Parking area as defined by the City Council is incorporated into the amendment. The Planning Commission forwarded a favorable recommendation on this amendment by Resolution #19-12.

DISCUSSION

The amendment will modify Section 17.44.020.1 to read as follows:

17.44.020 PARKING FACILITIES

A. Off-Street Parking — General Requirements

1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion. **Except in the North Main Street Commercial Parking Area as defined in Figure 17.44.020(3) as codified at the end of this chapter where all changes in uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking.**

ENVIRONMENTAL DETERMINATION

A Negative Declaration was prepared for the project as there were no environmental impacts associated with the project. The environmental document was posted for review and comment for a thirty day period beginning on March 16, 2011 and ending on April 16, 2011. The State Clearing House number is 2012031058.

PUBLIC NOTICE

Notice of this item was published as a 1/8th page in the San Luis Obispo Tribune newspaper on April 7, 2012 notifying all Morro Bay residents of this Zoning Text Amendment.

CONCLUSION

The proposed Zoning Text Amendment will allow the existing buildings within the North Main Street Commercial Parking Area to convert from one use to another without having to provide additional parking.

ATTACHMENTS

Attachment A -- Ordinance No. 578

Attachment B -- Planning Commission Resolution No. 19-12

Attachment C -- California Environmental Quality Act, Negative Declaration, State Clearinghouse #2012031058

ORDINANCE NO. 578

**AN ORDINANCE OF THE CITY OF MORRO BAY ANNOUNCING FINDINGS AND
ADOPTING AMENDMENTS TO TITLE 17 OF THE MUNICIPAL CODE AMENDING
SECTION 17.44.020.1**

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

Case No. A00-014 (Local Coastal Plan/Zoning Ordinance Amendment)

WHEREAS, it is the purpose of the Zoning Ordinance of the City of Morro Bay to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

WHEREAS, the proposed amendment will provide specific regulations as to when additional onsite parking will be required for existing commercial building(s) converting from one use to another without new construction or new additions for the mapped specific North Main Street Commercial Area; and

WHEREAS, it is important to have clear, consistent, easy to use regulations within the Zoning Ordinance; and

WHEREAS, the Planning Commission of the City of Morro Bay, on April 18, 2012 after a duly noticed PUBLIC HEARING, did forward a recommendation, by adoption of Planning Commission Resolution #19-12 that the City Council amend Title 17 (Zoning Ordinance) Section 17.44.020.1 "Facilities Required"; and

WHEREAS, on May 22, 2012, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating parking in the specific North Main Street Commercial Area; and

WHEREAS, the City Council finds that a Negative Declaration was prepared to evaluate the environmental impacts of the proposed ordinance amendments, and determined that no significant impacts would result from the adoption of these amendments; and

WHEREAS, following the PUBLIC HEARING, and upon consideration of the testimony of all persons, both written and oral, the City Council accepted the Planning Commission recommendation and approved the following amendment:

17.44.020 PARKING FACILITIES

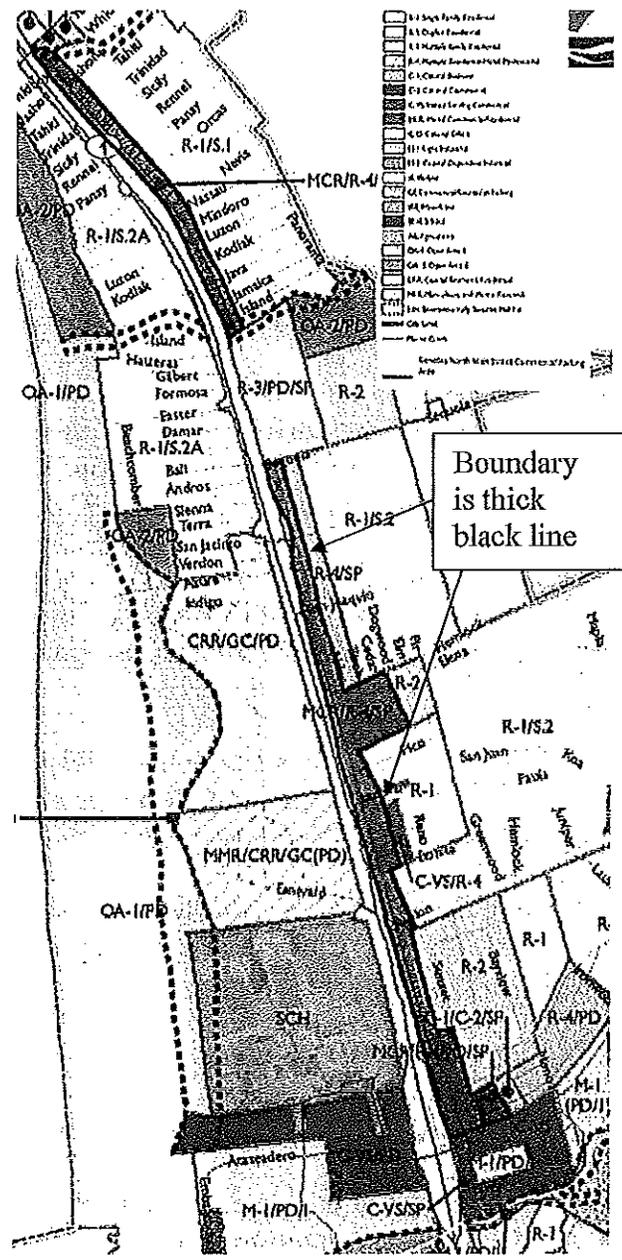
A. Off-Street Parking — General Requirements

1. Facilities Required

For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more

parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter; a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion. **Except in the North Main Street Commercial Parking Area as defined in Figure 17.44.020(3) as codified at the end of this chapter where all changes in commercial uses including more intense uses not including new construction or new additions will not be required to provide additional onsite parking.**

Figure 17.44.020(3) North Main Street Commercial Parking Area Boundary Map



Based on the following findings:

1. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well being of the persons residing or working in the neighborhood.
2. That the proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan.

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

SECTION 1: Title 17 of Morro Bay Municipal Code (Zoning Ordinance) is amended as contained in this Ordinance and made a part of this ordinance:

SECTION 2: To implement the amendment adopted herein, the City Council of the City of Morro Bay, California, hereby directs as follows:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter; and
2. The City Council of the City of Morro Bay hereby finds that the Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act; and
3. Pursuant to Section 17.64.080 No amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission.

INTRODUCED at the regular meeting of the City Council held on May 22, 2012 by motion of Councilmember Borchard and seconded by Councilmember Smukler.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

William Yates, Mayor
City of Morro Bay

Jamie Boucher, City Clerk
City of Morro Bay

APPROVED AS TO FORM:

ROBERT W. SCHULTZ, Esq.
City Attorney

ATTACHMENT 3

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – APRIL 26, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.8: REAL PROPERTY TRANSACTIONS: Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Property: 699 Embarcadero; Lease Site 75-77/75W-77W
Negotiating Parties: City of Morro Bay and Morro Bay Marina, Inc.
Negotiations: Lease Terms and Conditions.

CS-2 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.
Discussions regarding Personnel Issues related to the reorganization of City Public Services Department.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5: 55p.m.

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

The meeting adjourned at 5:55 p.m.

Technician to ½ time (Fire), Permit Technician to ¾ time (PS), and eliminate the Housing Programs Coordinator position while establishing an Administrative Technician (PS). There were a variety of part-time hourly positions that were affected as well. Following the first Budget Workshop, and when a set number of layoffs are known, staff will be more able to provide to the City Council further impact issues, such as office closures during the lunch hour and/or additional hours, scheduling changes, and staff availability. While we know there will be impacts, it is difficult to fully determine those impacts prior to knowing the final staffing numbers. Staff recommends Council receive this information and provide staff with any further direction.

Mayor Peters opened up the hearing for public comment.

There was no public comment.

This item is informational only, no action was necessary.

B-4 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 556 TO AMEND THE MORRO BAY MUNICIPAL CODE TITLE 17 ADDING CHAPTER 17.27 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED "ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES

Kathleen Wold stated that back in 2005 the City Council approved new regulations for antennas and wireless telecommunications as part of the comprehensive Zoning Ordinance Update. To date the Zoning Ordinance Update has not been certified by the California Coastal Commission therefore city staff must refer to the old regulations when processing new applications for wireless facilities. Recently city staff processed two new applications for wireless facilities under the old requirements. Subsequent to processing these applications City Council gave direction to staff to separate the wireless telecommunication facilities portion of the Update and bring it forward as a separate ordinance for review and approval. Staff brought a draft ordinance forward for Council review on March 22, 2010, minor changes were made to the regulations contained in the Updated Zoning Ordinance to make the regulations compatible with the existing Zoning Ordinance. On March 22, 2010 the Council reviewed the draft ordinance and directed staff to take into consideration comments made by both the council and the public and return with an ordinance for first reading and introduction. The revised ordinance was modified to include an exemption for city data/service facilities and eliminates sections deemed redundant. Staff recommends that city council approve Ordinance No. 556 for introduction and first reading only by number and title only.

Mayor Peters opened up the hearing for public comment.

There was no public comment

Councilmember Winholtz was concerned about the size of the satellite dishes.

Councilmember Grantham said large satellite dishes have not been around for over 10 years.

MOTION: Councilmember Winholtz moved to approve Ordinance 556 for introduction and first reading by number and title only. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B-5 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 557
AMENDING MORRO BAY MUNICIPAL CODE CHAPTER
2.16.080 REGARDING THE DUTIES OF THE CITY ATTORNEY

City Attorney Rob Schultz was directed and is presenting Council with amended City Attorney duties to include a requirement that he/she attend all appeals before the Planning Commission. Staff recommends Council accept public comment and move for introduction and first reading of Ordinance No. 557 by number and title only.

Mayor Peters opened up the hearing for public comment.

There was no public comment.

Councilmember Borchard said she finds it disappointing that we have to draft an amendment to the ordinance rather than just give direction.

MOTION: Councilmember Winholtz moved approval of Ordinance 557 for introduction and first reading by title and number only. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 PRESENTATION BY THE COMMUNITY PROMOTIONS COMMITTEE
REGARDING THEIR GOALS AND BUDGETARY REQUEST FOR 2010-
2011 AND ADOPTION OF AMENDMENTS TO THE BYLAWS FOR THE
COMMUNITY PROMOTIONS COMMITTEE

City Attorney Rob Schultz presented Council with amendments to the Community Promotions Committee's Bylaws. Also, members of the Community Promotions Committee gave a presentation regarding their goals, accomplishments and budgetary requests for the upcoming fiscal year. Presenting on behalf of the Community Promotions Committee were John Sorgenfrei, Peter Candela, Ed Krovitz and Susan Stewart.

MOTION: Councilmember Winholtz moved to adopt the Community Promotions Committee's recommendations for their Bylaws with new wording on the middle of the first paragraph and that the second paragraph of qualifications reflect Mayor Peters' comments that she provided to

On March 22, 2010 the council reviewed the draft ordinance and directed staff to take into consideration comments made by both the council and the public and return with an ordinance for first reading and introduction.

The minutes of the March 22, 2010 meeting reflect that comments were made by Councilmember Winholtz and John Barta, a member of the public. Mr. Barta felt that the radar antennas should be included in the new ordinance. Staff researched this issue and found that radar facilities are regulated by the federal government and should not be regulated in this ordinance. However there may be some confusion between radar facilities and microwave facilities, staff points out that this new ordinance does regulate new microwave facilities.

The minutes indicate that a Councilmember Winholtz was not in favor of allowing any facility to exceed the maximum height limit for the zone district in which it is proposed. . The height limitation contained within the ordinance provides for height limits which will provide an adequate range of telecommunication services thus limiting the number of facilities by each service provider within the city, limiting the height will restrict the service range and may ultimately result in the necessity for addition sites. . Staff points out that the ordinance also requires screening of facilities under certain circumstances reducing the visual impacts associated with most new facilities. The minutes further indicate that she felt the definition of visual was nebulous. Staff has proposed a revised definition of readily visible as follows:

Readily Visible. A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunications facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

Other than the modification as mentioned above the ordinance was modified to include an exemption for city data/service facilities and to eliminate sections 17.30.030.F and 17.48.340 which were determined to be redundant.

CONCLUSION:

Staff recommends that the City Council approve Ordinance No. 556 for introduction and first reading by title only.

Attachments: City Council minutes from March 22, 2010.

Initial Study and Final Negative Declaration for the city of Morro Bay's zoning Ordinance Update.
Ordinance No. 556

Ordinance No. 556

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MORRO BAY ANNOUNCING FINDINGS AND AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 17.27 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED "ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES" AND MODIFYING CHAPTER 17.12 TO INCORPORATE NEW DEFINITIONS, 17.24 TO MODIFY PRIMARY DISTRICT MATRICES TO INCORPORATE THE TEXT CHANGES, 17.30 TO ELIMINATE SECTION 17.30.030.F "ANTENNAS", 17.48 MODIFY TO ELIMINATE SECTION 17.48.340 "SATELLITE DISH ANTENNAS" AND MODIFY THE TITLE PAGE TO REFLECT THE NEW CHAPTER.

THE COUNCIL OF THE CITY OF MORRO BAY DOES ORDAIN AS FOLLOWS:

WHEREAS, the Planning Commission of the City of Morro Bay held a duly noticed public hearings on considering a comprehensive update to the city of Morro Bay's Zoning Ordinance (Title 17) and recommended approval of said update to the City Council and wherein the proposed ordinance Number 556 was contained within this comprehensive update and therefore also recommended for approval; and

WHEREAS, the City Council of the City of Morro Bay conducted duly noticed public hearing on April 26, 2010; and

WHEREAS, the Council has reviewed and considered Ordinance No 556 and has found that Ordinance No. 556 complies with the City of Morro Bay objectives, criteria and procedures for implementation of the California Environmental Quality Act (CEQA) in that the project is covered under the environmental document previously approved for the comprehensive update of the Zoning Ordinance of which this ordinance was a part of and therefore no additional environmental documentation is deemed necessary; and

WHEREAS, following the public hearing after consideration of the memorandums, staff reports, addendums, and consideration of the comments by all persons written and oral; and

WHEREAS, notices of said public hearings were made at the time and in the manner required by law; and

WHEREAS, the Council has duly considered all evidence, including the recommendation of the Planning Commission, testimony of interested parties, and the evaluation and recommendations by staff, presented at said hearings; and

WHEREAS, the City Council finds that the proposed text amendment is consistent with the General Plan, the Local Coastal Plan, the Zoning Ordinance and other applicable City ordinances; and

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

SECTION 1. Environmental Determination. The City Council finds and determines that the project's Negative Declaration adequately addresses the potential environmental impacts of the proposed text amendment to the Zoning Ordinance, and reflects the independent judgment of the City Council. The Council hereby finds that the Negative Declaration adopted for the comprehensive Zoning Ordinance Update is adequate and further finds that no additional environmental review is required to be conducted.

SECTION 2. Findings. The City Council makes the following findings:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter; and,
2. The proposed text amendment is consistent with the General Plan, the Local Coastal Plan, the Zoning Ordinance and other applicable City ordinances; and
3. The proposed amendments are consistent with General Plan policies since the regulations implement General Plan policies including those associated with preservation of neighborhood character, Land Use, and Visual Resources; and
4. The proposed amendments will not significantly alter the character of the neighborhoods or cause significant health, safety or welfare concerns. The proposed regulations will establish clear guidelines for the establishment of antennas and wireless telecommunication facilities ensuring all facilities will be established in a manner that protects the community from health, safety or welfare concerns.

SECTION 3. Revisions. Ordinance No. 556 which revises portions of the existing Title 17 as stated below is hereby adopted.

- Modify the title page to reflect the new chapter; and
- Chapter 17.12 to incorporate new definitions; and
- Chapter 17.24 modify matrixes to incorporate proposed text changes; and
- Chapter 17.30 "special uses" modify to eliminate section 17.30.030. F "antennas"; and
- Chapter 17.48 modify to eliminate section 17.48.340 satellite dish antennas; and
- Add Chapter 17.27

SECTION 4. A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in the Telegram-Tribune, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

INTRODUCED at the regular meeting of the City Council held on the 26th day of April 2010, by motion of _____ and seconded by _____ .

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

AYES:
NOES:

ABSTAIN:
ABSENT:

ATTEST:

JANICE PETERS, MAYOR
CITY OF MORRO BAY

JAMIE BOUCHER, DEPUTY CITY CLERK
CITY OF MORRO BAY

APPROVED AS TO FORM:

ROBERT W. SCHULTZ, ESQ.
CITY ATTORNEY

Title 17

ZONING*

CHAPTERS:

- 17.04 **General Provisions**
 - 17.08 **Interpretation**
 - 17.12 **Definitions**
 - 17.22 **Zoning Map - Boundaries**
 - 17.24 **Primary Districts**
 - 17.27 *Antennas and Wireless Telecommunications Facilities*
 - 17.30 **Special Uses, Special Use Permits and Temporary Use Permits**
 - 17.40 **Special Treatment Overlay and Combining Districts and Specific Plans**
 - 17.44 **Parking, Driveway and Loading Facilities**
 - 17.45 **Bluff Development Standards**
 - 17.48 **General Regulations, Conditions and Exceptions**
 - 17.49 **Community Housing Project Regulations, Residential Conversions and Demolition**
 - 17.50 **Affordable Housing, Density Bonuses and Incentives**
 - 17.52 **Performance Standards**
 - 17.56 **Nonconforming Uses and Structures**
 - 17.58 **Coastal Development Permits and Procedures**
 - 17.60 **Use Permits, Procedures Notices and Variances**
 - 17.61 **Enforcement**
 - 17.64 **Amendments**
 - 17.68 **Signs**
 - 17.70 **Adult Entertainment Businesses**
- Appendix A**

* Prior ordinance history: Prior code §§ 5101.1 -- 5101.3, 5102.1, 5103.1 -- 5103.5, 5104.1, 5104.2.1 -- 5104.2.12, 5104.3, 5104.3.1 -- 5104.3.7, 5104, 5104.4.1 -- 5104.4.4, 5105.1 -- 5105.8, 5106.1 -- 5106.22, 5106.24, 5107.1 -- 5107.9, 5108.1 -- 5108.6, 5109.1 -- 5109.9, 510.1 -- 5110.4, 5110.6 -- 5110.14, 5111.1 -- 5111.7, 5112.1 -- 5112.6; Ords. 65, 77, 100, 107, 136, 141, 173, 174, 176, 178, 182, 186, 195, 204, 207, 208, 212, 220, 225, 230, 236, 243, 445, 470.

Chapter 17.12

DEFINITIONS*

Sections:

17.12.010	Purpose
17.12.012	Access
17.12.015	Accessory Structures
17.12.017	Administrative Coastal Development Permit
17.12.020	Administrative office
17.12.022	Affordable Housing
17.12.025	Aggrieved Person
17.12.026	Agriculture
17.12.030	Alley
17.12.032	<i>Amateur Radio Antenna</i>
17.12.035	Amusement machine
17.12.037	<i>Antenna</i>
17.12.040	Apartment
17.12.050	Apartment house
17.12.055	Arcade
17.12.056	Automobile repair, major
17.12.057	Automobile repair, minor
17.12.058	Average bluff edge elevation
17.12.059	Bed and breakfast establishment
17.12.060	Block
17.12.062	Bluff
17.12.063	Bluff border
17.12.064	Bluff review area setback
17.12.065	Bluff, toe
17.12.066	Bluff top edge
17.12.070	Boarding house
17.12.080	Building
17.12.090	Building, accessory
17.12.092	Building lot coverage
17.12.100	Building, main (primary)
17.12.102	<i>Building-Mounted Telecommunications Facility</i>
17.12.105	Building official
17.12.110	Building site
17.12.115	Bulk
17.12.120	Business, retail
17.12.130	Business, wholesale

17.12.135	Campground
17.12.140	Cantilever
	17.12.150 Carport
17.12.158	Child Day Care Facility
17.12.160	City
17.12.170	City Council
17.12.172	Coastal bluff area
17.12.173	Coastal bluff properties
17.12.175	Coastal dependent development or use
17.12.176	Coastal development permit appeal area
17.12.177	Coastal related development or use
17.12.180	Combining districts
17.12.185	Commission
17.12.187	Community apartment
17.12.188	Community housing project
17.12.189	Condominium
17.12.191	Conversion
17.12.192	Conversion date
17.12.193	Covenant
17.12.194	Cut slope
17.12.195	Customer Service Area
17.12.196	Day Care Facility
17.12.197	Demolition
17.12.198	Density Bonus
17.12.199	Development
17.12.200	Director
17.12.203	District
17.12.205	Dredging
17.12.210	Dwelling
17.12.220	Dwelling groups
17.12.230	Dwelling, multiple
17.12.240	Dwelling, single family
17.12.250	Dwelling, three family or triplex
17.12.260	Dwelling, two family or duplex
17.12.264	Easement
17.12.265	Elderly Housing
17.12.266	Emergency
17.12.267	Environmentally sensitive habitat
17.12.268	Equestrian boarding
17.12.269	Estuary
17.12.270	Family
17.12.272	Family day care home
17.12.275	Feasible
17.12.280	Fence
17.12.281	Fill slope
17.12.282	Finished grade

17.12.238	Floodplain, 100 year
17.12.284	Floodway
17.12.285	Floor area
17.12.287	Floor area, gross
17.12.290	Garage
17.12.292	Garage, public parking
17.12.294	Grading
17.12.295	Granny Unit
17.12.300	Guesthouse
17.12.310	Height of building
17.12.320	Home occupation
17.12.330	Hotel
17.12.333	Infant
17.12.335	Infill
17.12.337	In-Lieu Fees
17.12.340	Junkyard
17.12.344	Kitchen
17.12.345	Landscaping
17.12.346	Lateral Access
17.12.347	Local Coastal Plan, Land Use Plan
17.12.348	Local Coastal Program (Plan and LCP)
17.12.349	Lofts
17.12.350	Lot
17.12.360	Lot, corner
17.12.365	Lot, flag
17.12.370	Lot, front
17.12.380	Lot, inside
17.12.390	Lot line
17.12.400	Lot, key
17.12.410	Lot side
17.12.420	Lot, through
17.12.430	Lot width
17.12.433	Low and moderate income housing
17.12.435	Low-income housing
17.12.440	Mobilehome or manufactured housing
17.12.450	Mobilehome park
17.12.455	Moderate-income housing
17.12.457	Modular Buildings
17.12.459	<i>Monopole</i>
17.12.460	Motel or Hotel
17.12.463	Non-conforming structure
17.12.464	Non-conforming use
17.12.465	Nursery, garden
17.12.466	Offshore oil and gas exploration and development
17.12.467	Open and lacy trees
17.12.468	Open porch or deck

17.12.470 Outdoor dining and display
 17.12.471 Parking space
 17.12.472 Percentage slope
 17.12.475 Permit
 17.12.480 Person
 17.12.482 Plan, concept
 17.12.483 Plan, specific
 17.12.485 Planned unit development (planned residential development)
 17.12.487 Prime agricultural lands
 17.12.490 Professional office
 17.12.492 *Readily Visible*
 17.12.495 Recreational vehicle, motor home or travel trailer
 17.12.500 Recreational vehicle (RV) park
 17.12.501 Redevelopment
 17.12.502 Regular coastal development permit
 17.12.510 Residential security unit
 17.12.513 Rest home
 17.12.515 Riparian habitat
 17.12.520 Rooming house
 17.12.525 Sand dunes, sand spit
 17.12.530 Sanitarium
 17.12.532 *Satellite antenna*
 17.12.540 Screening
 17.12.550 Service Station
 17.12.560 Setback line
 17.12.570 Side and front of corner lot
 17.12.580 Signs
 17.12.585 Stock cooperative
 17.12.587 Stream corridors
 17.12.590 Street
 17.12.600 Street line
 17.12.610 Structural alterations
 17.12.620 Structure
 17.12.625 Structure, non-conforming
 17.12.627 *Telecommunications Facility*
 17.12.629 *Telecommunications Facility, Co-Located*
 17.12.630 Tenant
 17.12.650 Unbuildable area
 17.12.655 Urban area
 17.12.656 Urban area, non
 17.12.660 Use
 17.12.662 Use, accessory
 17.12.664 Use, conditionally permitted
 17.12.666 Use, illegal
 17.12.668 Use, nonconforming
 17.12.670 Use, permitted

17.12.680	Use, secondary
17.12.685	Use, special
17.12.691	Vacancy rate
17.12.692	Vertical access
17.12.693	Very low affordable housing
17.12.695	Vessels for commercial fishing
17.12.700	Veterinary clinic
17.12.710	Veterinary hospital
17.12.712	Visitor serving facility
17.12.714	Warehouse
17.12.716	Wetlands
17.12.720	Yard
17.12.730	Yard, front
17.12.740	Yard, rear
17.12.750	Yard, side
17.12.755	Yard, exterior or street side
17.12.757	Yard, interior side
17.12.760	Zoning administrator

Antenna. Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception, or both, of electromagnetic radiation waves.

Amateur Radio Antenna. Any antenna used to receive or transmit radio signals on the amateur radio bandwidth, as designated by Federal regulation.

Satellite Antenna. Any antenna used to receive or transmit radio or television signals from orbiting communication satellites.

Building-Mounted Telecommunications Facility. A facility constructed in two general forms, roof mounted, in which an antenna is placed on or above the roof, and facade-mounted, in which an antenna is mounted on the side of a building. Building-mounted facilities can be located on or inside various structures such as building roof or eave trim, church steeples, or other innovative locations.

Monopole. A facility that consists of a single pole structure erected on the ground to support wireless telecommunications antennas and connecting appurtenances.

Telecommunications Facility. A facility that transmits or receives electromagnetic signals, including antennas for cellular, enhanced specialized mobile radio (ESMR), personal communications services (PCS), microwave dishes, earth stations for satellite-based communications, and similar facilities.

Telecommunications Facility, Co-Located. A facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

Readily Visible. A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a

person with normal vision, and distinguished as an antenna or other component of a wireless telecommunications facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

17.24.030 Suburban Residential (RA) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Single-family dwelling.	No	25 ft (no wall may exceed 30 ft.)	20,000 sq. ft.	20,000 sq. ft.	20 ft.	10 ft garage entrance 20ft.	10% of ave. with 10 ft maximum requirement	20% of the depth of the lot with 20 ft. maximum	35% minimum permeable surface	45%
Crop and tree farming; viticulture; farming and if one acre or more grazing, of not more than two (2) cattle or horses per acre or not more than four (4) sheep or goats per acre.					Refer to Chapter 7.16 for animal keeping setbacks					
Rabbit and chicken ranching involving not more than twelve (12) animals					Refer to Chapter 7.16 for animal keeping setbacks					
Expressly prohibited: commercial dairies and kennels;					Refer to Chapter 7.16 for animal keeping setbacks					
Accessory uses and buildings normally incidental to other permitted uses but not including commercial uses, and located in accordance with Title 7; home occupations					Refer to Chapter 7.16 for animal keeping setbacks					
Guest House (no Kitchen) or Granny Unit with a Single Family Residence	Minor Use			1 per lot	20 ft.	10 ft.	10 %	20%		
Temporary Produce Stands			10 acres				10 % of ave. width with 10 ft. maximum requirement	20% of the depth of the lot with 20 ft. maximum		
Additional Residences for Agricultural Employees	Yes				Not permitted within 100' of residential structure or adjacent residentially zoned property					
Equestrian Boarding					Per CUP					
Special Use Permits pursuant to 17.30	Yes				Per CUP					
Antennas and Wireless Telecommunications Facilities					See section 17.27					

17.24.040 Single Family Residential (R-1) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling	No	25 ft (No wall may exceed 30 ft.)	Refer to subdivision regulations for sizes for new lots	1/lot or pursuant to Section 17.24.040	20 ft	20% of ave. width of lot with 10 ft maximum and 5 ft minimum Garage entrance 20ft.	10% of ave. width of lot with 5 ft maximum and 3 ft minimum	10% if ave. depth of lot with 10 ft maximum and 6 ft minimum	N/A	45%
Home occupations: structures and uses (include, home oc.) normally incidental to primary use	Minor Use Permit									
Guest house (no kitchen) or Granny unit with a Single Family Residence	Yes									
Community housing project	Yes		1 per CUP	5,000 sq. ft. or per overlay zone					Plan required 20% min. permeable surface area	
Special Use Permits pursuant to 17.30	Yes									
PER CUP										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

17.24.050 Duplex Residential (R-2) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 district	No	25 ft.	Refer to Subdivision regulations for sizes for new lots	2,900 sq. ft.	20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum Garage entrance 20ft.	10% of ave. width of lot with 5 ft. maximum and 3 ft. minimum	5 ft.	N/A	50 %
Duplexes (single structure); second single family dwellings										
Home occupations; structures and uses normally incidental to primary use										
Guest house (no kitchen) or Granny unit with a Single Family Residence	Minor Use Permit									
Apartment units/Bed and Breakfast	Yes									
Community Housing projects			10,000 sq. ft.							
Mobile home parks and other permitted uses as stated in Section 17.40.060			2 acres							
Parking lots-only to serve residential uses			Per CUP	N/A						
Special Use Permits pursuant to 17.30	Yes		Per	CUP						
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

Plan required
15%
minimum permeable surface

17-24-060 Multiple Family Residential (R-3) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>All principally permitted uses in the R-1 and R-2 districts.</p>	<p>No</p>	<p>25 ft.</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>2,175 sq. ft.</p>	<p>15 ft. Garage entrance 20 ft.</p>	<p>20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum Garage entrance 20ft.</p>	<p>5 ft.</p>	<p>5 ft. except where abouts an R-1 or R-2 zone, in which case the R-1 criteria applies</p>	<p>N/A</p>	<p>60%</p>
<p>Home occupations; structures and uses normally incidental to primary use</p>									<p>Plan required 15% minimum permeable surface</p>	
<p>Apartment units</p>									<p>Plan required 15% minimum permeable surface</p>	
<p>Guest house (no kitchen) or Granny unit with a Single Family Residence</p>	<p>Minor Use Permit</p>								<p>N/A</p>	
<p>Rooming and boarding house; bed and breakfast establishment</p>	<p>Yes</p>			<p>2,900 sq. ft.</p>					<p>Plan required 15% minimum permeable surface</p>	
<p>Community Housing project</p>			<p>6,000 sq. ft.</p>							
<p>Parking Lot</p>			<p>3 acres</p>	<p>N/A</p>						
<p>Mobile home park</p>			<p>3 acres</p>	<p>2,900 sq. ft.</p>						
<p>Special Use Permits pursuant to 17.30</p>	<p>Yes</p>		<p>Per</p>	<p>CUP</p>						
<p><i>Antennas and Wireless Telecommunications Facilities</i></p>		<p>See Section 17.27</p>								

17.24.070 Multiple Residential (R-4) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses listed in the R-1, R-2, and R-3 districts.	No	30 ft.	Refer to Subdivision Regulations for sizes for new lots	1,800 sq. ft.	15 ft. Garage entrance 20 ft.	20% of ave. width of lot with 15 ft. maximum and 10 ft. minimum	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations; structures and uses normally incidental to primary uses									Plans required 15% minimum permeable surface	
Apartment units										
Guest House (no kitchen) or Granny unit with a Single Family Residence	Minor Use Permit									
Community housing project										
Rest home; rooming and boarding houses	Yes		6,000 sq. ft.	750 sq. ft.						
Hotel and Motel; Bed and Breakfast establishment			3 acres	2,900 sq. ft.						
Mobile Home Park										
Commercial uses and services, including but not limited to newsstands, gifts and notions, coffee shops, self service laundries and bike rental, which are normally incidental to hotels, motels and mobile home parks, if such uses are provided without direct access to a public street										
Parking lots										
Professional, governmental and general business offices which do not engage in retail sales on the premises	Yes		Per	CUP						
Special Use Permits pursuant to 17.30										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

17.24.080 Coastal Resource Residential (CRR) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling Structures and uses normally incidental to the primary use; home occupation	No	14 ft./25 ft. (refer to special standards)	20,000 sq. ft. If cluster development 6,000 sq. ft. interior & 7,000 sq. ft. corner. (Refer to Cluster Requirements)	1 unit per lot	20 ft. (In addition garage shall be 20 ft. from sidewalk).	10 ft.	10% of the width of the lot with 6 ft minimum	10 ft. from property lines and from designated view corridor lines.	Plan required	30% If clustered: Refer to Cluster Requirements
Guest house (no kitchen)	Yes									
Granny Units are specifically prohibited										
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

17.24.090 Central Business (C-1) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.

	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Tattoo parlors	None except minor CUP if within 100' of or across the street from a residential zone or a school zone									
Video arcades										
Bars when not part of a restaurant	Yes	30 ft. except 25 ft. within 20 ft. of a residential district other than R-4	Refer to Subdivision Regulations for sizes for new lots	2,500 sq. ft.	0 ft. with an average of 2 ft. except 10 ft. when across the street from a residential district		0 ft. except 10 ft. when adjacent to a residential district		Plan required per Section 17.48.290	90%
Hotels, motels;										
Plant nurseries, home improvement centers and tire shops/auto repair subject to a CUP [Ord. 324 exh. B sl. 1988]										
Multi-story parking garages										
Retail sales and personal services not with-in a building.										
Drive-in or drive-thru restaurants.										
Service stations with minor auto repair, car wash.										
Fabrication of items sold on the premises										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

24.100 Service Commercial (C-2) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>Retail uses within a building except liquor stores</p>	<p>No</p>	<p>30 ft. except 25 ft. within 20 ft. of a residential district other than R-4</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>N/A</p>	<p>Average of 2 ft. except 10 ft. when across the street from a residential district</p>	<p>0 ft. except 10' when adjacent to a residential district</p>	<p>Plan required per Section 17.48.290</p>	<p>90%</p>		
<p>Business and professional offices</p> <p>The following uses, within building such as: animal hospital; auto sales and service; motor and major automotive repair shop; car cleaning and detail establishments; dry cleaners heavy equipment sales and services; laundries; locker plants; nurseries; plumbing shops; hardware stores; second hand sales; cabinet shops; tire shops; restaurants</p> <p>Storage and warehouse establishments such as: mini-warehouses; commercial public storage; wholesale storage and distribution of products to retail outlets; restaurant suppliers excluding wholesale food distributors.</p>	<p>None required except when within 100' or across the street from a residential zone in which case a Minor Use Permit is required</p>									
<p>Liquor sales and convenience stores</p>	<p>Yes</p>									
<p>Outdoor storage and sales establishments and any uses permitted without a use permit when carried on outside a building</p>										
<p>Home improvement centers.</p>										
<p>Service stations, auto body, and paint shops; building and repair of boats.</p>										
<p>Fish processing excluding canning; light fabrication contractors' yards; uses clearly ancillary to primary uses</p>										
<p>One residence for security purposes</p>										
<p><i>Antennas and Wireless Telecommunications Facilities</i></p>	<p>See Section 17.27</p>									

17.24.110 Mixed Commercial/Residential (MCR) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Anterior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Parking lots.	Yes	25 ft. (Refer to special standards for imitations and variations)	Refer to Subdivision Regulations for commercial for new lots		5 ft. (Refer to special standards) except 10 ft. when across the street from a residential zone		5 ft. setback for buildings of 15 foot height or less, 10 ft. setback for buildings of greater than 15 foot height.		Plan Required	60%
Fabrication of items sold on the premises.										
bars when not part of a restaurant.										
Hotels, motels.										
Nurseries and home improvement centers.										
The following retail uses and service, within a building: animal hospital; auto sales and service; automotive repair shop; car cleaning and detailing establishments; dry cleaners; heavy equipment sales and service; laundries; locket plants; plumbing shops; second hand sales; cabinet shops; tire shops.										
When not on Main Street, Storage and warehouse establishments such as: mini-warehouses; commercial public storage; wholesale storage retail outlets; restaurant suppliers excluding wholesale food distributors; and Contractors' yards										
Service stations, auto body and paint shops; building and repair of boats										
Antennas and Wireless Telecommunications Facilities	See Section 17.27									

17.24.120 Visitor-Serving Commercial (C-VS) District Table II

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>Overnight R-V camping, in-park stores for sundries and other R-V related goods.</p>	<p>Yes</p>	<p>30 ft.</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>2,900 sq. ft.</p>	<p>25 ft.</p>	<p>15 ft.</p>	<p>10 ft.</p>	<p>10 ft.</p>	<p>Plan Required per Section 17.48.290. All street yards shall be landscaped in addition to parking lot landscaping</p>	<p>60%</p>
<p><i>Antennas and Wireless Telecommunications Facilities</i></p>	<p>See Section 17.27</p>									

17.24.130 General Office (G-O) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping</p>	<p>Maximum Lot Coverage</p>
<p>Police and fire stations; professional Offices; general Business Offices; retail sales within a building.</p>	<p>None except Minor use Permit if within 100' of or across the street from a residential zone</p>	<p>25 ft.</p>	<p>Refer to Subdivision Regulations for sizes for new lots</p>	<p>2,900 sq. ft.</p>	<p>5 ft.</p>	<p>5 ft.</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>
<p>Governmental offices; offices or meeting facilities of non-profit organizations; medical and dental offices and clinics</p>	<p>Residential Uses per R-2 standards</p>	<p>Yes</p>	<p>5 ft.</p>	<p>5 ft.</p>	<p>Must meet R-2 standards</p>	<p>0 ft. except 10 ft. when adjacent to a residential district</p>	<p>Must meet R-2 standards</p>	<p>Plan required in accordance with Chapter 17.48 in addition to any parking related landscaping and screening as provided in Chapter 17.44</p>	<p>80%</p>	<p>Must meet R-2 standards</p>
<p>Medical, Dental and optometrical laboratories, for the fabrication and processing of products of general sale and distribution; pharmacies; stations; printing and duplicating</p>	<p>Plant Nurseries</p>	<p>Coffee Shops</p>	<p>Personal services permitted in the C-1 zone such as barber shops, beauty shops and shoe repair.</p>	<p>Municipal parking lots</p>	<p>Antennas and Wireless Telecommunications Facilities</p>	<p>See Section 17.27</p>	<p>See Section 17.27</p>	<p>See Section 17.27</p>	<p>See Section 17.27</p>	<p>See Section 17.27</p>

17.24.140 Light Industrial (M-1) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
The following uses within a building or surrounded by landscaping and a solid fence or wall at least six (6) feet high: blacksmith shop; lumber yard; boat building; machine shop; bottling plant; heavy equipment and building materials sales and storage; cabinet shop; pipe yard; locker plant; contractors yard; service yard; feed and fuel yard; outdoor storage and sales but not including self-service fuel dispensing facilities; sheet metal shop; auto mechanic shop; auto body paint and repairs shop; warehousing; dry cleaning plant and laundry; nursery for plants.	None except when within 300' of other non M-1 Districts a Minor Use Permit is required, or within 100' or across the street from a residential zone in which case a regular CUP is required	30 ft.	Refer to Subdivision Regulations for sizes for new lots	N/A	25 ft.	10 ft.	0 ft. except 10 ft when adjacent to a residential zone or use	Plan Required		90%
Light manufacturing, fabrication; component assembling; small parts processing.										
Residence for security purposes										
Food and seafood processing	Yes									
Aquaculture										
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

17.24.150 Coastal Dependiant Industrial (M-2) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Thermal power plant and support facilities; pipelines; storage tanks; wastewater treatment facilities ; other industrial uses which must be located on or adjacent to the sea in order to function; Excluding: OCS land-based support facilities including but not limited to support bases, pipe storage yards and pipeline coating yards	Yes	30 ft. (For new construction only - does not apply to replacement or repair of existing structures)	Refer to Subdivision Regulations	N/A	25 ft	10 ft	0 ft. except 10 ft. when adjacent to residential use or zone.	Plan Required	90%	
Aqua-culture and fish processing plants.										
Uses allowed in the M-1 Zone if coastal related, such as but not limit to: boat construction marine supply and repair, Recreational Vehicle service and other Coastal Related Manufacturing uses.										
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

17.24.170 Waterfront (WF) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Support uses, structures, connections, and appurtenances to water uses including wharves, docks, pier, slips, quay, launches, fuel docks, hoists, and other facilities necessary or convenient for the promotions and accommodation of commerce and navigation; Parks, observation decks and platforms, patios, boardwalks, benches, kiosks, kiosks and other facilities necessary or convenient for the promotion and accommodation of public access to the waterfront; Revetments, bulkheads, seawalls, cliff retaining walls, and other such structures that alter shoreline processes which are found to be necessary for protection of existing development (new development must ensure stability without depending on shoreline protection devices) or public recreation areas, or other coastal development uses [Ord. 263 s1 (part), 1984]	Yes	The height limit for structure shall be twenty five (25) feet, except for development on the west side of the Embarcadero which shall be limited to seventeen (17) feet; height determined by average grades of the land proportion of the site not including bank. Exceptions: see 17.48.070	Refer to Subdivision Regulations for new commercial lots	N/A	0 ft. with a 5 ft average	5 ft. with a 5 ft average	0 ft.	0 ft. except 10 ft. in areas where public boardwalks and viewing platforms are required	Plan required	90%
<i>Antennas and Wireless Telecommunications Facilities</i>	Sector 17.27									

17.24.180 Commercial/Recreational Fishing (CF) District Table II

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
Parks, public open spaces, beach, bike lanes, benches, boardwalks, kiosks, fences and other facilities necessary or convenient for the promotion and accommodation of public access to the waterfront;	Yes	14 ft. along Coleman Drive; 30 ft. other areas (see exception, Section 17.24.180 B. 6.e)	Refer to Subdivision Regulations for new commercial lots	N/A	5 ft.	5 ft.	0 ft.	0 ft.	Plan required	50%
Government buildings and land based support facilities, including but not limited to connections and appurtenances to docks and piers, which are necessary and convenient for the safety and maintenance of waterways;										
Power plant cooling water intake facilities, if found to be consistent with Section 17.24.180.B.1 [Ord. 263 s1 (part), 1984]										
<i>Antennas and Wireless Telecommunications Facilities</i>	<i>See Section 17.27</i>									

17.24.200 Mariculture and Marine Research (MMR) District Table

<p>Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.</p>	<p>Conditional Use Permit Required.</p>	<p>Maximum Building Height</p>	<p>Minimum Building Site Area</p>	<p>Minimum Lot Area Per Unit</p>	<p>Minimum Front Yard Setback</p>	<p>Minimum Side Yard Setback (Exterior Yard)</p>	<p>Minimum Side Yard Setback (Interior Yard)</p>	<p>Minimum Rear Yard Setback</p>	<p>Landscaping Required</p>	<p>Maximum Lot Coverage</p>
<p>Mariculture, marine biology and oceanographic commercial and scientific research;</p>	<p>Yes</p>	<p>14 ft except 4 ft within a public viewshed corridors defined in the LCP Land Use Plan</p>	<p>N/A</p>	<p>Refer to Subdivision Regulations for new commercial lots</p>	<p>20 ft</p>	<p>10 ft</p>	<p>5 ft</p>	<p>10 ft</p>	<p>Plan Required</p>	<p>20%</p>
<p>Breeding, hatching and propagation of fish, shellfish and marine organisms;</p>										
<p>Grow-out and raising of fish and shellfish in ponds, tanks or raceways utilizing sea water;</p>										
<p>Sea water intake and outlet pipelines providing a source of sea water used in mariculture and research activities;</p>										
<p>Related administrative and office uses ancillary to the primary mariculture and marine research uses;</p>										
<p>Parking, delivery and service facilities related to the primary mariculture or research uses (Ord. 338 s2 (part), 1988)</p>										
<p><i>Antennas and Wireless Telecommunications Facilities</i></p>	<p>See Section 17.27</p>									

Chapter 17.30

SPECIAL USES

F. Antennas

~~Radio or television transmitters satellite dish antennas or similar receivers in conjunction with commercial or industrial uses;~~

Chapter 17.48

GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS

SECTIONS:

~~17.48.340~~ ~~Satellite dish antennas~~

~~17.48.340~~ ~~SATELLITE DISH ANTENNAS~~

~~The intent of this Section is to establish regulations which allow for the reasonable use of various telecommunication reception technologies while at the same time protecting other community values such as public safety, views and neighborhood character.~~

A. ~~Small Dish Antennas~~

~~Any satellite dish antenna which is equal to, or less than, thirty inches in diameter or equal to, or less than seven square feet in area may be permitted in any District provided, however, that said satellite dish antenna is not located in any required setback area and the height limit for the zoning District is not exceeded.~~

B. ~~Large Satellite Dish Antennas in Residential Districts~~

~~Satellite dish antennas which are larger than thirty inches in diameter or seven square feet in area may be permitted in any residential District in conjunction with a residential use subject to the following standards.~~

~~1. Setbacks~~

~~Such satellite dishes shall not be located in any required setback.~~

~~2. Height limit~~

~~The height limit for the District shall not be exceeded.~~

~~3. Location~~

~~Such antennas shall be located above the first floor or enclosed within a six foot high fence~~

~~4. Proximity to structures~~

~~No detached satellite dish antenna shall be located closer than six feet from any building.~~

~~C. Exceptions~~

~~Any satellite dish antenna which does not meet the requirements of subsection A or B of this Section, may be permitted in any residential District in conjunction with a residential use subject to obtaining a Conditional Use Permit from the Planning Commission. In addition to the findings required by Chapter 17.60, the Planning Commission shall also find that the intent of this Section is satisfied in its consideration of the Use Permit request. (Ord. 263 § 1 (part), 1984)~~

~~D. Large Satellite Dish Antennas in Non-Residential Districts~~

~~Satellite dish antennas which are larger than thirty inches in diameter or seven square feet in area may be permitted in a non-residential Districts with a Conditional Use Permit.~~

Chapter 17.27 Antennas and Wireless Telecommunications Facilities

Sections:

- 17.27.010 Purpose
- 17.27.020 Applicability; Exemptions
- 17.27.030 Submittal Requirements
- 17.27.040 Standards
- 17.27.050 Procedures
- 17.27.060 Cessation; Exercise of Permits, Transfer of Permits

17.27.010 Purpose

This Chapter provides a uniform and comprehensive set of standards and procedures to regulate the development, siting, installation, and operation of wireless telecommunications antennas and related facilities ("wireless telecommunications facilities") consistent with the goals, objectives, and policies of the General Plan and the applicable requirements of federal law. The regulations are intended to provide for the appropriate development of wireless telecommunications facilities within the City to meet the needs of residents, business-owners, and visitors while protecting public health and safety and preventing visual blight and degradation of the community's aesthetic character and scenic vistas. It is the City's intent to apply these regulations to accomplish the following:

- A. Provide incentives for well-designed and appropriately located antennas and wireless telecommunications facilities.
- B. Encourage the leasing of publicly owned properties where feasible or desirable.
- C. Encourage the use of existing facilities and co-location of facilities by multiple service providers.
- D. Encourage the placement of antennas on existing structures.
- E. Provide a competitive and broad range of telecommunications services and high quality telecommunications infrastructure to meet the community's needs and serve as an important and effective part of Morro Bay's emergency response network.

17.27.020 Applicability; Exemptions

The requirements of this Chapter shall apply to all telecommunications facilities that transmit and/or receive electromagnetic signals including, but not limited to personal communications services (cellular and paging) and radio and television broadcast facilities. All of the following facilities are exempt from these requirements provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property:

- A. Licensed amateur (ham) radio and citizen band operations.

- B. Hand-held, mobile, marine, and portable radio transmitters and/or receivers.
- C. Emergency services radio.
- D. City data/telemetry service facilities.
- E. Radio and television mobile broadcast facilities.
- F. Antennas and equipment cabinets or rooms completely located inside of permitted structures.
- G. A single ground or building-mounted receive-only radio or television antenna not exceeding the maximum height permitted by this ordinance, including any mast, or a receive-only radio or television satellite dish antenna, if they comply with the following restrictions:

1. Residential Districts.

- a. **Satellite Dish One Meter or Less.** A satellite dish that does not exceed one meter in diameter and is for the sole use of a resident occupying the same residential parcel is permitted anywhere on a lot in the residential district so long as it does not exceed the height of the ridgeline of the primary structure on the same parcel.
- b. **Satellite Dish Greater than One Meter.** A satellite dish that is greater than one meter in diameter, is not located within a required front yard or side yard abutting a street, and is screened from view from any public right-of-way and adjoining property.
- c. **Antennas.** An antenna that is mounted on any existing building or other structure that does not exceed 25 feet in height. The antenna must be for the sole use of a resident occupying the same residential parcel on which the antenna is located.

2. Commercial and Industrial Districts.

- a. **Satellite Dish Two Meters or Less.** A satellite dish that does not exceed two meters in diameter is permitted anywhere on a lot in a commercial or industrial district so long as the location does not reduce required parking, diminish pedestrian or vehicular access, or require removal of landscaping maintained as a condition of project approval.
- b. **Satellite Dish Greater than Two Meters.** A satellite dish that is greater than two meters in diameter that is not located within a required front yard or side yard abutting a street and is screened from view from any public right-of-way and adjoining property.
- c. **Mounted Antennas.** An antenna that is mounted on any existing building or other structure when the overall height of the antenna and its supporting tower, pole or mast does not exceed a height of 30 feet or 25 feet if located within 20 feet of a residentially zoned lot.
- d. **Free-Standing Antennas.** A free standing antenna and its supporting tower, pole, or mast that

complies with all applicable setback ordinances when the overall height of the antenna and its supporting structure does not exceed a height of 30 feet or 25 feet if located within 20 feet of a residentially zoned lot.

- e. Undergrounding Required. All wires and/or cables necessary for operation of an antenna shall be placed underground or attached flush with the surface of the building or the structure of the antenna.
- f. Any antenna or wireless telecommunications facility that is exempt from local regulation pursuant to the rules and regulations of the Federal Communications Commission (FCC) or a permit issued by the California Public Utilities Commission (CPUC). The owner or operator of such facility shall provide the Director with a copy of a current FCC or CPUC permit or a copy of applicable FCC regulations prior to its installation.
- g. Minor modifications to existing wireless telecommunications facilities, including replacement in-kind or with smaller or less visible equipment, that meet the standards set forth in this Chapter and will have little or no change in the visual appearance of the facility following written notification to the Director.

17.27.030 Submittal Requirements

An applicant shall file a written application for a Minor Use Permit or Conditional Use Permit with the Director accompanied by the required fee as established in the City's fee schedule. Applications shall be submitted pursuant to application requirement handouts maintained by the City and as amended from time to time.

17.27.040 Standards

In order to ensure compatibility with surrounding land uses and protect public safety and natural, cultural, and scenic resources, all wireless telecommunications facilities shall be located, developed, and operated in compliance with all of the following standards and with applicable standards of the zoning district and overlay district that applies.

- A. Location and Siting.** All facilities shall be designed and sited to minimize their visibility, prevent visual clutter, and reduce conflicts with surrounding land uses. As used in this Chapter, "readily visible" means that it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

1. View Corridor. No facility shall be sited where it will be silhouetted against the sky as viewed from a designated Scenic Highway, public park, or other public recreation area or intrude into a significant or

sensitive view corridor.

2. **Public Locations.** No facility shall be sited where it will be readily visible from a public right-of-way, public park or cultural facility.

3. **Residential Areas.** No facility shall be located in an R district where it is readily visible within 300 feet from a dwelling unit.

4. **Primary Use.** No telecommunications antenna or ancillary facility shall be established as the primary use on any site, except within an M-1 or M-2 district, unless the site has already been developed with a legally established wireless telecommunications facility.

5. **Mounted Facility.** Antennas, support structures, and equipment shelters may be installed on the roof or directly attached to any existing building or structure so long as they comply with the height requirements of this Chapter and they are architecturally integrated into the design of the building or structure and do not protrude more than two feet horizontally from the building or structure.

6. **Relation to Other Facilities.** A wireless telecommunications facility that is readily visible from an off-site location shall not be installed closer than one mile from another wireless telecommunications facility that is readily visible or un-camouflaged, unless it is a co-located facility on a multiple-user site or has been designed or camouflaged so that it blends into the surrounding natural or existing built environment.

B. Support Structures. Support structures for wireless telecommunications facilities shall be any of the following:

1. A single pole (monopole) sunk into the ground and/or attached to a foundation. Any new monopole must be constructed to allow for co-location of at least one other similar wireless telecommunications provider.

2. A monopole mounted on a trailer or a portable foundation if the use is for a temporary wireless telecommunications facility.

3. An existing non-residential building.

4. An existing structure other than a building including but not limited to, light poles, electric utility poles, water towers, steeples, smokestacks, billboards, lattice towers, and flag poles. This term includes an electric utility pole erected to replace an existing electric utility pole, if the replacement pole will serve both electric and wireless telecommunications functions, and if the replacement pole is substantially equivalent to the predecessor pole in placement, height, diameter and profile.

5. A new alternative tower structure such as a clock tower, steeple, functioning security light pole, functioning recreational light pole, or any similar alternative-design support structure that is designed to conceal or camouflage the facility. The term "functioning" as used herein means the light pole serves a useful and appropriate lighting function as well as a wireless telecommunications function.

C. Height.

1. **Freestanding Antenna or Monopole.** A freestanding antenna or monopole shall not exceed the height limit of the district in which the antenna is located.
2. **Building-Mounted Facilities.** Building-mounted wireless telecommunications facilities shall not exceed a height of 15 feet above the height limit of the district or 15 feet above the existing height of a legally established building or structure, whichever is higher, measured from the top of the facility to the point of attachment to the building.
3. **Facilities Mounted on Structures.** Wireless telecommunications facilities mounted on an existing structure shall not exceed the height of the existing structure unless camouflaged as part of the structure design, except antennae may extend up to 15 feet above the height of an electric utility pole.

D. Setbacks. When determining whether a wireless telecommunications facility complies with the following requirements, the setback shall be measured from the closest point on the base of the tower or structure to the applicable property line or structure.

1. **Setback from Zoning District.** All wireless telecommunications facilities shall be set back a minimum distance of 100 feet from an Residential district, dwelling unit, school or daycare facility, public park, or outdoor recreation area.
2. **Setback from Property Line.** Facilities that are not building-mounted shall be set back from any adjacent property line a minimum distance that is equal to 110 percent of the height of the facility (including attached antennae) or a minimum distance equal to the building setback for the district in which it is located, whichever is greater. Guy wire anchors shall be set back at least 20 feet from any property line.

E. Design and Screening. Facility structures and equipment shall be located, designed and screened to blend with the existing natural or built surroundings, as well as any existing supporting structures, so as to reduce visual impacts to the extent feasible.

1. **Preference for Facility Type.** Based on their potential aesthetic impact, the order of preference for facility type is: façade-mounted, roof-mounted, ground-mounted, and free-standing tower or monopole. A proposal for a new ground-mounted or free-standing tower shall include factual information to explain why other facility types are not feasible.
2. **Minimum Functional Height.** All free-standing antennas, monopoles, and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation unless it can be demonstrated that a higher antenna, monopole, or tower will facilitate co-location or other objectives of this Chapter.
3. **Camouflaged.** Telecommunications facilities that are mounted on buildings or structures shall be designed to match existing architectural features, incorporated in building design elements, camouflaged, or otherwise screened to minimize their appearance in a manner that is compatible with the architectural design of the building.

4. Landscaping. All telecommunications facilities subject to the requirements of this Chapter shall be installed in such a manner so as to maintain and enhance existing native vegetation and minimize disturbance of existing topography unless the Public Services Director determines that such changes will help to minimize the visual impact of the facility. Site plans shall include suitable mature landscaping to screen the facility, where necessary.

5. Maintenance of Landscaping. No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it. The owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping.

6. Lighting. Wireless telecommunication facilities shall be not be lighted except when authorized personnel are present on-site at night or unless required by the Federal Aviation Administration. A motion-sensor light may be used for security purposes, if the beam is directed downwards, shielded from adjacent properties and kept off when personnel are present at night.

7. Advertising. No advertising shall be placed on wireless telecommunications facilities, equipment cabinets, or associated structures.

F. Equipment Cabinets and Buildings.

1. Location and Screening. Equipment cabinets shall be located within the building upon which antennae are placed, if technically feasible. Otherwise, equipment cabinets and buildings, and associated equipment such as air conditioning units and emergency generators, shall be screened from view by a wall or landscaping, as approved by the City. Any wall shall be architecturally compatible with the building or immediate surrounding area.

2. Size. An equipment cabinet shall not exceed eight feet in height and a building shall not exceed one story. An equipment cabinet or building may contain an area of up to 300 square feet for a single provider or 600 square feet for multiple wireless providers. An equipment cabinet or building for servicing a public safety communications tower may exceed the size limitations set forth herein.

G. Security Features. All facilities shall be designed to minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances.

1. Fencing. Security fencing, if any, shall not exceed 6 feet to 10 feet in height, consistent with fencing in the area. Fencing shall be no less than the above grade height of the equipment cabinet. Fencing shall be effectively screened from view through the use of landscaping. No chain link fences shall be visible from public view.

2. Maintenance. The permittee shall be responsible for maintaining the site and facilities free from graffiti.

H. Radio Frequency Standards; Noise.

1. Radio Frequency. Wireless telecommunications facilities shall comply with federal standards for radio frequency (RF) emissions and interference. Failure to meet federal standards may result in termination or modification of the permit.

2. Noise. Wireless telecommunications facilities and any related equipment, including backup generators and air conditioning units, shall not generate continuous noise in excess of forty (40) decibels (dBa) measured at the property line of any adjacent residential property, and shall not generate continuous noise in excess of fifty (50) dBa during the hours of 7:00 a.m. to 10:00 p.m. and forty (40) dBa during the hours of 10:00 p.m. to 7:00 a.m. measured at the property line of any non-residential adjacent property. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

I. Co-location. The applicant and owner of any site on which a wireless telecommunications facility is located shall cooperate and exercise good faith in co-locating wireless telecommunications facilities on the same support structures or site. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing information normally will not be considered as an excuse to the duty of good faith.

1. All facilities shall make available unused space for co-location of other telecommunication facilities, including space for these entities providing similar, competing services. Co-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline for a significant period of time. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at applicant's expense. The City may review any information submitted by applicant and permittee(s) in determining whether good faith has been exercised.

2. All co-located and multiple-user telecommunication facilities shall be designed to promote facility and site sharing. Telecommunication towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities and equipment buildings, shall be shared by site users whenever possible.

3. No co-location may be required where it can be shown that the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing telecommunications facilities or failure of the existing facilities to meet federal standards for emissions.

4. Failure to comply with co-location requirements when feasible or cooperate in good faith as provided for in this Chapter is grounds for denial of a permit request or revocation of an existing permit.

J. Fire Prevention. All telecommunication facilities shall be designed and operated in a manner that will minimize the risk of igniting a fire or intensifying one that otherwise occurs.

1. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;

2. The exterior walls and roof covering of all above-ground equipment shelters and cabinets shall be constructed of materials rated as non-flammable in the Uniform Building Code.
3. Monitored automatic fire extinguishing systems approved by the Fire Chief shall be installed in all equipment buildings and enclosures.
4. Openings in all above-ground equipment shelters and cabinets shall be protected against penetration by fire and wind-blown embers to the extent feasible.

K. Surety Bond. As a condition of approval, an applicant for a building permit to erect or install a wireless telecommunications facility shall be required to post a cash or surety bond in a form and amount acceptable to the City Manager to cover removal costs of the facility in the event that its use is abandoned or the approval is otherwise terminated.

17.27.050 Procedures

A wireless telecommunications facility subject to the requirements of this Chapter shall not be established, expanded, or otherwise modified except in conformance with the following requirements.

A. Public Services Director Determination of Compliance. The following wireless telecommunications facilities shall be permitted in any Commercial or Industrial district subject to the Director's determination of compliance with the applicable requirements of this Chapter:

1. A facility affixed to an existing building or structure.
2. A new ground-mounted monopole in an Industrial zone that is not readily visible from off-site or, if visible from off-site, is located at least one mile from any existing or approved monopole.
3. A new alternative tower structure.
4. Public safety communications towers sixty five (65) feet in height or less.
5. Temporary wireless telecommunications facilities.

B. Minor Use Permit. The Director may issue a Minor Use Permit to establish any of the following facilities subject to the requirements of this Chapter, and based on the applicable findings in Section 17.27.050 (D) below.

1. A facility co-located on an existing legally established monopole or support structure in any zoning district.
2. A ground-mounted tower or monopole that complies with the height limit in any Commercial or Industrial district.
3. The location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting

properties and the surrounding neighborhood.

4. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be as attractive as the nature of the use, and its location and setting warrant.

5. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the General Plan/Local Coastal Program, with any other applicable plan adopted by the City Council and with the standards and requirements of this Title.

C. Conditional Use Permit. All other wireless telecommunications facilities shall require the approval of a Conditional Use Permit by the Planning Commission following a public hearing.

D. Findings Required. The Planning Commission or the Director, in the case of a Minor Use Permit, may approve or approve with conditions any Use Permit required under this Chapter after making the findings required for approval of such permits.

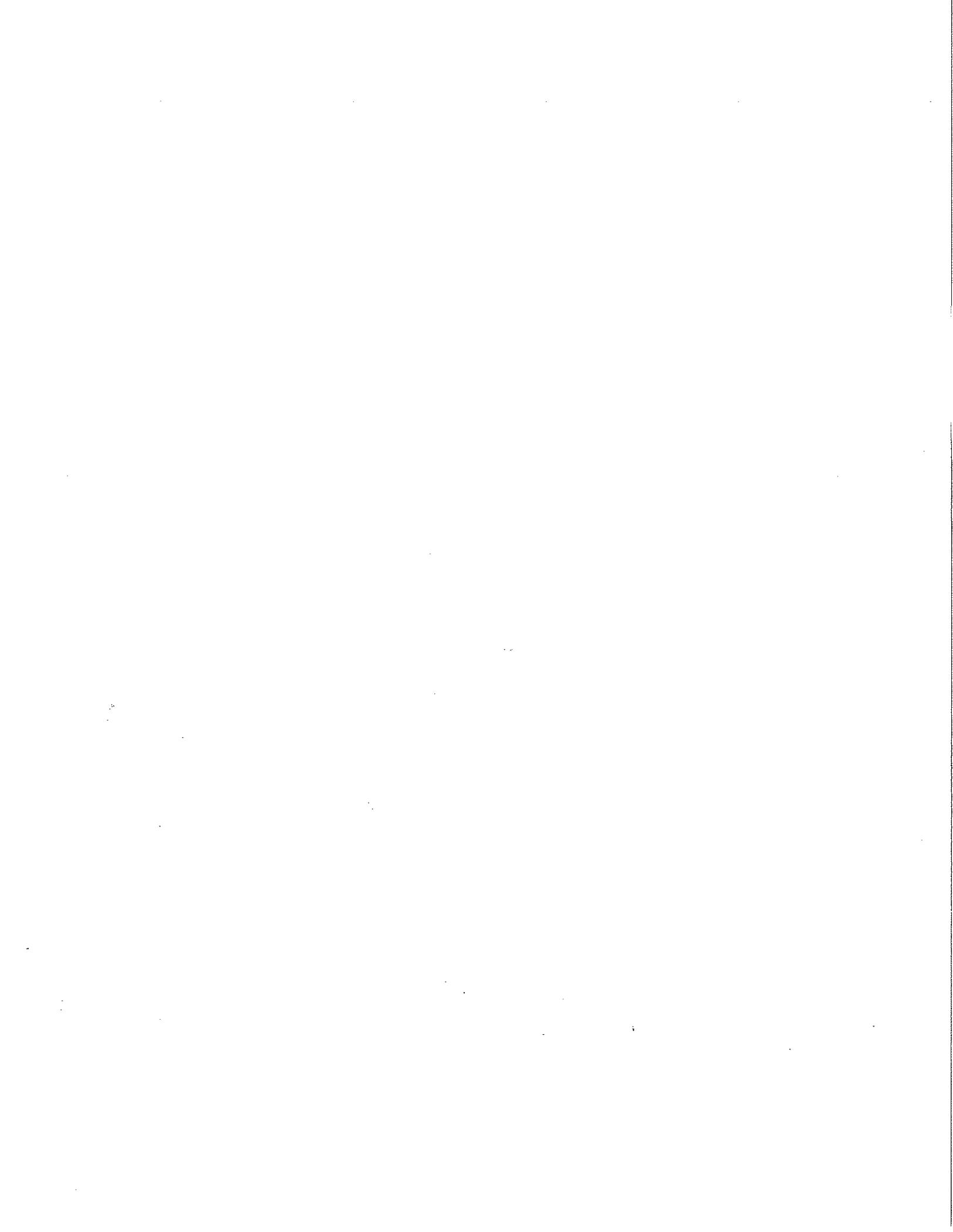
1. The applicant has made good faith and reasonable efforts to locate the proposed wireless telecommunications facility on a support structure other than a new ground-mounted antenna, monopole, or lattice tower or to accomplish co-location; and

2. The proposed site results in fewer or less severe environmental impacts than any feasible alternative site.

17.27.060 Cessation; Exercise of Permits; Transfer of Permits

A. Cessation; Exercise of Permits. Permits for wireless telecommunications facilities shall be deemed exercised or expired pursuant to the provisions of Chapter 17.30: Common Procedures.

B. Transfer of Permit. Any FCC-licensed telecommunications carrier that is buying, leasing, or considering a transfer of ownership of an already approved facility, shall provide written notification to the Director and request transfer of the existing Use Permit. The Director may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing Use Permit and all of its conditions including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a State-licensed radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission and the California Public Utilities Commission. If the Director determines that the proposed operation is not consistent with the existing Use Permit, he/she shall notify the applicant who may revise the application or apply for modification to the Use Permit pursuant to the requirements of Chapter



slight modifications can be ready for public use.

The City has negotiated the attached Lease Agreement. The Lease is for 5 years with an option to extend it for an additional 5 years. The Lease also has a clause that if the owner decides he wants to sell the property the City has a right of first refusal to purchase the property.

It is Staff's recommendation that the City Council approve the attached Lease Agreement and direct Staff to solicit proposals to sublease the space in order to reduce the General Fund costs.

CONCLUSION

Staff recommends that the City Council approve the attached Lease Agreement.

L E A S E

This lease agreement (the "Lease") is made and entered into by and between the CITY OF MORRO BAY, a municipal corporation of the State of California herein called TENANT, and Scott Meisterlin, herein called LANDLORD, and shall be deemed effective on the 1st day of June, 2013 (the "Effective Date"), notwithstanding the final date of execution by the parties, or the date of formal municipal approval by TENANT.

WITNESSETH

WHEREAS, TENANT is in need of public restroom facilities and open public space in the downtown area for purposes of fulfilling the needs of the residents and visitors of the City of Morro Bay; and

WHEREAS, TENANT desires to lease a certain portion of the LANDLORD'S real property for the purpose of providing public restroom facilities and creating a quality and attractive open space area for the public in the downtown area. The proposed public restroom facilities and open space, which is described on Exhibit "A" (the "Premises"), is located on Assessor's Parcel Number 006-062-006, in Morro Bay, California, and is more particularly described as 307 Morro Bay Blvd., Morro Bay, CA 93442.

NOW, THEREFORE, in consideration of the covenants to be performed and the rent to be paid by TENANT to LANDLORD, LANDLORD hereby leases the Premises to TENANT, upon the terms, covenants and conditions herein set forth.

ARTICLE 1 FIXED TERM

Section 1.01 Term.

The term of this Lease shall be a period of five (5) years, commencing June 1, 2013 (the "Commencement Date"). The term of this Lease shall terminate without notice on May 30, 2018, unless sooner terminated as herein provided.

Section 1.02 Option and Right of First Refusal to Purchase.

The term of this Lease may be extended by the TENANT for an additional period of five (5) years provided that written notice of TENANT'S unequivocal and unambiguous intention to exercise this option is given by TENANT to LANDLORD prior to July 1, 2017. All provisions of this Lease applicable to the original term thereof shall apply with equal force to the extended term.

In addition to the option to extend the Lease for five (5) years, the LANDLORD and TENANT are currently working together and negotiating to process a subdivision of LANDLORD's property as depicted in Exhibit "B". If the LANDLORD and TENANT are successful in the subdivision of LANDLORD's property, then the LANDLORD hereby grants TENANT a right of first refusal to purchase the leased premises depicted in Exhibit "A" during the term of occupancy. TENANT agrees not to rezone said premises during the term of occupancy without LANDLORD's written approval. Should the subdivision be successful and LANDLORD decide to attempt to sell leased premises hereunder during the term of TENANT's right of first refusal, LANDLORD shall provide TENANT with a written notice of the terms on which LANDLORD is willing to sell. Said notice to TENANT shall identify the leased premises for which the notice is given, include a sale price for said leased premises and provide the terms of payment for said sale price. LANDLORD shall also have the right to amend said notice; however, said amended notice shall be treated as a new notice. For a period of forty-five (45) days after receipt of said written notice, TENANT shall have the option to purchase the premises on the terms stated in the notice. Should TENANT fail to exercise the option within the option period, LANDLORD shall have the right to sell the premises to a third party provided such sale is at a price equal to or greater than that in the notice given to TENANT. Any sale at a lesser price reinstates TENANT's right of first refusal. If LANDLORD has not closed a sale of the property within seven (7) months after TENANT's receipt of written notice, TENANT's right of first refusal shall be reinstated.

Section 1.03 Hold Over.

With the express written consent of LANDLORD, TENANT shall have the right to hold over after the expiration of this lease, with the tenancy to continue on a month to month basis, terminable on thirty (30) days written notice from either party, at a monthly rental equal to the amount paid per month for the twelve (12) months immediately preceding the expiration of the Lease, and otherwise subject to each and every term, covenant and condition of this Lease.

ARTICLE 2 RENT

Section 2.01 Annual Rent.

TENANT agrees to pay to LANDLORD a rental amount for the use and occupancy of the Premises, in the amount of \$1,400 per month or \$16,800 per year (the "Rent"), payable in advance either on June 1st, of each year or the 1st day of each month, which payment method shall be at the election of LANDLORD, during the term of the Lease. All Rent shall be paid in lawful money of the United States of America, without offset or deduction and shall be paid to LANDLORD at 3647 Laketree Drive, Fallbrook, CA 92028, or at such other place or places LANDLORD may from time to time designate by written notice delivered to TENANT. Notwithstanding the foregoing the initial payment for rent due hereunder for June 1, 2013, shall be due and payable upon TENANT'S execution of this Lease.

Section 2.02 Adjustment to the Rent.

Commencing June 1, 2016, the rental amount for the use and occupancy of the Premises shall be adjusted to \$1,600 per month or \$19,200 per year. If TENANT exercises its option under Section 1.02 to extend the Lease for five (5) years, then commencing June 1, 2020, the rental amount for the use and occupancy of the Premises shall be adjusted to \$1,800 per month or \$21,600 per year.

Section 2.03 Reimbursements.

If TENANT fails to perform any term or covenant of this Lease, LANDLORD may, but is not obligated to, perform such term or covenant, and TENANT shall reimburse LANDLORD for any and all costs incurred by LANDLORD, including any attorney's fees and costs, as additional Rent hereunder. Such additional Rent shall be due and payable within thirty (30) calendar days following LANDLORD'S written notice to TENANT requesting reimbursement hereunder. As an illustration and not as a limitation, if TENANT fails to procure the insurance required by this Lease, LANDLORD may, but is not obligated to, obtain such insurance, with the cost of the premiums paid by LANDLORD would be thereafter due to LANDLORD as additional Rent within thirty (30) following LANDLORD'S written demand for reimbursement, as additional Rent.

Section 2.04 Real Property Taxes.

In addition to the annual Rent described in Section 2.01, TENANT shall pay, as additional rent due hereunder, all and any additional real property taxes, or other assessments,

which arise or are otherwise assessed, levied or imposed upon the Premises, or the real property which the Premises are a part of, whether said taxes are imposed as secured or unsecured taxes, as to all such taxes or assessments which are based upon the improvements and facilities or other installations which are made or maintained by TENANT at the Premises during the term of this Lease. Said additional rent shall be due and payable on April 1st and December 1st of each calendar year during the term of this Lease. LANDLORD shall provide TENANT with a copy of the LANDLORD's annual property tax billing statement not less than thirty (30) days prior to such additional rent being due, together with LANDLORD'S computation of the additional rent due hereunder, if any.

Section 2.05 Penalty and Interest.

(1) If any Rent is not received within five (5) days following the date on which the Rent first became due, TENANT shall pay a late charge of ten percent (10%) of the amount of the unpaid delinquent Rent, said charge shall be paid in addition to the Rent on the first day of the following month.

(2) In addition to the late Rent charge, TENANT shall pay interest at the rate of one percent (1%) per month on the amount of the Rent, exclusive of the late Rent charge, such interest shall begin accruing thirty (30) days from the date on which Rent first became due until paid. The term "Rent" includes any sums advanced by the LANDLORD and any unpaid amounts due from TENANT to the LANDLORD under the terms of this Lease.

ARTICLE 3 USE OF PREMISES

Section 3.01 Permitted Uses.

The Premises shall, during the term of this Lease, be used for the purpose of TENANT fulfilling the need of a public restroom facilities and open public space in the downtown area for purposes of fulfilling the needs of the residents and visitors of the City of Morro Bay; and as may be determined by the TENANT to be required for carrying out and enjoying the rights and privileges granted hereunder on said property. The LANDLORD understands that TENANT intends to sublease the premises to a third party to operate and maintain the restroom and public area and TENANT agrees to comply with Section 8.02 of this Lease.

Section 3.02 Unauthorized Use.

TENANT agrees to allow only those uses authorized in Section 3.01 herein above or any other uses approved in writing by the LANDLORD and that any unauthorized use thereof shall constitute a breach of this Lease and shall, at the option of LANDLORD, terminate this Lease.

Section 3.03 Compliance with Law.

TENANT shall, at no cost to LANDLORD, comply with all of the requirements of all local, municipal, county, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, and shall faithfully observe in the use of the Premises all local, municipal and county ordinances and state and federal statutes, rules, regulations and orders now in force or which may hereafter be in force (collectively, "Legal Requirements") provided that TENANT shall not be required to comply with any Legal Requirement imposed by the LANDLORD that would substantially deprive TENANT of a material benefit under this lease unless such Legal Requirement has been imposed or required by a county, state or federal authority. The judgment of any court of competent jurisdiction, or the admission of TENANT in any action or proceeding against TENANT, whether LANDLORD be a party thereto or not, that TENANT has violated any such Legal Requirement in the use of the Premises shall be conclusive of that fact as between LANDLORD and TENANT.

Section 3.04 Waste or Nuisance.

TENANT shall not commit or permit the commission by others of any waste on or at the Premises; TENANT shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined by law on the Premises; and TENANT shall not use or permit the use of the Premises for any unlawful purpose.

ARTICLE 4 CONSTRUCTION, ALTERATION AND REPAIRS

Section 4.01 Construction Approval.

TENANT shall not make or permit any other person to make any alterations or structural additions or structural modifications to the Premises or to any structure thereon or facility appurtenant thereto if the cost thereof shall exceed ten thousand dollars (\$10,000), without the prior written consent of LANDLORD.

Section 4.02 Mechanics' Liens.

At all times during the term of this Lease, TENANT shall keep the Premises and all buildings, installations and other improvements now or hereafter located on the Premises free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Premises. TENANT further agrees to at all times, hold LANDLORD free and harmless and defend and indemnify LANDLORD against all claims for improvements, labor or materials in connection with any improvement, construction work, repairs, or alterations on or at the Premises, and the cost of defending against such claims, including reasonable attorneys' fees. Should TENANT fail to pay and discharge or cause the Premises to be released from such liens or claim of liens within ten (10) days after the filing of such lien or levy, TENANT shall upon written notification be required to immediately deposit with LANDLORD a bond conditioned for payment in full of all claims on which said lien or levy has been filed. Such bond shall be acknowledged by TENANT as principal and by a company or corporation, licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety. LANDLORD shall have right to post and keep posted on the Premises notices of non-responsibility and any other notices that may be provided by law or which LANDLORD may deem proper for the protection of LANDLORD and Premises from such liens. TENANT shall give LANDLORD notice at least twenty (20) days prior to commencement of any work on the Premises to afford LANDLORD the opportunity to post such notices.

Section 4.03 Ownership of Improvements.

All non-structural improvements contemplated by this Lease and installed by TENANT shall be the sole and exclusive property of TENANT. The parties agree that LANDLORD has the right to require TENANT to remove, at TENANT'S sole cost and expense, all buildings, structures, installations, improvements of any kind or other property belonging to or placed upon the Premises by TENANT ("TENANT Improvements"), at the termination of this Lease, for whatever reason and however occurring, providing LANDLORD gives notice, in writing, no later than ten (10) days following the termination of the Lease, of its decision to require that such improvements be removed. The parties agree that if the LANDLORD exercises its option, then at the termination of this Lease, however occurring, TENANT shall have two (2) months thereafter to remove all nonstructural TENANT Improvements from the Premises. Those TENANT Improvements remaining after the two month period shall be deemed the property of LANDLORD. During the course of such removal, TENANT shall pay to LANDLORD a monthly removal license fee (the "Monthly License Fee") equal to 1/12 of the annual rent

accruing under this Lease immediately prior to the termination of this Lease. Said Monthly License Fee shall be payable on the first calendar day of each month, until the date that all of the TENANT Improvements have been removed in accordance with this Paragraph. In addition, TENANT shall pay all costs and expenses associated with said removal, including the costs to repair the Premises, and any lost rent incurred by LANDLORD. Should the TENANT fail to remove all TENANT Improvements subject to the LANDLORD'S notice hereunder at the end of said two (2) month period, then LANDLORD shall have the right to remove the same, and TENANT shall reimburse LANDLORD for all of LANDLORD'S costs and expenses incurred in the course of the removal of the TENANT Improvements.

ARTICLE 5 MAINTENANCE, INSPECTION AND DESTRUCTION

Section 5.01 Maintenance by TENANT.

At all times during the term of this Lease, TENANT shall, at TENANT'S own cost and expense, keep and maintain the Premises in good order and repair and in a safe and clean condition, also including all pipes and wires (such as any gas, water, sewage or electricity lines) that service the premises but which lines may extend beyond the boundaries of the premises.

Section 5.02 Legal Requirements.

At all times during the term of this Lease, TENANT, at no cost to LANDLORD, shall:

- (1) Make all legally required alterations, additions, or repairs to the Premises or the improvements or facilities on the Premises;
- (2) Observe and comply with all laws and regulations now or hereafter made or issued respecting the Premises or the improvements or facilities located thereon;
- (3) Obtain all required permits pursuant to the Morro Bay Municipal Code, State law, or any other legal authority, prior to the initiation of any improvement, repair or maintenance to the Premises; and
- (4) Indemnify and hold LANDLORD and the property of LANDLORD, including the Premises, free and harmless from any and all liability, loss, damages, fines, penalties, claims and actions resulting from TENANT'S failure to comply with and perform the requirements of this section, including TENANT'S attorney's fees and costs.

Section 5.03 Inspection by LANDLORD.

LANDLORD or LANDLORD'S agents, representatives, or employees may enter the Premises at all reasonable times with adequate reasonable notice to the TENANT for the purpose

of inspecting the Premises to determine whether TENANT is complying with the terms of this Lease and for the purpose of doing other lawful acts that may be necessary to protect LANDLORD'S interest in the Premises under this Lease, or to perform LANDLORD'S duties under this Lease, or to exercise LANDLORD'S rights under this Lease.

Section 5.04 Termination of Lease for Destruction.

Notwithstanding the provisions of this Lease, upon sixty (60) days written notice to LANDLORD, TENANT shall have the right to terminate this Lease if the Premises are so damaged or destroyed by any cause not the fault of TENANT or LANDLORD (with the exception of illegal acts of others) such that the Premises are incapable for their intended use under this Lease, subject to LANDLORD'S right to cure within that sixty (60) day period.

ARTICLE 6 INDEMNITY AND INSURANCE

Section 6.01 Indemnity Agreement.

(1) TENANT shall indemnify and hold LANDLORD, and the property of LANDLORD (including the Premises and any improvements now or hereafter on the Premises), and the LANDLORD'S Trustees, agents, officers, officials, employees and volunteers, harmless, and defend such parties from any and all liability, claims, loss, damages, and expenses, including attorney fees and litigation expenses, resulting from TENANT'S occupation and use of the Premises, or any negligent act or omission of the TENANT, or the acts or omissions of TENANT'S employees, contractors or anyone for whom TENANT may be liable, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

(a) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or by any person who is an employee or agent of TENANT, from any cause whatever while such person or property is in or on the Premises or in any way connected with the Premises or with any of the improvements or personal property on the Premises;

(b) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or any person who is an employee or agent of TENANT, caused or allegedly caused by either (i) the condition of the Premises or any improvement placed or maintained on the Premises by TENANT, or (ii) any act or omission on the Premises

by TENANT or any person in, on, or about the Premises with or without the permission and consent of TENANT;

(c) Any work performed on the Premises or materials furnished to the Premises at the instance or request of TENANT or any person or entity acting for or on behalf of TENANT;

(d) TENANT'S failure to perform any provision of this Lease or to comply with any Legal Requirement imposed on TENANT or the Premises.

(2) TENANT'S obligations pursuant to this Section to indemnify and hold harmless do not extend to any liability, claim, loss, damage or expense arising from LANDLORD'S gross negligence or willful misconduct.

Section 6.02 Liability Insurance.

During the term of this Lease, TENANT shall maintain at its cost Commercial General Liability insurance. Such insurance shall initially afford protection in amounts no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage, provided that if insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Premises or the general aggregate limit shall be twice the occurrence limit stated in this Section. LANDLORD shall have the right, during the term of this Lease, or any extension thereof, to require TENANT to increase the policy limits herein provided for, based upon the customary insurance requirements then being required by commercial landlords for real property leases in the Morro Bay vicinity.

ARTICLE 7 UTILITIES

Section 7.01 Utilities.

TENANT shall pay, or cause to be paid, and hold LANDLORD and the property of LANDLORD, including the Premises, free and harmless from all charges for the furnishing of gas, water, electric, trash, telephone service, and for other public utilities to the Premises during the term of this Lease.

ARTICLE 8 ASSIGNMENT AND SUBLEASING

Section 8.01 No Assignment Without LANDLORD'S Consent.

TENANT shall not assign or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the Premises or any of the improvements that may now or

hereafter be constructed or installed on the Premises without the prior express written consent of LANDLORD. Any assignment or transfer by TENANT without the prior written consent of LANDLORD, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of LANDLORD, terminate this Lease. A consent by LANDLORD to one assignment shall not be deemed to be a consent to any subsequent assignment of this Lease by TENANT. LANDLORD shall not unreasonably nor arbitrarily withhold its approval to the assignment or transfer of this Lease to an assignee who is financially reliable and qualified to conduct the business for which this Lease was granted. It is mutually agreed that the TENANT'S financial and unique municipal qualifications are a part of the consideration for granting of this Lease and that TENANT does hereby agree to maintain active control and supervision of the operation conducted on the Premises.

Section 8.02 No Sublease Without LANDLORD'S Consent.

TENANT shall not sublease the whole nor any part of the Premises, or license, permit, or otherwise allow any other person (the employees of TENANT excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of LANDLORD. A consent to one subletting, occupation, licensing or use shall not be deemed to be a consent to any subsequent subletting, occupation, licensing or use by another person. Any sublease or license without LANDLORD'S written consent shall be void, and shall at LANDLORD'S option, terminate this Lease. LANDLORD shall not unreasonably nor arbitrarily withhold its consent to sublet to any assignee who is both objectively qualified and financially reliable. LANDLORD'S consent to any occupation, use, or licensing shall be in LANDLORD'S sole and absolute discretion. In the event that any sublet or assignment involves radio-transmission facilities, LANDLORD'S consent may be reasonably conditioned up the LANDLORD'S right to receive additional rent from any proposed subtenant or assigned.

Section 8.03 Subtenant Subject to Lease Terms.

Any and all subleases shall be expressly made subject to all the terms, covenants, and conditions of this Lease. In no event shall the term of any sublease extend beyond the term of this Lease. Termination of this Lease prior to the natural term expiration of this Lease term, or at the natural term expiration shall also terminate any and all subleases unless otherwise specifically agreed by LANDLORD. A breach of the terms of this Lease by a subtenant shall constitute a breach on the part of TENANT and shall subject both the subtenant and TENANT to all the remedies provided to LANDLORD herein and by law.

ARTICLE 9 DEFAULT AND TERMINATION

Section 9.01 Termination for a Non-Rental Breach by TENANT.

All covenants and agreements contained in this Lease are declared to be conditions to this Lease and to the term hereby demised to TENANT. Should TENANT fail to perform any covenant, condition, or agreement contained in this Lease, except for payment of any Rent or other monetary amount due hereunder, and such failure is not cured within thirty (30) days after written notice thereof is served on TENANT, then LANDLORD may terminate this Lease immediately, and in the event of such termination, TENANT shall have no further rights hereunder and TENANT shall thereupon forthwith remove from the Premises, subject to the provisions of Section 4.03, and shall have no further right or claim thereto and LANDLORD shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 9.02 Termination for Failure to Pay Rent.

If any payment of Rent is not made as herein provided and such failure to pay is not cured within three (3) days after written notice thereof is served on the TENANT, LANDLORD shall have the option to immediately terminate this Lease; and in the event of such termination TENANT shall have no further right or claim hereunder and LANDLORD shall immediately thereupon have the right to re-enter and take possession of the Premises under applicable law, subject only to appropriate legal process and the requirements related to ownership of Improvements, and removal of the same set forth in Section 4.03.

Section 9.03 Cumulative Remedies.

The remedies available to LANDLORD in this Article shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease.

Section 9.04 Waiver of Breach.

The waiver by LANDLORD of any breach by TENANT of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by TENANT either of the same or a different provision of this Lease.

ARTICLE 10 MISCELLANEOUS

Section 10.01 Attorneys' Fees.

Upon the execution of this agreement, TENANT agrees to pay to LANDLORD, the LANDLORD'S estimated attorneys in the amount of Two Thousand Dollars (\$2,000.00) in consideration for the costs of negotiating and executing this lease agreement and reviewing the necessary attachments and descriptions.

To the extent that LANDLORD is required to retain counsel, in order to assert, protect or address LANDLORD'S interests in this lease as a result of a default of TENANT under Sections 9.01, 9.02, or as a result of a petition or filing by TENANT under Title 11 of the United States Code, TENANT shall either retain and pay for LANDLORD'S legal representation or shall pay LANDLORD'S attorney's fees and costs incurred.

Section 10.02 Notices.

Any and all notice or demands by or from LANDLORD to TENANT, or TENANT to LANDLORD, shall be in writing. They shall be served either personally, or by registered or certified mail. Any notice or demand to LANDLORD may be given to:

Any notice or demand to TENANT may be given at:

City of Morro Bay
City Attorney's Office
595 Harbor Street
Morro Bay, CA 93442

Any notice or demand to LANDLORD may be given at:

Scott Meisterlin
3647 Laketree Drive
Fallbrook, CA 92028

Such addresses may be changed by written notice by either party to the other party. Notice hereunder shall be deemed received one (1) calendar day following the deposit of such notice in the U.S. Mail, first class postage pre-paid, and addressed in accordance with the provisions of this Section.

Section 10.03 Governing Law and Jurisdiction.

This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision concerning this Lease arises. LANDLORD and TENANT consent to exclusive personal and subject matter jurisdiction in the Superior Court of the State of California in and for the County of San Luis Obispo, California, and each party waives any claim that such court is not a convenient forum. Each party hereby specifically waives the provisions of California Code of Civil Procedure Section 394, and any successor statute thereto.

Section 10.04 Binding on Successors.

Subject to the provisions herein relating to assignment and subletting each and all of the terms, conditions, and agreements herein contained shall be binding upon and inure to the benefit of the successors and assigns of any and all of the parties hereto; and as their respective obligations, each party and their respective successors and assigns shall be jointly and severally liable hereunder.

Section 10.05 Partial Invalidity.

Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

Section 10.06 Sole and Only Agreement.

This Lease, which includes all exhibits and the negotiations incorporated by reference, constitutes the sole and only agreement between LANDLORD and TENANT respecting the Premises and the leasing of the Premises to TENANT. Any other agreements or representations respecting the Premises and their leasing to TENANT by LANDLORD, which are not expressly set forth in this Lease, are null and void. The lease terms herein specified correctly set forth the obligations of LANDLORD and TENANT as of the date of this Lease. No modification, amendment, or alteration of this Lease shall be valid unless it is in writing and signed by both parties.

Section 10.07 Modification.

This agreement shall not be modified except pursuant to a written agreement executed by the TENANT and LANDLORD. TENANT understands that this agreement may not be modified by oral statements by any person representing the LANDLORD.

Section 10.08 Time of Essence.

Time is expressly declared to be the essence of this Lease.

Section 10.09 Memorandum of Lease for Recording.

LANDLORD and TENANT shall, at the request of either at any time during the term of this Lease, execute a memorandum or "short form" of this Lease, which shall describe the parties, set forth a description of the leased premises, specify the term of this Lease, and incorporate this Lease by reference.

EXECUTED on the dates set forth below, at Morro Bay, County of San Luis Obispo, California.

LANDLORD

Scott Meisterlin

By: Scott Meisterlin

Dated: _____

TENANT

CITY OF MORRO BAY, a municipal corporation of the State of California

By: Jamie L. Irons, Mayor

Dated: _____

ATTEST:

By: Jamie Boucher
City Clerk for the CITY OF MORRO BAY

Dated: _____



AGENDA NO: D-5

MEETING DATE: 06/11/13

Staff Report

TO: Honorable Mayor and City Council

DATE: 06/04/13

FROM: Andrea K. Lueker, City Manager

SUBJECT: Water Reclamation Facility (WRF) Project Status and Discussion

RECOMMENDATION

Discuss in open session, the progress to date on the Water Reclamation Facility (WRF) and provide direction to staff as necessary.

ALTERNATIVES

Not applicable at this time.

FISCAL IMPACT

Not applicable at this time.

SUMMARY

Staff has provided this report as a bi-weekly update to the progress made to date on the new WRF project. As discussed and decided by consensus at the May 28, 2013 City Council meeting, staff will be providing this report on a monthly basis, at the first City Council meeting of the month.

BACKGROUND

With the denial of the permit for the WWTP project in its current location, the City has embarked on a process for a WRF. This staff report provides a review of what has occurred to date as well as provides the City Council an opportunity for open discussion on the WRF project.

DISCUSSION

Below is a brief review of dates, status and accomplishments on the WRF facility project. Note the bolded information has been added since your last review on 5/14/13.

Date	Action
01/03/13	Special City Council meeting – City Adopted Resolution No. 07-13 recommending denial of the WWTP project.
01/08/13	WWTP Project denied by the California Coastal Commission (CCC).
01/08/13	January JPA not held due to CCC meeting.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

01/24/13 City Staff, Morro Bay JPA Sub-Committee, Cayucos SD representatives, staff and attorney meet and discuss strategy and moving forward.

02/14/13 February JPA meeting held, “Discussion and Consideration of Next Steps for the WWTP Upgrade Project” was on the agenda and discussed.

02/26/13 City Council meeting - draft schedule/project timeline presented to City Council.
City Council directed staff to prepare an RFP for a project manager.

03/11/13 City Council goal session, WRF established as Essential City Goal.

03/14/13 City Council goal session, WRF established as Essential City Goal.

03/14/13 March JPA meeting held, “Status Report on the Discussion with RWQCB Staff Renewal Process for the WWTP NPDES Permit No. CA0047881” and “Verbal Report by the City and District on the Progress of the future WWTP” were on the agenda and discussed.

03/18/13 RFP issued.

03/26/13 City Council meeting - City Council approves citizens to serve on the RFP selection committee.

03/27/13 Announcement placed on City website, etc. regarding citizen selection committee application period.

04/05/13 Citizen selection committee deadline.

04/09/13 City Council meeting - appointment of 5 citizens for the RFP selection committee at City Council meeting.

04/10/13 Addendum to RFP issued, re: selection committee

04/11/13 April JPA meeting held, “Verbal Report by the City and District on the Progress of the future WWTP” and Discussion and Approval to Terminate the Consultant Services Agreements with Delzeit; Dudek, McCabe and Company; and Montgomery Watson Harza (MWH)” were on the agenda and discussed.

04/15/13 RFP due.

04/16/13 Study Session on WRF facility announced for April 29, 2013

04/23/13 City Council meeting –reaffirmation of 5 members of citizen selection committee.

04/25/13 Quarterly Meeting with California Coastal Commission staff, WRF discussion and status report on the meeting agenda.

04/25/13 Initial meeting with Selection Committee for the RFP for Planning Services for the WRF.

04/29/13 WRF Study Session at Veteran’s Hall.

05/02/13 Interviews to recommend the individual/team for the WRF project manage

05/09/13 May JPA meeting held, “Verbal Report by the City and District on the Progress of the future WWTP” was on the agenda and discussed.

05/14/13 City Council meeting – Approval of John F. Rickenbach, Consulting as the Preliminary Planning Consultant for the WRF project.

05/14/13 City Council meeting – Approval of John F. Rickenbach, Consulting as the Preliminary Planning Consultant for the WRF project

05/15/13 Public Services staff continues to work with John F. Rickenbach, Consulting to finalize the consultant contract.

05/28/13 Closed Session Item scheduled to discuss Righetti appraisal.

06/13/13

JPA Meeting – Cayucos Veteran’s Hall

CONCLUSION

City Council, since the denial of the WWTP permit in January has made measured and deliberate progress in the WRF project, as outlined above.



AGENDA NO: D-6

MEETING DATE: 6/11/2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** (bold/no capital)

FROM: Andrea Lueker, City Manager

SUBJECT: Appointment of Voting Delegate(s) to the California Joint Powers Insurance Authority

RECOMMENDATION

It is recommended the City Council appoint Mayor Irons as the official representative of the City of Morro Bay on the California Joint Powers Insurance Authority (CJPIA). It is also recommended that City Attorney Robert Schultz and City Manager Andrea Lueker are appointed as alternates.

ALTERNATIVES

1. The City Council can appoint a Councilmember to serve as the City's representative and/or alternate(s) to the CJPIA Board of Directors.

FISCAL IMPACT

There is no fiscal impact to this decision.

DISCUSSION

On June 23, 2003, the City Council adopted Resolution 38-03 approving the City's membership in CJPIA. The rules of this Joint Powers Agency call for each member agency to appoint a member of its governing board to serve as a representative to the CJPIA Board of Directors. The CJPIA also allows for member agency staff to serve as alternates. The full Board of Directors meets once a year in July, this year the meeting is being held on Wednesday, July 17th at the CJPIA office in La Palma, to elect officers and review claims history. Historically the City has appointed the Mayor to fulfill the duties as the official representative on the CJPIA Board of Directors. It has also been common for the City Attorney to attend these meetings in the Mayor's stead.

CONCLUSION

As the annual meeting doesn't occur for several months, it is staff's recommendation that the Council appoint Mayor Irons as the official representative to the CJPIA as well as City Attorney Robert Schultz and City Manager Andrea Lueker as alternates. This gives the City enough time to confirm who will be able to attend this meeting.

Prepared By: JB

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____