

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 25, 2013
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 – "SLOCOG Presentation on the US 101 Mobility Study"

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 SPECIAL CLOSED SESSION MEETING HELD ON MAY 30, 2013; (CITY ATTORNEY)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON JUNE 11, 2013; (CITY ATTORNEY)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF THE CITY COUNCIL MINUTES FOR THE REGULAR COUNCIL MEETING HELD ON JUNE 11, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF THE CITY COUNCIL MINUTES FOR THE BUDGET WORKSHOP HELD ON JUNE 12, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 RESOLUTION NO. 37-13 ADOPTING THE FISCAL YEAR 2013/14 OPERATING BUDGETS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve Resolution No. 37-13 Adopting the Fiscal Year 2013/14 Operating Budgets.

A-6 RESOLUTION NO. 36-13 AUTHORIZING SAN LUIS OBISPO COUNTY ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AS TAX LIENS AGAINST THE PROPERTIES; (PUBLIC SERVICES/ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve Resolution 36-13.

A-7 REVIEW AND SUPPORT THE AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT, ESTERO BAY COMMUNITY POOL FOUNDATION, AND CITY OF MORRO BAY; (RECREATION & PARKS)

RECOMMENDATION: Review the attached information, and support the amended Memorandum of Understanding (MOU) between the San Luis Coastal Unified School District, Estero Bay Community Pool Foundation, and City of Morro Bay to establish a community pool in the City of Morro Bay.

A-8 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND LEMOS FEED & PET SUPPLY; (CITY ATTORNEY)

RECOMMENDATION: Approve the License Agreement with Lemos Feed & Pet Supply to allow for the use of City property located next to the southbound onramp for Highway 1 at Main Street, and adjacent to the property owned by Lemos Feed & Pet Supply at 1320 Main Street.

B. PUBLIC HEARINGS

B-1 RESOLUTION NO. 33-13 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Complete the public protest hearing and approve the levy of the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance District.

B-2 RESOLUTION NO. 34-13 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Complete the final public hearing on the annual levy of assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District, and then adopt Resolution No. 34-13 confirming the levy of assessment for Fiscal Year 2013-14.

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 CONSIDERATION OF FUTURE OF LEASE SITE 69-70/69W-70W, MORRO BAY AQUARIUM (DEAN AND BERTHA TYLER); (HARBOR)

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

D-2 UPDATE AND IDENTIFY THE CITY'S WAY-FINDING SIGNAGE INVENTORY AND STATUS OF SIGNAGE IMPROVEMENT EFFORTS; (ADMINISTRATION/PUBLIC SERVICES/RECREATION & PARKS)

RECOMMENDATION: Receive this report regarding the status of the following signage issues: directional signage for the Visitor's Center within the City; update from Caltrans regarding signage from Highway 1 to the Visitors Center; and, an update regarding the signage from the State Park(s) to the Visitors Center.

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: 6/25/2013

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
MAY 30, 2013
MORRO BAY CITY HALL CONFERENCE ROOM – 4:00P.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 |
| | Susan Slayton | Administrative Services Director |
| | Laurie Goforth | Human Resources Analyst |
| | Bill Avery | Chief Negotiator |

Mayor Irons called the meeting to order at 4:00 p.m.

ESTABLISH QUORUM AND CALL TO ORDER

SUMMARY OF CLOSED SESSION ITEMS – The Mayor read a summary of Closed Session Items.

CLOSED SESSION PUBLIC COMMENTS

Mayor Irons opened the meeting for Public Comment.

Police Detective, Dale Cullum, spoke regarding the Police Departments high turnover rate over the past five years and the substantial cost to the City to replace these positions while continuing to provide adequate police services to the community. He also stated that the goal of the MBPD Police Officers Association is to help reduce the high turnover rate, retain experienced officers, and reduce the high costs of repeated hiring and training, and to bring Morro Bay PD to a more comparable level to other surrounding agencies within the County.

Harbor Patrol Supervisor, Becka Kelly, spoke regarding the SEIU Proposal to clarify the employee requests. She also reminded Council that in July 2011 employees received a pay cut, accepted multi-tier retirement plans and medical increases. SEIU employees ask for some compensation to repay what has been taken away.

Wastewater Treatment Plant Manager, Bruce Keogh, spoke on behalf of Management employees and as a citizen of Morro Bay. He asked Council to consider putting a revenue generating item on the ballot. He spoke about the importance of retaining existing employees and asked Council to consider a cost of living increase. He also stated there is a compaction issue between the top

paid employees and management that should be addressed, and noted that the 3% cut in pay Management received in 2009 added to this problem.

Darryl Scheck of SEIU presented a salary comparison for Council review and stated that Morro Bay SEIU employees are among the lowest paid in the county, and have no other way to make up for cost of living increases and increased retirement costs. He noted that Morro Bay employees took on the employee share of retirement way ahead of other jurisdictions.

Mike Woods of SEIU stated that city employees are falling behind, CPI for the last five years shows 11% increase. SEIU employees haven't seen any increase during that time. He noted that the handout provided by Mr. Scheck shows inflationary impacts and reminded Council that the SEIU proposal is a negotiable proposal.

The City Council moved to Closed Session and heard the following item:

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.

The City Council convened to open session; City Attorney, Rob Schultz reported that City Council met in Closed Session and no reportable action under the Brown Act was taken.

ADJOURNMENT

The meeting adjourned at 5:20pm

Recorded by:

Dana Swanson
Deputy City Clerk

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JUNE 11, 2013
CITY HALL CONFERENCE ROOM – 5:00PM

| | | |
|----------|-----------------------|----------------------------------|
| 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 |
| | Susan Slayton | Administrative Services Director |
| | Laurie Goforth | Human Resources Analyst |
| | Eric Endersby | Harbor Director |
| | Bill Avery (by phone) | Chief Negotiator |

ESTABLISH QUORUM AND CALL TO ORDER

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

CLOSED SESSION PUBLIC COMMENTS

Mayor Irons opened the meeting for Public Comment.

Mike Lemos requested the ability to rent the City owned vacant lot adjacent to 1320 Main Street to erect a tent and continue to sell and service pet industry during their construction project. He expects construction to last 6 months.

The City Council moved to Closed Session and heard the following items:

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

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; City Attorney, Rob Schultz reported that no reportable action under the Brown Act was taken.

ADJOURNMENT

The meeting adjourned at 5:55pm.

Recorded by:

Dana Swanson
Deputy City Clerk

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 11, 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 Schultz reported that City Council met in a Special Closed Session on May 30, 2013 on the following item: 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; no reportable action under the Brown Act was taken.

City Attorney Robert Shultz reported that City Council met in Closed Session on June 11, 2013 on the following items: 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; 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: A1-3 Mooring Zone next to 541 Embarcadero and APN 068-168-022, Vacant Lot next to 1320 Main Street; and, 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 - First American Title Company/First California Bank and City of Morro Bay; no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT

Meredith Bates, owner of Bates Care Management, presented the Morro Bay business report. Bates Care Management is a geriatric care management firm that covers the entire County. It is her goal that loved ones are able to stay safely in their own homes or transition into assisted living. Ms. Bates works carefully with the family. For those with loved ones outside of the County, you can locate a care manager by going to caremanager.org and then put in your zip code. To contact Ms. Bates you can call 771-9124 or go to her website at batescare.com. She urged people contact her with any questions they may have.

Stephanie Pipan, the City's K-9 Officer advertised the 3rd Annual K-9 Walk being held on Saturday, June 22, 2013. It is the annual fundraiser for Xello and the Canine Unit. The event is being held at City Park, there will be vendors, demo's, and will also feature a dog walk. The cost is a \$20 donation which will also get your dog a "goodie bag".

Police Commander Bryan Millard urged the community to support Officer Pipan in her fundraising goals; it takes between \$7,000-10,000 to maintain a police K9 in our community per year. He also advertised the upcoming Tip-a-Cop Dinner being held on Friday, June 28th benefitting Special Olympics. The event is being held at the Community Center and the cost is \$20/adult and \$5/child or \$150/table.

At this time, Mayor Irons requested the Council consider pulling Item D-2, Consideration of Redevelopment Project Proposed for Lease Site 62/62W (Kayak Horizons – Krueger) and continue it to a future meeting so that it could be heard in conjunction with the Gray's Inn item. Councilmembers Nancy Johnson and Leage both wanted to hear the item tonight as scheduled. Councilmembers Christine Johnson and Smukler both felt it was important to hear this item alongside the Gray's Inn item.

MOTION: Mayor Irons moved to continue Item D-2, Kayak Horizons, and to bring it back with Gray's Inn. The motion was seconded by Councilmember Smukler and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

Brian Stacy stated that he was a victim of the largest conspiracy in human history. Tonight he wanted to talk about crime and Council's obligation to follow through on these allegations.

Craig Schmidt advertised upcoming Morro Bay events. On June 12th, there will be a Morro Bay/Los Osos Chamber mixer at Sea Pines Restaurant from 530-730pm; on June 20th there will

be a Morro Bay Mixer at Casa de Flores from 530-7pm; on June 20th there will be a Community Forum upstairs at Embarcadero Grill from 9-10am and will feature Police Chief Amy Christey; and, on June 21st, the Economic Vitality Corporation will be providing business consultation at the Chamber offices from 9am-5pm, please call the Chamber for an appointment.

Susan Stewart spoke on Item D-4, approval of a 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. She is so pleased to see this as a real possibility for the downtown core area; it's a great concept and hopes that Council will approve it tonight.

Aaron Ochs wanted to remind people that on June 25th, there will be a discussion on the Morro Bay Aquarium at the Council level. He spoke to an email he received last week which appealed to extremes and emotions which he felt was in very poor taste. The Tylers have contributed a lot to the community and they are entitled to whatever the free market process allows. He hopes people will focus on solutions and that we all can keep a cool head.

Lynda Merrill stated that, at this moment, there is a dangerous situation at Highway 41 as there are cars extending into the right turn lane. She felt that the Council and Police Chief should know this.

Bob Keller thanked Ken Vesterfelt for all the work he provided at the Car Show. This year's car show was one of the best ones we've ever had and bringing in Dennis Gage to cover the event was a great idea as it will provide local, national and international coverage.

Kate Crocker spoke on Item D-4 in support of the restroom. It would be great to have a restroom in the downtown area.

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 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.

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

Mayor Irons pulled Item A-1 and Councilmember Christine Johnson pulled Item A-4 from the Consent Calendar.

MOTION: Councilmember Nancy Johnson moved the City Council approve Items A-2, A-3, and A-5 of the Consent Calendar as presented. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE BUDGET WORKSHOP ON OF MAY 22, 2013; (ADMINISTRATION)

Mayor Irons pulled this item to point out a typographical error on page 3; it read "...for the 420 million we have in asset replacements." and it should have read "... **142** million we have in asset replacements."

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

Councilmember Smukler pulled this item to have Public Services Director Rob Livick give the public an update on the MMRP.

MOTION: Councilmember Christine Johnson moved the City Council approve Items A-1 as amended and A-4. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS

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

City Attorney Rob Schultz presented the staff report.

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

Councilmember Nancy Johnson would love to see a funicular but it is far too expensive.

Councilmember Smukler is anxious to move forward on this project, keeping in mind what we can afford. He favors Option C as it preserves the Centennial Staircase. He also hopes that signage would be a component in the continued effort to bring the Embarcadero together with the downtown area.

Councilmember Leage stated that for years, there has been talk about tying the Embarcadero to the Uptown District. Now we have that opportunity. He doesn't necessarily know where to find the money but the funicular would be such a wonderful attraction for Morro Bay and he would like to find a way to make that happen.

Councilmember Christine Johnson stated that at this point, we wouldn't be doing anything to stop a funicular from being built in the future but at this time, the owner of the property is willing to place a connector from the Embarcadero to the downtown area with an elevator that hopefully would have full glass views. She also hoped that maybe the City could negotiate with the owner to help fix up the staircase. She would like this to go to the Recreation & Parks Commission, as long as it doesn't slow down the process, as well as the Planning Commission.

Mayor Irons feels that in Exhibit C, the elevator is tucked too far into the existing restaurant and almost hides it. Exhibit B places it more towards the center and it is more visible. He would like to see the elevator brought out to make it more of an attraction and centrally located.

MOTION: Councilmember Nancy Johnson moved to forward this report to the Planning Commission with all three Exhibits as possibilities and report back to the Council with their best idea.

The motion died for lack of a second.

Mayor Irons agreed that while it has to go to Planning Commission, as Council, they need to provide clear direction.

Councilmember Smukler is attracted to Option C but not necessarily exactly as it is proposed. The attraction is the view shed which is the value for that spot. If we adjusted the elevator we could enhance our gathering opportunities. He agreed that moving Exhibit C forward to the Planning Commission as a concept as well as asking the Recreation & Parks Commission for their input is valuable.

Councilmember Leage agreed that Planning Commission's input is vital but that we should send all three Exhibits over to them without our parameters so we get their specialized opinion.

Councilmember Christine Johnson was concerned that what if we send all three options to the advisory boards and they only like 1 and its one that we can't afford.

Councilmember Nancy Johnson wanted the Planning Commission to still be able to see all three options with the understanding that there are cost differences in all of them. There is always the possibility of available grant opportunities.

Councilmember Christine Johnson stated that there is unanimous enthusiasm for this project. She looks at this as a good negotiation for a piece of property that brings us access and mobility enhancements. But we need to realistically put facts before emotion and move Plan C to the Planning Commission and get this moving. She would be amenable to sending the entire packet so they can see the other options but realistically Plan C is what is affordable.

Mayor Irons hoped to send all three to the Planning Commission with the emphasis on Exhibit C being the cost choice. He would like to see the downtown visioning concepts included and see how those all fit together.

Councilmember Nancy Johnson doesn't feel the need to include the visioning concepts included in this decision.

MOTION: Mayor Irons moved to send Exhibit A, B, and C concurrently to the Recreation & Parks Commission and the Planning Commission with Exhibit C as the cost choice for the design, look for the views or viewshed opportunities to be featured with regards to the elevator, include the downtown visioning elements into the process that specifically deal with this area, include a connection signage component and to direct staff to ask the buyer to refine Exhibit C even before it goes to show the cross sections to better develop the plan. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

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)

Councilmember Leage had to recuse himself due to a conflict of interest in the matter.

Harbor Director Eric Endersby presented the staff report.

Cathy Novak, representing the applicants, presented the proposal. She covered a brief history, she addressed concerns regarding the Alternative A proposal, she presented the proposed project highlights and she addressed the Alternative B from the staff report. She stated that early on, the two leaseholders got together and designed a joint project that could operate independently while

at the same time providing the maximum benefit for the visitor serving uses. They had originally planned to form an LLC for the purpose of submitting a project while at the same time keeping their own lease sites. However, this approach would require the City to consolidate both the lease sites into one new Master Lease. Several items taken into consideration regarding this proposal include Ms. Leage's previous plan that was used as a stepping stone for the new design; recognition that two restaurants were not likely in the best interest of both sites; the design should focus on visitor serving uses; there are limitations for feasible uses on the second floor; questions on how to maximize the lease space with required view corridors and other City standards; and, the overall construction. The major plan points include both retail and hotel units; the building at 833 Embarcadero will be moved easterly 16 feet to allow for the construction of the Harbor Walk as well as a continuous single dock cross both leases; docks will have a shared gangway; the sidewalk along the Embarcadero will be enlarged to 8 feet; and the restaurant at 833 Embarcadero will be smaller and the restaurant at 801 Embarcadero will be removed. Other design benefits include public restrooms, elevator, hotel lobby and easy restaurant access from the hotel. In response to staff's Alternative B, the most important matter for both leaseholders is clear direction from Council. Both applicants are amenable to Alternative A or B.

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

Councilmember Smukler is inclined towards separate projects, he wants to retain as much of the sites as are currently useful, it would be less of a shakeup and would be more affordable for each applicant.

Councilmember Nancy Johnson strongly believes in Option B. Keeping the 2 smaller leases under the control of the current lease holders will be a real advantage. It should help with sublease issues, should remain cleaner and create fewer vacancies.

Councilmember Christine Johnson stated we have combined lease sites before which have allowed for shared costs with architects, construction, etc. While we have a precedent for doing joint projects, she likes the mix we have now. She hopes to see us retain our "quirkiness" (large and small sites) as well as expand the boardwalk and sidewalk. She is leaning towards having two separate proposals come back to maintain that nice, individual, independent kind of look.

Mayor Irons feels that going towards separate projects would be the most feasible way to go and would agree to Alternative B.

Councilmember Smukler would hope they would have public restrooms, enhance the view corridors, would look to temper the size of an upper 2nd floor and have a bicycle parking area.

MOTION: Councilmember Smukler moved to direct the applicants and staff to work on Alternative B, to resubmit separate proposals for their respective lease site and for each of them to consider mutual benefits and public use opportunities as they see fit. The motion was seconded by Councilmember Nancy Johnson and carried 4-0-1 with Councilmember Leage having to recuse himself.

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

Per the motion made earlier in the meeting, this item was pulled and continued to a future meeting.

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)

Planning Manager Kathleen Wold presented the staff report.

Mayor Irons opened up the public comment period for Item D-3; seeing none, the public comment period was closed.

Mayor Irons feels that the Ordinances regarding the Antennas and Wireless and the North Main Street Parking are pretty straight forward and there is some discrepancy on the Secondary Unit Ordinance. There was unanimous consensus that Council would have staff move forward on the Antenna/Wireless and Parking Ordinances.

MOTION: Councilmember Nancy Johnson moved to approve the Antenna and Wireless amendment. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

Councilmember Nancy Johnson stated that this was done in conjunction with Ms. Wold as a plan to help commercial businesses in North Main. It was a good idea and it should continue.

Councilmember Smukler thinks we should move forward with this as well; there is a potential for parking issues but given that this concept is working within the existing footprint of a building, this is a good way to avoid new parking scenarios.

MOTION: Councilmember Smukler moved to approve Section 17.44.020.1, the North Main Street Commercial Area Parking. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

Council agreed to open up public comment for Item D-3.

Roger Ewing has spoken against increasing the square footage of secondary units for as long as this discussion has taken place. For example, on Pacific, there are two homes on the same lot, both with the same square footage and both identical. The ability to add a 1200 square foot home to your property creates a mansionization effect as well as it creates parking problems. He hopes that Council will not allow secondary units over 900 square feet.

The public comment period for this item was closed.

Mayor Irons has spoken out against this amendment as realistically, there was nothing that would protect two 1200 square feet homes in an R1 District. It also isn't in keeping with our town.

MOTION: Mayor Irons moved not to forward the Secondary Unit Ordinance as amended forward for certification; take the #2 Ordinance back to the Planning Commission for review to discuss parking and parking setbacks and for further public comment/input. The motion was seconded by Councilmember Smukler and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

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)

City Attorney Rob Schultz presented the staff report.

Mayor Irons opened up public comment for Item D-4; seeing none, the public comment period for this item was closed.

Councilmember Nancy Johnson heard from a couple of business owners that are very interested in having a public restroom and wants to see this item moved forward.

Councilmember Smukler feels this is the way to go. He also suggested having Councilmembers Nancy and Christine Johnson, as part of the Economic Development Committee, be part of a sub-committee that would review the proposals received for leasing the building

MOTION: Councilmember Nancy Johnson moved approval of the lease; to seek proposals; to request the Chamber of Commerce Director and the Director of the Economic Development Program along with the Economic Development Committee to help find a sublease for the building and recommend a tenant. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

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

City Manager Andrea Lueker presented the staff report/timeline adding that Council will be seeing this report at the first meeting of each month now.

Public Services Director added that the kickoff meeting will be held within a week after signing the contract, probably by the end of next week. Approximately 3 weeks after the kickoff meeting, we will hold the first stakeholders meeting. Then approximately 1 week later, the first public workshop will be held.

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

City Manager Andrea Lueker presented the staff report stating that this is an administrative / housekeeping issue only.

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

MOTION: Councilmember Nancy Johnson moved to approve the recommendations made in Item D-6. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Christine Johnson requested the creation of a Chorro Valley Subcommittee; there was Council consensus to move this forward

ADJOURNMENT

The meeting adjourned at 9:27pm.

Recorded by:

Jamie Boucher
City Clerk

AGENDA NO: A-4

MEETING DATE: 6/25/2013

MINUTES - MORRO BAY CITY COUNCIL
BUDGET WORKSHOP – JUNE 12, 2013
VETERAN’S MEMORIAL HALL – 5:00P.M.

| | | |
|----------|-------------------|----------------------------------|
| PRESENT: | Jamie Irons | Mayor |
| | Christine Johnson | Councilmember |
| | Nancy Johnson | Councilmember |
| | George Leage | Councilmember |
| | Noah Smukler | Councilmember |
| STAFF: | Andrea Lueker | City Manager |
| | Jamie Boucher | City Clerk |
| | Rob Livick | Public Services Director |
| | Amy Christey | Police Chief |
| | George Rees | Fire Captain |
| | 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.

John Dinunzio, the Economic Development Program Coordinator at the Chamber of Commerce thanked the Council for their leadership, cooperation and support. He stated that their commitment to economic development is to champion the voice and the value of the business community while moving our economy to new and brighter heights. Currently they are working with 10 potential new business accounts for Morro Bay. They have 2 businesses now operating out of the incubator program at the Chamber; watching these will provide a key benchmark to evaluating the overall performance. As a business resource center they are making relevant information available to business prospects; they are also adapting to new technology platforms. He concluded by hoping that Council will approve the \$58,000 in the budget for the continued funding of the Chamber/Economic Development Program.

Christine Rogers, the Economic Vitality Corporation’s Program Manager reiterated their request for additional funding for the EVC. The EVC supports technology by enhancing broadband infrastructure, tourism, implementation of economic initiatives which support the clusters of opportunity, and direct business engagement ensuring all our businesses have access to the resources they need to thrive. This additional funding request is also related to the Economic Analysis Program which is a pilot project being undertaken with the County, providing economic analysis of individual development projects and providing information related to jobs, earnings

and sales; and information relative to short and long term planning. She thanked the Council for their continued support.

Bruce Keogh, both a resident and Manager of the City's WWTP referenced the \$90,000 contingency discussed at the last budget workshop meeting. He urged the Council to keep this \$90,000 contingency in the budget to be used for good faith labor related negotiations. He is also concerned about salary compaction between the Management Unit, the POA and SEIU employees and looks forward to discussing this issue in upcoming negotiation meetings with the staff. There needs to be resolution of this issue for successful long term management strategy for the City. As a manager for the City, he is very concerned about the morale of City employees as well as recruitment and retention due to compensation. He also urged Council to consider revenue generation measures.

Darryl Scheck, Field Rep for SEIU Local 620 stated they have been at the bargaining table since February and understand that the City has difficult decisions to make. In years past, the employees have taken concessions and had contracts imposed on them. Members' wages are not keeping up with cost of living and health costs are rising. Members have given over the years; all they are asking for is to be treated equitably and fairly.

Mike Woods, Field Rep for SEIU Local 620 stated that he has been the representative for Morro Bay for the last 3 years and he has seen the City employees falling behind in salary. The employees have received no salary increase in the last 5 years whereas the CPI has risen 11%. He asked Council to keep the \$90,000 set aside in the budget for compensation purposes. He echoed that Morro Bay is one of the lowest paid employee groups in the County and the City will end up as a training ground. He hopes the Council will make the employees a priority.

Karin Moss, Morro Bay Director of Tourism spoke in hopes that Council will not make any cuts to their proposed 2013/14 budget. She hoped that Council recognizes the quantifiable in-roads made with the Destination, Local and Regional marketing campaigns. Any cuts to the marketing budget will definitely result in a reduction of the market share. Over the last six months, the Tourism Bureau has flourished into a "one stop shopping" resource producing marketing collateral materials for both tourism and local organizations. They have been proactive in assisting the community with media and community relations, event planning and promotion, targeted media pitching, social media and marketing consultation. She thanked Council for their ongoing support and is requesting these monies so that they can keep the Morro Bay brand consistently in the public eye.

John Meyers, member of the TBID and Tourism Bureau requested the Council continue their support for funding for the tourism effort at the same level as this year. He presented reasons for their request: ~projecting to turn in, in excess of 2.2 million of TOT revenue to the City which is up \$400,000 from 2010; ~people don't recognize that a 10% increase in TOT equates to substantial growth in Economic Development for the City.

Mike Mobley, City employee and SEIU Local 620 Steward stated that the \$90,000 can potentially be used as a 3% salary increase. Last year SEIU had their contract imposed on them

and employees went through a tough time. He concluded by stating that the City's reserves are high.

Dale Cullum, Morro Bay resident and member of the Police Officer Association (POA), stated that one of the City's top goals was to maintain core public safety services and incentives to retain safety employees. He stated that nearly half of the police staff are topped out and haven't received a raise or COLA in over 3 years. Officers are required to work mandatory over-time that vacancies have created. When an officer leaves, it definitely affects employees' morale and the agency becomes reactive vs proactive as it takes years for a new officer to be able to feel comfortable enough to handle the problems that come with a City.

Jody Cox, representative of the POA is one of the department's newest members. Based on information provided at the last Closed Session regarding the history, high turnover, costs of training, etc. the feedback they received at their next negotiation meeting they felt was insulting. He urged the Council take a good faith look at the numbers provided, look at the high turnover rate and reconsider these in the negotiation process. Part of the problem is the CalPERS situation but that isn't happening for 3 years, it's going to be difficult for employees to pick up some of these costs without any type of cost of living increase.

Robbyn Smith, Public Safety Dispatcher and representative of the POA, has worked for the City for 10 years. Their department spends 80% of the time with only 2 officers on duty. They have lost 5 officers and dispatchers over the last 2 years, some of which were training officers. Due to their staffing levels, they have had to change plans, miss special family occasions and cancel vacations more times than she can remember. Money isn't everything, being appreciated is also important. She would love to help work with Council to help find creative solutions.

The public comment period was closed.

CONTINUED DISCUSSION OF THE 2013/14 FISCAL YEAR BUDGET

City Manager, Andrea Lueker presented a staff report based on questions Council had during the last budget workshop.

Administrative Services Director Susan Slayton also presented additional information that Council requested from the prior workshop.

There was Council discussion and then consensus on the following:

- ~maintain the \$90,000 built in the budget for ongoing employee negotiations
- ~funding as requested in the body of the proposed/presented operating budgets

Council then went onto discuss the various Outside Agency Funding requests.

Councilmember Christine Johnson felt that giving the Friends of the Library the use of the City facility during their remodel would suffice as a "gift in kind"; she felt that since the Housing Authority monies didn't come out of the general fund and instead from an Affordable Housing Fund, she's comfortable funding that; downtown restroom can almost be funded via a "pay it

forward” from a future sales tax revenue philosophy and can be funded through the \$30,000 Council contingency fund for now; the 4th of July is a feel good, all ages, free, all volunteer, entirely funded by the community, national holiday event that brings together our tourists with our residents and she would like to see it funded; she felt it important to wait on MB’s 50th Anniversary Celebration as there isn’t a specific monetary request yet.

Councilmember Nancy Johnson felt that these requests should be funded out of the \$30,000 Council contingency funds; she also feels that we should fund all the events or none of the events as they are all valuable – she doesn’t want to vote on them one by one; she agreed with coming back at the mid-year budget for the MB 50th Anniversary Celebration.

Councilmember Smukler agrees that the \$30,000 contingency should be used to fund these requests. He felt the request of the Housing Trust Fund was benign and from a separate fund so he supports it; he’s on the fence re: the Friends of the Library request but at same time we are doing a lot to help them thru the transition; he agrees with postponing any discussion on MB’s 50th Anniversary Celebration until mid-year; as far as 4th of July, because of how it is structured as a stand-alone, all-volunteer effort he feels it deserves special consideration and would be willing to move forward with finding a way to fund it tonight; and, Council needs to identify the funding for the downtown restroom.

Mayor Irons agreed with the Library’s gift in kind as a good compromise; as far as the Housing Trust Fund, he agrees with funding it through the Housing Fund; since Council agreed to move forward with the restroom, we need to fund it tonight; he agrees, the 4th of July event is worthwhile to fund; and, waiting until mid-year for MB’s 50th Anniversary Celebration is smart. There is the \$30,000 contingency and he feels it’s a given that will be put on the table. He doesn’t feel comfortable in making any adjustment to the General Fund Reserve and in fact wants to find a way to restore it back to the 27.5% level that policy dictates. He suggests starting with the \$200,000 in excess Risk Management Reserves with these funding requests.

Councilmember Leage stated that the 4th of July is here and a decision needs to be made on what to do with it quickly; the TBID is bringing in the money and while their request is a lot of money, it’s the most important thing on the list to fund; he feels confident we will be able to sublease the restroom property which will help with the required lease costs; and as far as the Friends of the Library, he feels we have done our part.

Mayor Irons asked Council if there was consensus to keep the reserves at 27.5% to which there was unanimous support.

Councilmember Smukler stated he is willing to work with the excess monies in the Risk Management Fund as these are one time funding requests and still respects the City’s policies. He stated another source of funding is the City Council budget of \$2,000 for Leadership & Team Building. He also feels we can pull the \$5,000 allocated to Goal Setting. Along with the \$30,000 in contingency funds, those monies along with cautiously working using the excess Risk Management Funds should allow for the funding opportunities that Council decides on.

Councilmember Nancy Johnson feels it's essential that we fund both TBID and EVC to help with our economic development base.

Mayor Irons stated that there is approximately \$190,000 in excess in our Risk Management Reserve that is accessible to use in addition to the \$30,000 of Council contingency and \$2,000 from Leadership/Team Building for a total of \$222,000. At that time he began deducting the funding requests from the excess monies. The total expenditures that Council is looking to potentially fund is \$121,195 (\$38,195 to re-fund the general fund reserves, \$5,000 to the EVC, \$16,000 to restroom, \$4,000 to 4th of July, \$58,000 to TBID/Tourism Bureau).

There was unanimous Council consensus to bring back the MB 50th Anniversary Celebration to mid-year.

Regarding the Council's potential support of funding the TBID/Tourism Bureau request: Councilmember Nancy Johnson feels that TBID is an engine that drives our economy, they have a concise budget and they intend to raise their TOT levels; she feels the same about EVC who spends a lot of time and energy helping our Economic Development Program as well also our Tourist Bureau getting things done – she supports funding both of them; Councilmember Smukler likes the fact the TBID budget has an element of working with the Chamber of Commerce and the Merchant's Association to develop a "Shop Local" campaign. He is in support of funding this in full this year and also hopes to receive a clear tracking, reporting and performance standard so that these general fund dollars are accounted for. He also hopes they recognize this could be one-time only support as we need to begin weaning them off the general fund as much as possible. He is cautious of funding the EVC but also knows there is a lot of value there as they have a great working relationship with the Chamber of Commerce. Councilmember Christine Johnson agrees with this direction and wanted to comment on our three revenue streams, property tax, sales tax and TOT; there is such large an increase in our TOT in just 2 years working towards this. Having one dedicated professional to market Morro Bay in order to increase our TOT will pay dividends both to the City and the residents. Councilmembers Leage and Mayor Irons are also both in agreement to support the TBID as there is a direct benefit of our tax dollars transitioning into other City services; they also all agree to the need to wean them off this these monies over time.

There was unanimous support to utilize the excess Risk Management Funds to help fund these requests, as long as the excess funds are available. Councilmember Smukler added that no monies should be spent until the General Fund Reserves was back filled to its 27.5% level.

Since all requests were being funded, Councilmember Christine Johnson requested further discussion about funding the Friends of the Library request using the philosophy that if Council chooses to fund all of these requests, then the Library should be considered as well. There was unanimous consensus to move forward with funding the Library's request at an additional \$5,000.

Council moved onto Measure Q funding. Administrative Services Director Susan Slayton presented the Measure Q funding requests from the "A List". Council unanimously supported the "A List" requests in full.

Councilmember Christine Johnson encouraged staff to prepare and present a “fact sheet” that would be easy to understand explaining the budget in bullet form and easier reading format. Hopefully that fact sheet could be ready and posted on the internet when we go to adopt the budget.

Councilmember Smukler requested that staff bring back, hopefully in August, the 2011/12 audit to allow a Council review as well as continue to investigate a budget advisory/financial planning committee concept.

ADJOURNMENT

The meeting adjourned at 8:10pm.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A-5
MEETING DATE: 6/25/2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 19, 2013

FROM: Andrea K. Lueker, City Manager
Susan Slayton, Administrative Services Director

SUBJECT: Resolution No. 37-13 Adopting the Fiscal Year 2013/14 Operating Budgets

RECOMMENDATION

Based on direction received from the City Council at the June 12, 2013 budget workshop, staff recommends approving Resolution No. 37-13, adopting the fiscal year 2013/14 budget document, including any amendments made at this meeting.

FISCAL IMPACT

The City Council will adopt a balanced budget for fiscal year 2013/14.

DISCUSSION

The City Council conducted budget workshops on May 22 and June 12, 2013. At the June 12th workshop, the City Council made the following changes to the budget:

| | |
|---|------------|
| Redistribute from the City Council's budget the expenditure allocations for team building for bequests and Emergency Reserve funding | \$2,000 |
| Redistribute the Council contingency that was established with the mid-year budget adjustments for bequests and Emergency Reserve funding | \$30,000 |
| Fund the estimated deficit in the Emergency Reserve | (\$38,195) |
| Approve funding requests for: | |
| Friends of the Library | (\$5,000) |
| Housing Trust Fund | (\$1,000) |
| Tourism Bureau | (\$58,000) |
| Economic Vitality Bureau (EVC) | (\$5,000) |
| Downtown restroom | (\$16,000) |
| Morro Bay 4 th of July | (\$4,000) |
| Transfer funds from Affordable Housing In-Lieu for the Housing Trust Fund | \$1,000 |
| Transfer funds from Risk Management Reserve Fund for bequests and Emergency Reserve Funding after ensuring that funds are received as estimated | \$94,195 |

After careful consideration of the budget document and its proposed revenues and expenditures, as well as ample opportunities for public input, the City Council closed its June 12th meeting with direction to staff to return at the June 25th meeting with a Resolution to adopt the 2013/14 budget. The attached Resolution No. 37-13 fulfills that instruction.

Prepared by: _____ **Dept. Review:** _____
City Manager Review: _____
City Attorney's Review: _____

RESOLUTION NO. 37-13

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA
ADOPTING THE 2013/14 FISCAL YEAR OPERATING BUDGETS**

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

WHEREAS, the City of Morro Bay is required to appropriate and expend public funds to conduct the day-to-day business activities of the City; and

WHEREAS, the Morro Bay City Council finds and determines that these appropriations are necessary for continued efficiency, economy and effectiveness of the City government operations; and

WHEREAS, the City Council recognizes that Capital Improvement Projects authorized and approved in prior fiscal years may not be completed by June 30, 2013; and

WHEREAS, the continuing efforts of staff to operate the business of the City within an approved budget and to create savings wherever feasible are acknowledged by the City Council; and

WHEREAS, Section 37208 of the California Government Code provides that payments or demands conforming to an approved budget adopted by Ordinance or Resolution do not require audit by the City Council prior to payment.

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

1. The Fiscal Year 2013/14 Operating Budgets are adopted, as presented herewith, including any amendments made at this meeting which will be attached to this Resolution; and
2. Staff is directed to prepare and publish a final budget document; and
3. The City Manager is authorized to transfer appropriations within the adopted budget, so long as the appropriations' changes do not have a significant policy impact, and total appropriations are not exceeded; and
4. City Council approval is required to transfer appropriations between funds, capital projects, or capital outlay items; and
5. City Council authorizes and directs the transfer of balances for capital projects approved in prior fiscal years, but not completed by June 30, 2013, to the Capital Improvement Project Fund(s) for the 2013/14 fiscal year; and
6. City Council directs that the hiring freeze for positions in the City workforce continue for

those positions funded within the General Fund, with the exception of safety personnel, and the City Council reserves the right to review any vacancies on a case-by-case basis as to its official policy; and

7. City Council chooses to continue the 2009/10 deferral of the management and executive employees' 3% Cost-of-Living Adjustment (COLA); and
8. The City will address reducing the amount of General Fund support to the Morro Bay Tourism Bureau and other outside funding requests with its 2014/15 budget.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 25th day of June 2013, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

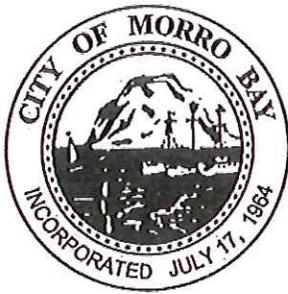
ATTEST:

JAMIE BOUCHER, City Clerk

RESOLUTION NO. 37-13
ATTACHMENT

Amendments to the 2013/14 Budget Document

1. Remove from the City Council's budget the expenditure allocations for team building \$2,000.
2. Remove the Council contingency that was established with the mid-year budget adjustments \$30,000.
3. Fund the estimated deficit in the Emergency Reserve (\$38,195).
4. Approve funding requests for:
 - a. Friends of the Library (\$5,000).
 - b. Housing Trust Fund (\$1,000).
 - c. Tourism Bureau (\$58,000).
 - d. Economic Vitality Bureau (EVC) (\$5,000).
 - e. Downtown restroom (\$16,000).
 - f. Morro Bay 4th of July (\$4,000).
5. Transfer funds from Affordable Housing In-Lieu for the Housing Trust Fund \$1,000.
6. Transfer funds from Risk Management Reserve Fund for bequests \$94,195 after ensuring that funds are received as estimated.



AGENDA NO: A-6

MEETING DATE: June 25, 2013

Staff Report

TO: Honorable Mayor and Council **DATE:** June 14, 2013

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Resolution No. 36-13 Authorizing San Luis Obispo County Assessor to Assess Amounts Due on Delinquent Solid Waste Collection Accounts as Tax Liens Against the Properties

RECOMMENDATION

Adopt Resolution No. 36-13.

ALTERNATIVES

There is no alternative available to adopting Resolution No 36-13 as to not do so would result in not complying with the City's Municipal Code pertaining to delinquent solid waste accounts.

FISCAL IMPACT

The City will receive the 10% franchise fee on all liens paid in addition to a 2% administrative fee for costs associated with the processing of the liens with the San Luis Obispo County Assessor. Total revenue to be received will be \$413.57.

SUMMARY

Morro Bay Municipal Code §8.16 addresses delinquent solid waste accounts held by the City's franchisee, and the methodology related to collecting those debts. Morro Bay Garbage has followed the appropriate steps per the Municipal Code, and staff is requesting permission to file tax liens on the remaining delinquent debtors.

BACKGROUND

Morro Bay Municipal Code §8.16.170 and 8.16.375 establish that all places and premises in the City in or on which solid waste is created, accumulated or produced must use the solid waste collection and disposal service provided by the City's franchisee and that the franchisee is responsible for collecting fees for the service.

Prepared By: J Burlingame

Dept Review: SS

City Manager Review: ay

City Attorney Review: _____

Municipal Code §8.16.170 also states that for the purposes of establishing responsibility for the payment of fees and charges, the person who has applied for water service to each place or premises within the City is responsible for paying for the service. The owner of the property which is furnished service and the customer, who applies for service, if different from the property owner, shall jointly be responsible for the payment of all rates, charges and fees including penalties, and that unpaid obligations shall run with the land and lead to delinquency for the property involved.

DISCUSSION

Municipal Code §8.16.385 provides a method by which the franchisee may take actions to collect fees from the owners of developed properties involved in delinquent solid waste collection and disposal accounts. Morro Bay Garbage Services has taken the actions prescribed within the Municipal Code to collect delinquent solid waste collection and disposal accounts, which are:

- 1) Present to the City a list of property owners whose accounts are more than 120 days past due,
- 2) Send certified letters to these property owners requesting payment within 45 calendar days, and
- 3) Present to the City a list of property owners that have failed to make the requested payment.

CONCLUSION

Morro Bay Garbage Service has gone through the process outlined in the Municipal Code and has submitted the final list of property owners that failed to make the requested payment by the due date. The next step is for the City to authorize the County to process liens against those delinquent accounts. Staff recommends adopting Resolution No. 36-13 to accomplish the task.

RESOLUTION NO. 36-13

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA AUTHORIZING THE SAN LUIS OBISPO COUNTY
ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT
SOLID WASTE COLLECTION AND DISPOSAL ACCOUNTS AS
TAX LIENS AGAINST THE PROPERTIES**

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

WHEREAS, Sections 8.16.170 and 8.16.375 of the Morro Bay Municipal Code establish that all places and premises in the City in or on which solid waste is created, accumulated or produced must use the solid waste collection and disposal service provided by the City's franchisee and that the franchisee is responsible for collecting fees for the service; and

WHEREAS, Section 8.16.170 of the Municipal Code also states that for the purposes of establishing responsibility for the payment of fees and charges, the person who has applied for water service to each place or premises within the City is responsible for paying for the service, and that the owner of the property which is furnished service, and the customer who applies for service, if different from the property owner, shall jointly be responsible for the payment of all rates, charges and fees including penalties and that unpaid obligations shall run with the land and shall lead to delinquency for the property involved; and

WHEREAS, Section 8.16.385 of the Municipal Code further provides a method by which the franchisee may take actions to collect fees from the owners of properties involved in delinquent solid waste collection and disposal accounts which includes requesting the City to file a tax lien; and

WHEREAS, the franchisee, Morro Bay Garbage Service, has taken the actions required within the Municipal Code to collect fees from delinquent accounts as certified by franchisee and incorporated herein, and has provided the required list of debtors whose account is still delinquent.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the San Luis Obispo County Assessor is hereby authorized to assess the amounts due on delinquent accounts as established and certified by the franchisee Morro Bay Garbage Service as liens against the properties listed below:

| Parcel Number | Total Amount |
|---------------|--------------|
| 068-225-002 | \$294.20 |
| 065-044-024 | \$217.90 |
| 068-291-009 | \$2,528.68 |
| 066-164-002 | \$208.80 |
| 066-092-009 | \$208.80 |
| 065-037-001 | \$126.56 |
| 066-204-021 | \$504.40 |

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of June 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk



AGENDA NO: A-7

Meeting Date: 6/25/2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 18, 2013

FROM: Joseph M. Woods, Recreation and Parks Director

SUBJECT: Review and Support the Amended Memorandum of Understanding between the San Luis Coastal Unified School District, Estero Bay Community Pool Foundation, and City of Morro Bay

RECOMMENDATION

Staff recommends City Council reviews the attached information, and supports the amended Memorandum of Understanding (MOU) between the San Luis Coastal Unified School District (SLCUSD), Estero Bay Community Pool Foundation (EBCPF), and City of Morro Bay to establish a community pool in the City of Morro Bay.

FISCAL IMPACT

There is no fiscal impact at this time.

ALTERNATIVES

1. Council approves the amended MOU and authorizes its execution.
2. Council further amends the MOU and directs staff to re-circulate for execution.
3. Council withdraws interest and re-directs staff.

SUMMARY:

City Council has directed staff to work with local agencies to form a collaborative effort to build a public pool. Staff reached an agreement with EBCPF and SLCUSD and presented a MOU for Council's approval at the regular meeting on February 13, 2013. Prior to full execution of the MOU, the document was amended by the SLCUSD, therefore requiring re-circulation for all parties to review. Staff has provided two copies of the MOU, the first showing the edits and the second partially executed document.

Prepared By: JW

Dept Review: JW

City Manager Review: _____

City Attorney Review: _____

Page 1 of 2

BACKGROUND/DISCUSSION:

The major stakeholders in the Estero Bay Community Pool project have agreed to some basic guidelines for collaboration. The MOU first approved by City Council was signed by both the City and EBCPF and sent to the SLCUSD for final execution and adoption. The SLCUSD, after further review, decided to not commit at this time to provide a portion of the financial support to operate and maintain the Estero Bay Community Pool. Additionally, the District changed the signature line from the Board President to the District's Superintendent. The lined out version of the MOU is attached for review.

After the SLCUSD amended the MOU, those edits were included in the revised version of the MOU and signed by both the SLUCSD and EBCPF. This revised and signed MOU is attached for Council's consideration. It should be noted that when funds become available, it is the intent of the stakeholders to reconvene to consider a Joint Use Agreement, which will provide detailed responsibilities and obligations by all parties.

CONCLUSION:

Staff recommends City Council supports the amended MOU between the San Luis Coastal Unified School District, Estero Bay Community Pool Foundation, and City of Morro Bay to establish an Estero Bay Community Pool in the City of Morro Bay.



AGENDA NO: D-1

Meeting Date: 2/13/2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 7, 2013

FROM: Joseph M. Woods, Recreation and Parks Director

SUBJECT: Approval of the Memorandum of Understanding between the Estero Bay Community Pool Foundation, San Luis Coastal Unified School District and City of Morro Bay Regarding the Estero Bay Community Pool Project

RECOMMENDATION:

City Council reviews the attached information, and supports the Memorandum of Understanding (MOU) between the San Luis Coastal Unified School District, Estero Bay Community Pool Foundation, and City of Morro Bay to establish a community pool in the City of Morro Bay.

FISCAL IMPACT:

None

SUMMARY:

City Council has directed staff to work with local agencies forming a collaborative effort to reinstate a public pool. Staff has and will continue to work with available agencies to resolve the need for a local community pool. Recognizing this project is complex, expensive and requires thorough planning, many changes have evolved since efforts began in 2006. Current available agencies working on this effort consist of the School District, and the Estero Bay Community Pool Foundation, as well as the City. In partnering with these stakeholders, the City will continue to make progress to obtain the goal of establishing a community pool in Morro Bay.

BACKGROUND:

The concept of constructing and operating a public pool has been discussed since the closure and removal of the Morro Bay High School pool back in 1998 and 2001 respectively. In 2004, City Council directed staff to reopen negotiations with the School District in the attempt to reestablish a swimming pool on school property. In 2006, City staff met with School District staff to pursue the concept of a joint project, which would involve the County, School District, and the City of Morro

Prepared By: JW

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Page 1 of 2

Bay. All three agencies continued to meet in hopes of developing a MOU which would outline agency involvement, commitment, and responsibilities. While these three agencies continued their work, a fourth party became interested in the swimming pool project. This special interest group formed a nonprofit organization named the Morro Bay Community Pool Foundation and immediately began seeking partnerships with the County, District, and City. At the regular City Council meeting of November 10, 2008, Council unanimously supported the Morro Bay Community Pool Foundation. (Staff report, Reso.77-08, and minutes attached)

Concurrently, the Los Osos Pool Foundation was working on establishing a community pool to serve the Los Osos residents. Their efforts were supported by the City of Morro Bay with the allocation of resources, \$15,000, dedicated to a feasibility study. The Foundation contracted with Raymond, Turco and Associates to perform the Estero Bay Area Aquatic Assessment Study which was completed in March 2010. The survey being a "snap-shot" in time conveyed the community's interest in establishing a single aquatic center in Morro Bay, and would serve the entire Estero Bay communities.

On January 20, 2011, the RPC reviewed the MOU regarding the Estero Bay Community Aquatics Center and recommended approval to the Morro Bay City Council. The MOU was not reviewed by City Council due to unresolved concerns of the stakeholders. Those concerns included the cost of the maintenance and operations and how those costs would be distributed. Furthermore, stakeholders shared the uncertainty of future financial commitments and this uncertainty resulted in a break in progress. Stakeholders then agreed to the table discussions on the MOU between the District, County, Foundation, and City.

DISCUSSION:

Recently, the Los Osos Pool Foundation informed staff of the dissolving of their organization as well as their intent to continue supporting an Estero Bay Community Pool effort. Their non-profit status is in the process of termination and distribution of assets is to be determined by court action. Staff has been in communication with their Board members who have expressed interest in recommending to the court the allocation of accumulated funds be directed to the City of Morro Bay for the exclusive use in establishing a community pool.

Staff contacted the previous stakeholders in the effort to re-establish a MOU. The responsive stakeholders were the School District and the Estero Bay Community Pool Foundation. The attached MOU lists the current stakeholders and outlines the City's intent to support a collaborative effort to plan, build and operate an aquatics center serving the greater Estero Bay area.

CONCLUSION:

Staff recommends City Council support the MOU between the San Luis Coastal Unified School District, Estero Bay Community Pool Foundation, and City of Morro Bay to establish a community pool in the City of Morro Bay.

City Manager Andrea Lueker presented the staff report. She recommended that an adjustment be made to the job description in the "housing" of the volunteer position. She suggested that the phrase "...located at the Senior Citizen's Inc. ..." be replaced with "... located in a City facility...".

Councilmember Nancy Johnson has been working on this for quite some time and would be in favor of moving forward in the process and begin the advertising process.

Councilmember Smukler is glad to see this item back and is support of moving forward. He felt there were key items that he would like to see added to the job description in order for it to function more efficiently: a phone number, voice mail account, physical computer, email account, business cards, and miscellaneous office supplies. He would see those being added to the section that stated: "... and physically located at a City facility and would likely be supplied with the following resources: (above)".

Councilmember Nancy Johnson felt it important that this person be allowed the use of a City vehicle. She also felt it important to advertise the position; she would like to see the most qualified person receive this position.

Councilmember Christine Johnson has been very inspired by the work of the EBAC – Estero Bay Alliance for Care.

Councilmember Leage felt this is a wonderful thing that is being done.

Mayor Irons asked if there had been any consideration as to the length of time for the person's commitment to the position – 1 year then reapply or what kind of timeframe.

Councilmember Nancy Johnson felt that there should and could be a quarterly report given and likes the potential of a 2 year commitment.

MOTION: Councilmember Nancy Johnson moved approval of the job description with the amendment of physical location to read "City facility" and approve the selection process. The motion was seconded by Mayor Irons and carried unanimously 5-0.

D. NEW BUSINESS

D-1 APPROVAL OF MOU BETWEEN THE ESTERO BAY COMMUNITY POOL FOUNDATION, SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT AND CITY OF MORRO BAY REGARDING THE ESTERO BAY COMMUNITY POOL PROJECT "; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented the staff report.

Councilmember Nancy Johnson is totally and completely in favor of this MOU. She did question the lack of % monetary commitment from the various organizations though.

Councilmember Smukler is also very excited we are moving forward with this. He wasn't aware that the County was no longer interested; he contacted Supervisor Gibson's office and he said they felt there was some potential interest. Also, given the cost of energy, he challenged the project to the highest standards of energy efficiency.

Mayor Irons directed Director Woods to contact the County and report back to Council with an update on how that dialogue is proceeding.

MOTION: Councilmember Christine Johnson moved approval of Item D-1, Approval of MOU between the Estero Bay Community Pool Foundation, San Luis Coastal Unified School District and the City of Morro Bay regarding the Estero Bay Community Pool Project. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

D-2 DISCUSSION ON THE STATUS OF THE CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT WASTE WATER TREATMENT PLANT PROJECT AND APPROVAL FOR CITY TO SEND LETTERS TO STATE AND FEDERAL LEGISLATORS REGARDING SUPPORT AND FUNDING FOR THE PROJECT; (CITY COUNCIL)

Mayor Irons presented a brief oral report requesting consensus of Council to reach out to State and Federal constituents by sending letters asking for support and to put on their radar screen that we are looking for funding potentials.

Councilmember Nancy Johnson feels we are being premature as we haven't met with Cayucos yet. She doesn't feel we can send out letters without a project manager and without the status of our joint agreement.

Councilmember Leage also feels the need to see what Cayucos has in mind.

Councilmember Christine Johnson is looking forward to meeting with our JPA partners. If we are looking for sources of funding then it is in the best interest of the rate payers in both communities to find funding sooner than later.

Councilmember Smukler stated that it is never too soon to reach out. We are moving forward with building a new wastewater treatment plant and looks forward to any help that they could bring. He also hopes that we will continue to have a placeholder on the agenda to talk about wastewater treatment plant project issues.

Councilmember Nancy Johnson thanked Mr. Enns for staying through this meeting. She reiterated that we don't have a project yet; we don't know what Cayucos is going to do until tomorrow; and it can't hurt to wait one more day to formulate letters.

Mayor Irons stated that the remarks regarding Cayucos are well founded. He is in support of drafting these letters to be brought back in 2 weeks requesting help and funding support. The sooner the letters get sent out, the quicker we get on their radar screens.

MEMORANDUM OF UNDERSTANDING

regarding the

ESTERO BAY COMMUNITY POOL

This MEMORANDUM OF UNDERSTANDING (“MOU”), executed on the last date below stated, is entered into by and between the:

- San Luis Coastal Unified School District (“DISTRICT”),
- City of Morro Bay (“MORRO BAY”),
- Estero Bay Pool Foundation, a California non-profit public benefit corporation (“FOUNDATION”), and,
- Together, DISTRICT, MORRO BAY, and the FOUNDATION are referred to as the PARTIES.

WHEREAS the PARTIES are desirous of working together collaboratively, collectively, and cooperatively, to accomplish the following purpose: plan, build, operate, and maintain a Community Pool at Morro Elementary School which will serve the greater Estero Bay area including: the students of DISTRICT and the residents of Morro Bay, Los Osos, Cayucos, and Cambria;

WHEREAS the PARTIES desirous of setting forth the terms and conditions under which they will work together to accomplish the purpose mentioned above; and,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

(1) DISTRICT agrees as follows:

- a) DISTRICT will provide, through donation, lease or other mechanism suitable to DISTRICT and the PARTIES, a parcel of land adjacent to Morro Bay Community Center on Morro Elementary School property suitable for the purpose of building the Estero Bay Community Pool to include, at a minimum, a 25 yard pool, appropriate storage space, appropriate maintenance and safety equipment, men’s and women’s locker rooms, office area space for staff and public check-in, and public parking.
- ~~b) DISTRICT will commit to provide a portion of the financial support needed to operate and maintain the Estero Bay Community Pool.~~

- (2) MORRO BAY agrees as follows:
- a) MORRO BAY will be the lead agency for planning, permits, construction, operations, and maintenance.
 - b) MORRO BAY will be responsible for programming, staffing, fee collection, and regulations of the facility to ensure a safe –positive experience.
 - c) MORRO BAY will commit to provide a portion of the financial support needed to operate and maintain the Estero Bay Community Pool.
- (3) FOUNDATION agrees as follows:
- a) FOUNDATION will raise funds necessary to develop conceptual and space designs for the proposed Estero Bay Community Pool.
 - b) FOUNDATION will establish an endowment fund, irrevocably dedicated to MORRO BAY, to operate and maintain the Estero Bay Community Pool.
- (4) As a result of this MOU and FOUNDATION'S planning efforts, DISTRICT and MORRO BAY may form a Joint Powers Authority regarding the Estero Bay Community Pool.
- (5) Any party to this MOU may withdraw from this MOU, by providing written notice to the other parties that its governing body has adopted a resolution to withdraw. No withdrawal shall become effective until 60 days after being sent by the respective party.
- (6) All notices required by this MOU shall be in writing and shall be sent by United States mail, postage prepaid, and addressed to the other parties at their principal offices, or to such other addresses as the parties may designate from time to time.
- (7) Should any part, term, or provision of this MOU be decided by a final judgment of a court or arbitrator to be illegal or in conflict with any law of the State of California or otherwise be unenforceable or ineffectual, the remaining parts, terms, and provisions shall not be affected.
- (8) The persons executing this MOU represent that they are duly authorized by the party they represent to execute and bind that party. This MOU is the final, complete, and exclusive statement of the terms of the understanding between the Parties, supersedes all previous understandings between the Parties as to its subject matter, and may be amended only in a further writing executed by Parties.

IN WITNESS WHEREOF, the PARTIES hereto have duly executed this Memorandum of Understanding as of the date last listed below:

SO AGREED,

SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT (DISTRICT)

| By: _____ Dated: ~~February~~ _____ . 2013
~~Walter Millar, President, Board of Education~~ Eric Prater, Superintendant

CITY OF MORRO BAY (MORRO BAY)

| By: _____ Dated: ~~February~~ _____ . 2013
Jamie Irons, Mayor

MORRO BAY COMMUNITY POOL FOUNDATION

| By: _____ Dated: ~~February~~ _____ . 2013
Ian Starkie, President

MEMORANDUM OF UNDERSTANDING

regarding the

ESTERO BAY COMMUNITY POOL

This MEMORANDUM OF UNDERSTANDING (“MOU”), executed on the last date below stated, is entered into by and between the:

- San Luis Coastal Unified School District (“DISTRICT”),
- City of Morro Bay (“MORRO BAY”),
- Estero Bay Pool Foundation, a California non-profit public benefit corporation (“FOUNDATION”), and,
- Together, DISTRICT, MORRO BAY, and the FOUNDATION are referred to as the PARTIES.

WHEREAS the PARTIES are desirous of working together collaboratively, collectively, and cooperatively, to accomplish the following purpose: plan, build, operate, and maintain a Community Pool at Morro Elementary School which will serve the greater Estero Bay area including: the students of DISTRICT and the residents of Morro Bay, Los Osos, Cayucos, and Cambria;

WHEREAS the PARTIES desirous of setting forth the terms and conditions under which they will work together to accomplish the purpose mentioned above; and,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

(1) DISTRICT agrees as follows:

DISTRICT will provide, through donation, lease or other mechanism suitable to DISTRICT and the PARTIES, a parcel of land adjacent to Morro Bay Community Center on Morro Elementary School property suitable for the purpose of building the Estero Bay Community Pool to include, at a minimum, a 25 yard pool, appropriate storage space, appropriate maintenance and safety equipment, men’s and women’s locker rooms, office area space for staff and public check-in, and public parking.

- (2) MORRO BAY agrees as follows:
 - a) MORRO BAY will be the lead agency for planning, permits, construction, operations, and maintenance.
 - b) MORRO BAY will be responsible for programming, staffing, fee collection, and regulations of the facility to ensure a safe –positive experience.
 - c) MORRO BAY will commit to provide a portion of the financial support needed to operate and maintain the Estero Bay Community Pool.
- (3) FOUNDATION agrees as follows:
 - a) FOUNDATION will raise funds necessary to develop conceptual and space designs for the proposed Estero Bay Community Pool.
 - b) FOUNDATION will establish an endowment fund, irrevocably dedicated to MORRO BAY, to operate and maintain the Estero Bay Community Pool.
- (4) As a result of this MOU and FOUNDATION'S planning efforts, DISTRICT and MORRO BAY may form a Joint Powers Authority regarding the Estero Bay Community Pool.
- (5) Any party to this MOU may withdraw from this MOU, by providing written notice to the other parties that its governing body has adopted a resolution to withdraw. No withdrawal shall become effective until 60 days after being sent by the respective party.
- (6) All notices required by this MOU shall be in writing and shall be sent by United States mail, postage prepaid, and addressed to the other parties at their principal offices, or to such other addresses as the parties may designate from time to time.
- (7) Should any part, term, or provision of this MOU be decided by a final judgment of a court or arbitrator to be illegal or in conflict with any law of the State of California or otherwise be unenforceable or ineffectual, the remaining parts, terms, and provisions shall not be affected.
- (8) The persons executing this MOU represent that they are duly authorized by the party they represent to execute and bind that party. This MOU is the final, complete, and exclusive statement of the terms of the understanding between the Parties, supersedes all previous understandings between the Parties as to its subject matter, and may be amended only in a further writing executed by Parties.

IN WITNESS WHEREOF, the PARTIES hereto have duly executed this Memorandum of Understanding as of the date last listed below:

SO AGREED,

SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT (DISTRICT)

By:  Dated: 5/2. 2013
Eric Prater, Superintendent

CITY OF MORRO BAY (MORRO BAY)

By: _____ Dated: _____, 2013
Jamie Irons, Mayor

MORRO BAY COMMUNITY POOL FOUNDATION

By:  Dated: 5/16. 2013
Ian Starkie, President

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ["License"] is entered into by and between the City of Morro Bay ["Licensor"] and Lemos Feed & Pet Supply. ["Licensee"]

RECITALS

WHEREAS, Licensor is the owner of property currently used for a public parking lot located next to the southbound onramp for Highway 1 on Main Street, and adjacent to the property owned and to be redeveloped by the Licensee at 1320 Main Street; and

WHEREAS, the Licensee is proposing to redevelop his property located at 1320 Main Street and that redevelopment will provide a benefit to the economic vitality of the City as well as sales and property tax revenue to the City; and

WHEREAS, the nature of redevelopment requires the business to shut down for an extended period of time presenting substantial practical difficulties and expense for redevelopment, and loss of sales tax revenues to the City; and

WHEREAS, the Licensor has agreed to allow Licensee temporary use of said public parking area adjacent to 1320 Main Street to allow for Licensee's business to remain open during construction of the project, pursuant to the terms and conditions set forth in this License Agreement.

NOW, THEREFORE, the Licensor and Licensee agree as follows:

1. LICENSE. Licensor hereby grants to Licensee a temporary and nonexclusive license to use the public parking lot located adjacent to the property at 1320 Main Street as described on Exhibit A. The rights of the Licensee under this License shall include a nonexclusive right of Licensee over and across the City property.
2. TERM. The term of this License shall begin on the date of the issuance of a building permit to the Licensee for the development project and may continue for so long as the City Manager determines that use is necessary for the construction taking place. Licensee may terminate this License at any time upon thirty (30) days written notice to the other party. If this License is terminated pursuant to this provision, the Licensee shall remove all equipment, fencing, materials and so forth from the public parking lot area and return the site to its original or better condition within 10 business days after termination as directed by the City.
3. FEE. Licensee shall pay a monthly fee to the City of \$500.00. The Fee shall be paid to the City in advance on the first of each month. Such payment shall be prorated should this License agreement not commence or terminate on the first of the month and shall be due in advance on the first day of each month thereafter.

4. USE. The rights of the Licensee hereunder shall be for temporary use of the designated area of the parking lot as necessary to allow for the business at 1320 Main Street to remain open during construction. Licensee shall be responsible for obtaining all required permits pursuant to the Morro Bay Municipal Code or State law prior to using the parking lot. Licensee shall not permit any waste or damage to be done to the public parking lot and shall maintain the public parking lot and keep said area in good condition and repair, and free of any litter, construction debris or any other. The site shall be returned to the Licensor in its original or better condition when a Certificate of Occupancy is issued for the redevelopment project at 1320 Main Street.

5. INDEMNIFICATION. Licensee shall indemnify, defend, protect and hold harmless the Licensor, and its officers, agents, and employees from and against any and all liens and encumbrances of any nature whatsoever which may arise in the exercise of Licensee's rights hereunder, and from all claims, causes of action, liabilities, costs and expenses (including all reasonable attorney's and in-house counsel fees), losses or damages arising from Licensee's use of the public parking lot, any breach of this License, or any act or failure to act of Licensee or Licensee's agents, employees, construction workers, or invitees, except those arising out of the sole negligence or willful misconduct of the Licensor, its officers, agents and employees.

6. RISK OF DAMAGE OR LOSS. Licensee, as a material part of the consideration to Licensor, hereby assumes all risk of damage to its property or injury to all persons and personal property in or upon the public parking lot. Licensee hereby releases and relieves Licensor, and waives its entire right of recovery against Licensor, for any loss or damage arising out of or incident to the Licensee's use of the public parking lot.

7. HAZARDOUS MATERIALS. Licensee shall not use, generate, manufacture, store, transport or dispose of, on or over the public parking lot, any flammable liquids, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or any other "hazardous materials" as that term may be defined under federal or state laws, except for the hazardous materials which may be in the vehicles that Licensee will park or store on the public parking lot. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the public parking lot as a result of Licensee's use and occupancy thereof, Licensee shall provide notice as required by law, and Licensee, at its sole cost and expense, shall undertake all appropriate remediation on all the property affected, whether owned by Licensor or any third party, to the satisfaction of the Licensor and any governmental body with jurisdiction thereof. Licensee must also notify Licensor as required by law of any release of hazardous materials that have come or will come to be located on or beneath the public parking lot.

8. ALTERATIONS. Licensee shall not alter the public parking lot or make any improvements on the public parking lot except as specifically authorized by the City.

9. RESTORATION. Licensee shall maintain the public parking lot in its current condition and will restore the public parking lot to its pre-construction condition to include repair to any

damaged pavement, curbs, markings, or other public infrastructure components. All repairs must be completed ten [10] days after completion of the term outlined in paragraph 2 above.

10. **LIENS, TAXES AND ASSESSMENTS.** Licensee shall keep the public parking lot free from all liens, taxes and assessments resulting from or caused by the Licensee's use of the public parking lot, and shall operate the public parking lot in full compliance with all federal, state and municipal laws, ordinances and regulations governing the use and occupancy of the public parking lot.

11. **FENCING AND SIGNAGE.** Licensee may, with the advance approval of the City, erect fencing and post signage at the entry to the public parking lot indicating that the use of the public parking lot is restricted to the Licensee during the term of this Agreement.

12. **SURRENDER.** Upon the termination of this license, all rights, use and interest of the Licensee in and to this License shall be surrendered peaceably to the Licensor and the Licensee shall remove all property from the public parking lot and restore the public parking lot and, if needed, any adjoining property, to its former condition or better.

13. **INSURANCE.** Licensee shall maintain in full force and effect during the term of this License, at Licensee's sole cost and expense, a policy of comprehensive general liability insurance in terms and amounts satisfactory to the Licensor and approved in writing by the Licensor's Risk Manager.

14. **DEFAULT.** In the event of a breach by Licensee of any of the terms of this License, all rights of Licensee hereunder shall cease and terminate, and in addition to all other rights Licensor may have at law or in equity, Licensor may re-enter the public parking lot and take possession thereof without notice and may remove any and all persons and property therefrom, and may also cancel and terminate this License. Upon any such cancellation, all rights of Licensee in and to the public parking lot shall cease and terminate.

15. **RULES AND REGULATIONS.** The City shall have the right to establish and enforce reasonable rules and regulations concerning the management, use and operation of the public parking lot, and compliance with said rules and regulations by the Licensee and his officers, agents and employees is expressly made a term of this License Agreement.

16. **ASSIGNMENT AND SUBLETTING.** This License is personal to the Licensee and Licensee agrees not to sublease, assign, sell, transfer, encumber, pledge or otherwise hypothecate any part of the License or Licensee's interest in the public parking lot to any other person or entity without the prior written consent of the City, which consent may be withheld in the City's or Licensor's sole and absolute discretion. Any purported assignment or sublease by Licensee of this License shall be void ab initio and a basis for immediate termination of this License. In the event that the City or the Licensor shall provide such prior written consent to an assignment or

sublease by Licensee, any such assignment or sublease shall not relieve Licensee of its obligations under this License.

17. **ATTORNEY'S FEES.** If any party named herein brings an action to enforce the terms hereof or to declare its rights hereunder, the prevailing party in any such action, on trial and appeal, shall be entitled to recover its costs and reasonable attorney's fees, including those of in-house counsel.

18. **NOTICES.** All notices, consents, requests, demands, approvals, waivers, and other communications desired or required to be given hereunder shall be in writing and signed by the party so giving notice, and shall, with respect to the Licensor, be delivered, received and time stamped in the office of the City of Morro Bay, Attn: City Clerk's Office, 595 Harbor Street, Morro Bay, CA 93442. With respect to the Licensee, the notices shall be given to: Lemos Feed & Pet Supply, Attn: Michael Lemos, 2527 Los Berros Road, Arroyo Grande, CA 93420. Either party may, from time to time, change the designated party and address for its notices in the manner outlined above.

19. **GOVERNING LAW.** This License Agreement shall be interpreted, enforced and governed by the laws of the State of California.

20. **AMENDMENTS.** No provision of this License Agreement may be amended or modified except by an agreement in writing executed by both parties hereto.

21. **SEVERABILITY.** In the event that one or more of the provisions contained in this License shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the remainder of the provisions of this License shall continue in full force and effect without impairment.

22. **SOLE AGREEMENT.** This License constitutes the sole agreement between the Licensor and the Licensee with respect to the staging area.

IN WITNESS WHEREOF, each of the parties has caused its authorized representative to execute triplicate original counterparts of this License this _____ day of _____, 2013.

Licensor: _____
Andrea Lueker, City Manager

Licensee: _____
Michael Lemos, Lemos Feed & Pet Supply

RESOLUTION NO. 33-13

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT
FOR THE NORTH POINT NATURAL AREA
LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT**

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

WHEREAS, on May 14, 2013 the City Council adopted Resolution No. 26-13 declaring the Council's intent to levy an assessment for the annual maintenance of the North Point Natural Area and approving the Engineers Report; and

WHEREAS, a public hearing to hear all protests as to the levy of the annual assessment of said district was scheduled for June 25, 2013 at 6:00 p.m. in the Veteran's Memorial Building; and

WHEREAS, notices were mailed to one hundred percent (100%) of the property owners on record in the district regarding the proposed assessment listing the date, time and location of the protest hearing, as well as being published in the local newspaper; and

WHEREAS, the City Council did hear objections of all interested parties as to the levy of the annual assessment for the North Point Landscaping and Lighting Maintenance Assessment District on June 25, 2013 at the Veteran's Memorial Building.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the annual levy for the maintenance of North Point Natural Area Landscaping and Lighting Maintenance Assessment District generally located as shown on Exhibit "A" attached hereto is hereby ordered and the assessment of \$5,645 to be equally distributed per assessable parcel for the Fiscal Year 2013-14 is hereby confirmed.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay that adoption of this resolution shall constitute the levy of an assessment for the Fiscal Year 2013-14 and the City Clerk shall file the diagram and assessment with the County of San Luis Obispo Auditor.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 25th day of June, 2013 by the following roll call vote:

AYES:

NOES:

ABSENT:

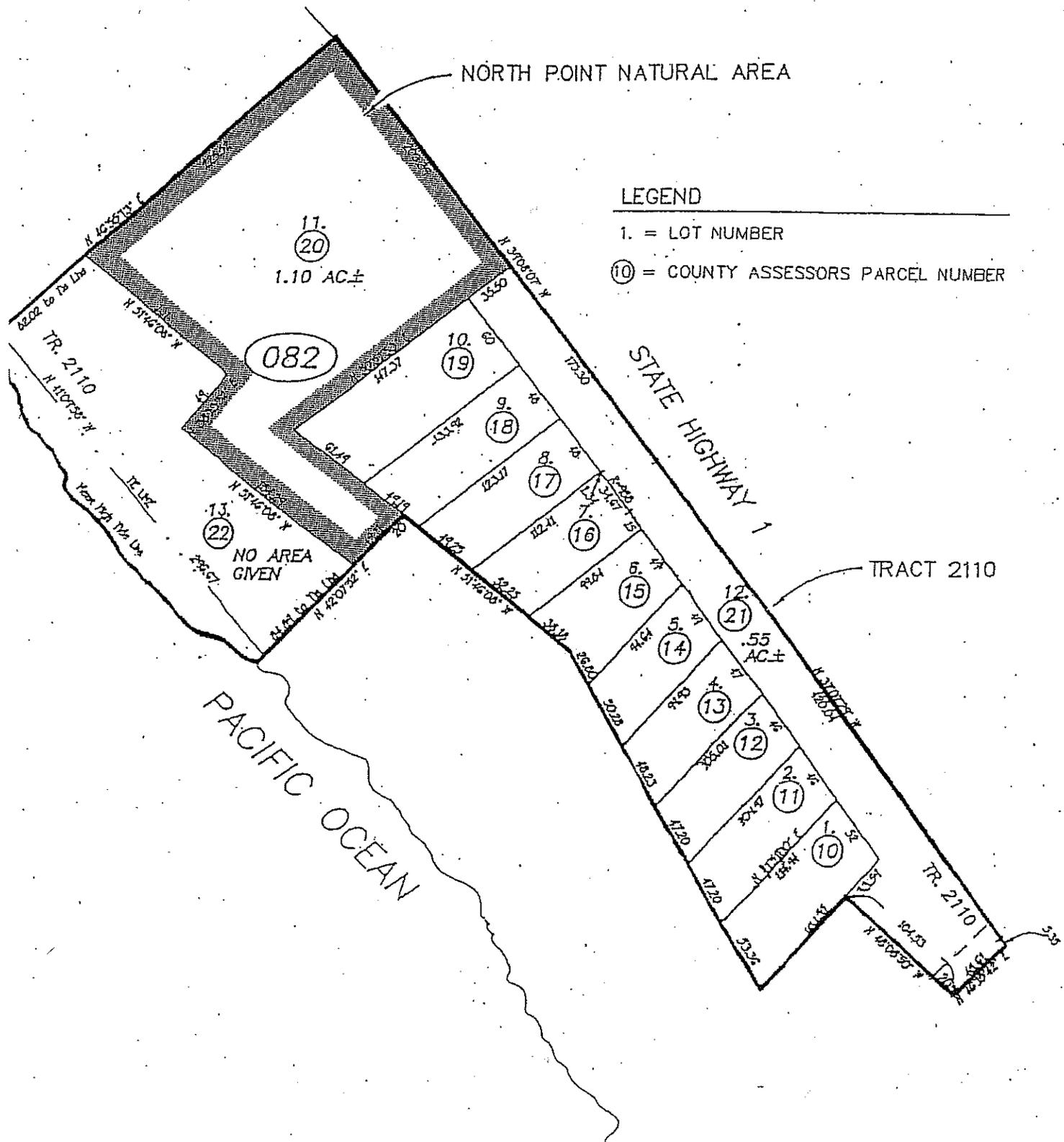
JAMIE L. IRONS, MAYOR

ATTEST:

JAMIE BOUCHER, CITY CLERK

NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT

ASSESSMENT DIAGRAM



LEGEND

1. = LOT NUMBER

⑩ = COUNTY ASSESSORS PARCEL NUMBER



AGENDA NO: B-2

MEETING DATE: June 25, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 17, 2013
FROM: Joseph M. Woods, Recreation and Parks Director
SUBJECT: Resolution No. 34-13 Directing the Levy of the Annual Assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District

RECOMMENDATION

Staff recommends the City Council complete the final public hearing on the annual levy of assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District, and then adopt Resolution No. 34-13 confirming the levy of assessment for Fiscal Year 2013-14.

ALTERNATIVES

Alternative 1 – City Council hold a public hearing on the annual levy of assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District and then adopt Resolution No. 34-13 confirming the levy of assessment for Fiscal Year 2013-14.

Alternative 2 – City Council hold a public hearing on the annual levy of assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District and not adopt Resolution No. 34-13 which would include specific follow up direction for staff .

FISCAL IMPACT

By adopting Resolution No. 34-13, \$148,944 will be collected through an assessment of all parcel owners in the Cloisters subdivision for the maintenance of the Cloisters Park and Open Space.

SUMMARY

At the May 14, 2013 City Council meeting, Council adopted Resolution No. 27-13 approving the Engineer's Report describing the annual maintenance to be completed at the Cloisters Park and Open Space, and declaring the City's intent to levy an annual assessment to finance this maintenance. The assessment, projected at \$1,241.20 per assessable lot in the Cloisters subdivision, will be collected by the County Assessor. As part of the assessment process, the City ordered the preparation of an Engineer's report, adopted a resolution of intention to levy an assessment, set June 25, 2013 as the hearing date on the proposed levy of assessment, noticed all property owners on record via first class mail of the hearing and published the notice in the local newspaper. The Council must hold this protest/public hearing before considering the levy of the annual assessment.

Prepared By: RS/JMW

Dept Review: JMW

City Manager Review: _____

City Attorney Review: _____

BACKGROUND/DISCUSSION

Staff has received nine letters in protest of the Assessment District which are attached to this staff report. The nine protests generally express the concern that general city funds should be used to cover the maintenance of public facilities and that the Assessment District should not fund these facilities since no substantive “special benefit” has ever been identified.

The nine letters of protest regarding general vs. special benefit allocations is not a new protest or argument. In 2004, a lawsuit was filed by three Cloisters’ residents against the City of Morro Bay. The lawsuit asserted that the Cloisters special assessment exceeds the cost of any special benefit conferred on their properties, and therefore is excessive just as the current nine protesters are asserting. The Court ruled against the three Cloisters residents and in favor of the City of Morro Bay. The Court determined in order to mitigate the environmental impacts of the Cloisters project, and to provide a greater than public benefit as required in a Planned Development (PD) overlay zone, the conditions of approval for the Cloisters project required the applicant form a 100% special benefit assessment district for the maintenance of the public park, bicycle pathway, right of way landscaping, coastal accessways, Environmentally Sensitive Habitat (ESH) restoration areas and any other improved common areas to be privately held or dedicated to the City.

The Court determined that there are many special benefits associated with the Cloisters Assessment District. The Cloisters lots directly benefit from the huge extent of the Cloisters open space and close proximity of the public park, bicycle pathway, right of way landscaping, ESH restoration areas and coastal accessways. There was also created and reserved in favor of each owner in the Cloisters Development easements for view, open space, scenic, passive recreation and coastal access across the entirety of LOTS 121, 122 and 123, which shall not be developed with any improvements or structures unless necessary and proper for the restoration and maintenance of the Environmentally Sensitive Habitat Area. The Court determined that further special benefits are: Improved aesthetic appeal of nearby parcels; Improved dust control; Enhanced adaptation of the urban environment within the natural environment; Improved erosion resistance; Improved drainage and flood control; Enhanced crime deterrence and enhanced aid to police protection; Increased nighttime safety on roads and highways; Improved visibility for pedestrians and motorists; Improved ingress and egress to property; Reduced vandalism and other criminal acts and damage to improvements or property; Improved traffic circulation and reduced nighttime accidents and special enhancement to property value resulting from the above benefits.

The Court also determined that the City does not need to, nor is it required, to prepare an annual redetermination of the separation of special and general benefits. The Court specially held that:

“when the special assessment district was formed the owner of all of the parcels consented to its formation. Moreover, the owner did not object to the amount of the assessment, which the City based upon the cost of the special benefits being conferred on the properties within the assessment district, nor to the specific amount allocated to each parcel as its proportionate share. Because express consent to the amount and

allocation of the assessment was given by petitioners' predecessor, and petitioner's purchased their properties with actual or constructive knowledge of the amount of the assessment, it is too late for them now to withdraw the consent and attack the amount of the assessment.”

While the benefits from the assessment go far beyond the maintenance of the Districts amenities, staff recognizes the importance of meeting our obligations which are outlined in the Engineer’s Report and have taken positive steps in correcting identified deficiencies. Staff continues to utilize the City’s web site using the “Notify Me” modular to inform Cloisters residents of upcoming meetings and various upcoming maintenance tasks. This form of communication has been well received by the residents and will continue through the upcoming fiscal year.

Staff reports a favorable performance by the contractor during the past fiscal year in providing the periodic maintenance of the District. Over the course of the year, the District experienced several negative impacts which required additional resources to correct. One such setback was the increase of graffiti along the walking path and on multiple park amenities. The failing of the play structure foundation and several elements was significant enough to temporarily close the playground. Staff solicited local representatives of play structure manufactures to estimate replacement of the play structure. After examining various solutions, it was agreed to repair the existing structure and open the play ground as soon as possible. With the help of a local contractor, staff was able to open a majority of the play structure on June 12, 2013. The remaining repairs are pending and staff is hopeful the complete structure will be operational by the end of June 2013.

Staff has taken a conservative approach with the District’s resources and is targeting major deficiencies with deferred maintenance budget allowances. Being the first year of outsourcing, staff has delayed the implementation of action to ensure adequate funding is available. Deferred maintenance items such as interpretive panels, walk ways, and parkway trees will be addressed within the first quarter of the upcoming fiscal year, and staff is working on completion sooner if possible. The outsourcing approach has shown to be effective within the District, but has not reduced the overall costs of maintaining the District. Savings from periodic maintenance performance will be allocated to deferred maintenance as well as repair to existing infrastructure on a case by case basis.

CONCLUSION

Staff is prepared to continue the Assessment District and fulfill the City’s obligation to maintain the Cloisters Lighting and Maintenance Assessment District as outlined in previous staff reports. Staff will continue communicating with the owners to enhance our relationships and to allow for noticing of upcoming events which may impact their residence.

RESOLUTION NO. 34-13

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT
FOR THE CLOISTERS LANDSCAPING AND
LIGHTING MAINTENANCE ASSESSMENT DISTRICT**

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

WHEREAS, on May 14, 2013 the City Council adopted Resolution No. 27-13 declaring the Council's intent to levy an assessment for the annual maintenance of the Cloisters Park and Open Space and approving the Engineers Report; and

WHEREAS, a public hearing to hear all protests as to the levy of the annual assessment of said district was scheduled for June 25, 2013 at 6:00 p.m. in the Veteran's Memorial Building; and

WHEREAS, notices were mailed to one hundred percent (100%) of the property owners on record in the district regarding the proposed assessment listing the date, time and location of the protest hearing, as well as being published in the local newspaper; and

WHEREAS, the City Council did hear objections of all interested parties as to the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District on June 25, 2013 at the Veteran's Memorial Building.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the annual levy for the maintenance of Cloisters Landscaping and Lighting Maintenance Assessment District generally located as shown on Exhibit "A" attached hereto is hereby ordered and the assessment of \$148,944 to be equally distributed per assessable parcel for the Fiscal Year 2013-14 is hereby confirmed.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay that adoption of this resolution shall constitute the levy of an assessment for the Fiscal Year 2013-14 and the City Clerk shall file the diagram and assessment with the County of San Luis Obispo Auditor.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 25th day of June, 2013 by the following roll call vote:

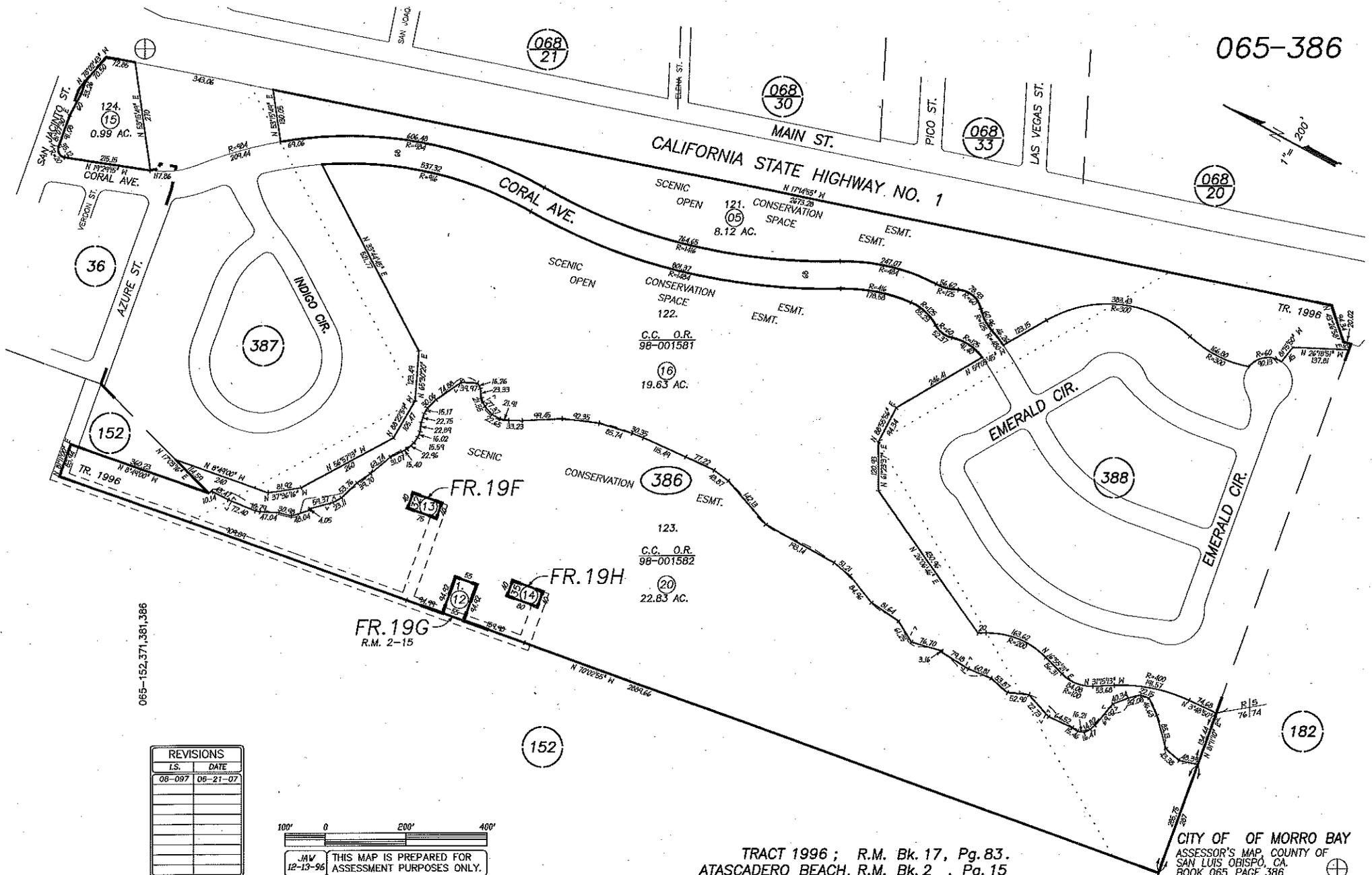
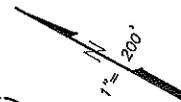
AYES:
NOES:
ABSENT:

JAMIE L. IRONS, MAYOR

ATTEST:

JAMIE BOUCHER, CITY CLERK

065-386



065-152,371,381,386

| REVISIONS | |
|-----------|----------|
| I.S. | DATE |
| 06-097 | 06-21-07 |
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JAN 12-13-96 THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY.

TRACT 1996 ; R.M. Bk. 17, Pg. 83.
ATASCADERO BEACH, R.M. Bk. 2 , Pg. 15

CITY OF MORRO BAY
ASSESSOR'S MAP, COUNTY OF
SAN LUIS OBISPO, CA.
BOOK 065 PAGE 386.

RECEIVED
City of Morro Bay

June 6, 2013

JUN 12 2013

Administration

John & Marla Allen
2758 Indigo Circle
Morro Bay, CA 93442

Attention: Cloisters Landscaping and Lighting Maintenance Assessment District
City Clerk, City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

To Whom It May Concern:

We are new to the area and were so surprised to find out that the special assessment was for the maintenance of Cloisters Park and Open Space. We feel this area is used by the general public and therefore should be maintained by the City of Morro Bay.

Thank you for your consideration.

Sincerely,



John and Marla Allen

cc: Council
Luehr
Schultz
Woods

Steven D. Rathfon

2262 Emerald Circle
Morro Bay, CA 94611
Phone: (510) 912-0675
Facsimile: (510) 531-1419
Email: sdrathf@pacbell.net

RECEIVED
City of Morro Bay

JUN 12 2013

Administration

June 5, 2013

City Clerk
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442-1900
Tel: 805-772-6200

Re: Cloisters Landscaping and Lighting Maintenance Assessment District – Assessment

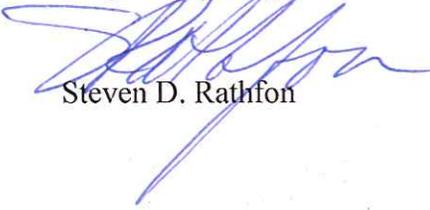
Dear Clerk,

Once again, we hereby protest the proposed “Cloisters Landscaping and Lighting Maintenance Assessment District” annual assessment.

The time has come to require that general city funds cover the maintenance of this public facility which benefits all visitors, not just nearby property owners, for which no substantive “special benefit” has ever been identified. Indeed, the presence of restrooms in the park attest to the fact that this park was intended by the city to benefit Morro Bay residents who do not live in the Cloisters. Those restrooms also attract vagrants, and non-residents to the park to use the facilities – hardly a benefit for adjacent residents. And, this park, through city’s failure to manage it or to act, has become a de facto dog park for dog owners in surrounding neighborhoods.

How long can you keep up this fiction of the Cloister’s Park providing a special benefit to the 120 residents who pay a special assessment of \$1200 each year for what is actually a city park equally available to all Morro Bay residents and used more by the adjoining neighborhoods than by the Cloister’s residents?

Very truly yours,


Steven D. Rathfon

cc: Council
Keebler
Schultz
Woods

RECEIVED
City of Morro Bay

JUN 12 2013

Administration

June 8, 2013

City Clerk, City of Morro Bay

Attention: Cloisters Landscaping and Lighting Maintenance Assessment District

We would like to protest the levy of assessment for the Cloisters. In addition to our regular property taxes we are asked to pay an extra 100 per month for a park that is open to the public. This just seems to be basically unfair as we receive no "special benefits" for our extra monies.

The area is looking much better, the landscapers are doing a superior job, why did it take 20 years to achieve? We still need a lot of things done around the area, sidewalks and fences still need attention.

Sincerely,

Doug and Vicki McDonald

2782 Indigo Circle

cc: Connal
Hueber
Schultz
Woods

RECEIVED
City of Morro Bay

JUN 12 2013

Administration

James R. Tobias
Joanne Tobias
2254 Emerald Circle
Morro Bay, CA 93442
805-772-3874

04 June 2013

City Clerk, City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

Attention: Cloisters Landscaping and Lighting Maintenance Assessment District

We protest the levy of assessment for the Cloisters Park and Open Space.

Because no substantive "special benefit" has ever been identified for the Cloisters property owners, and furthermore, this public facility benefits all visitors, the time has come to require that general city funds cover the maintenance of the Cloisters Park and Open Space.

Thank you for your consideration.

Sincerely,



James R. Tobias



Joanne Tobias

cc Carnal
Kuhn
Schultz
Woods

RECEIVED
City of Morro Bay

JUN 12 2013

Administration

Michael L. Baird
Heidi N. Baird
2756 Indigo Circle
Morro Bay, CA 93442
805-704-2064
805-748-1942

Attention: Cloisters Landscaping and Lighting Maintenance Assessment District
City Clerk, City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

04 June 2013

We protest the proposed "Cloisters Landscaping and Lighting Maintenance Assessment District" annual assessment.

The time has come to require that general city funds cover the maintenance of this public facility which benefits all visitors, not just nearby property owners, to which no substantive "special benefit" has ever been identified.

Thank you for your consideration.

Michael L. Baird mike@mikebaird.com

Heidi N. Baird heidi@mikebaird.com

CC Council
Kuehn
Scheetz
Woods

RECEIVED
City of Morro Bay

JUN 12 2013

Administration

June 10, 2013

2293 Emerald Circle
Morro Bay, CA 93442

City Clerk, City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attention: Cloisters Landscaping and Lighting Maintenance Assessment District

RE: Cloisters Landscaping and Lighting Maintenance Assessment District

To Whom It May Concern:

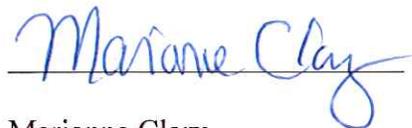
We protest the proposed "Cloisters Landscaping and Lighting Maintenance Assessment District" annual assessment.

Ethically, we believe that the time has come to require that general city funds cover the maintenance of this public facility which benefits all visitors, not just nearby property owners, to which no substantive "special benefit" has ever been identified.

Thank you for your consideration.



George Clary



Marianne Clary

cc Cornal
Kush
Scheetz
Woods

Copy: Council
Lueker
Schultz
Woods

RECEIVED
City of Morro Bay

JUN - 7 2013

City Attorney

**Marcella Taylor Gelman
Richard Gelman
2380 Brigden Road
Pasadena, CA 91104**

June 5, 2013

City Clerk, City of Morro Bay
ATTN: Cloisters Landscaping and Lighting Maintenance Assessment District
595 Harbor Street
Morro Bay, CA 93442

To Whom It May Concern:

We received a letter from the City, dated 5/31/13, discussing the 6/25/13 public hearing for the actual levy of assessment for the maintenance of the Cloisters Park and Open Space. The letter indicated, that as a property owner, one may protest by addressing a letter as we did below, or by appearing at the public hearing on 6/25/13 at 6:00 p.m. in the Morro Bay Vet's Hall.

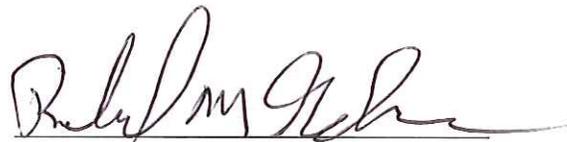
We protest the proposed "Cloisters Landscaping and Lighting Maintenance Assessment District" annual assessment. The time has come to require that general city funds cover the maintenance of this public facility which benefits all visitors, not just nearby property owners, to which no substantive "special benefit" has ever been identified.

Thank you for your consideration.

Sincerely,



Marcella T. Gelman



Richard M. Gelman

Assessment No: 065,387,010 (Lot #10)

June 7, 2013

City Clerk, City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

Subject: Cloisters Landscaping and Lighting Maintenance Assessment District

To: Mayor Irons, Members of the City Council,
City Manager and Recreation and Parks Director

We protest the proposed "Cloisters Landscaping and Lighting Maintenance Assessment District" annual assessment.

It appears to us that the private contractors are doing a very good job in the maintenance of the park and other areas. However, the majority of their work provides no special benefit to Cloisters residents.

The one area of work that could be interpreted as a "special benefit" is the improved planting and maintenance of the curbside parkways. As many of our neighbors have already done, this area could be planted and maintained by each homeowner.

We believe that the time has come to require that general city funds cover the maintenance of this public facility which benefits all visitors. There is no "special benefit" to Cloisters property owners.

Thank you for your consideration.

Marjorie and Charles York
2260 Emerald Circle
Morro Bay, CA 93442

mwyork@onemain.com
805-772-1042

JB
received email 6/7/13

emailed to Council
6/11/13
Heck
Scheetz
Woods

JUN - 7 2013

June 7, 2013

City Attorney

Subject: Cloisters Special Assessment District Protest

Dear Council Member,

After reviewing the discussions of the council meeting on May 14, 2013, concerning the Cloisters Special Assessment District (SAD), I thought it important to try to clarify several points and provide additional information for your consideration prior to the next vote authorizing the actual levy of the tax.

Firstly, my presentation and questions presented at the meeting of May 14th were created the afternoon of said meeting, based upon a discussion with Dawn Beattie the day before. My intent was merely to request the delay of the approval of the Engineer's Report until the answers to the questions from the City staff could be obtained. I believe that you received poor and inappropriate advice when you were told that you needed to approve the assessment levy that night. What is the purpose of voting if one cannot vote no?

Secondly, many of you are new to the City Council and may not know the history of the Cloisters SAD, the formal protests, previous (3 to 2) votes and litigation. A brief history of this issue and recommendations are presented for your review. (Please see attached).

After your careful review of the information presented, please exercise your sworn duty to uphold the law. Notwithstanding all the background data, claims and counter claims, the law as written and in force today is very clear. The city has the right to establish a SAD but they have the responsibility to insure the taxes collected are for special benefits not available to the general public. This is to be done every year and approved by you, the city council.

I entrust you to please do the right thing and vote No on the Resolution to levy the tax. I have had several attorneys tell me that there is no reasonable way to legally justify a SAD tax levy to maintain a public facility. I would also humbly request that you seriously consider getting a few outside legal opinions. I would think that near by local government attorneys would give their opinion on this matter free of charge.

If you would like to discuss this issue further, please contact me by phone at 235-5174.

Thank you for your considerate review of this request.


John Lauffer

cc

✓ City Clerk
City Attorney

City Manager
R+D Director

June 7, 2013

Cloisters Special Assessment District Information

Background

1. The development now known as the Cloisters was mapped before WWII, similar to the Beach tract, to include approximately 600 parcels.
2. After WWII, it remained undeveloped seasonal wet area, dumping grounds for miscellaneous materials, and an unofficial dog park.
3. Developers tried for many years to gain approval to develop the acreage, with much discussion and controversy regarding the best usage of the area.
4. Finally, in the late 1990's, approval to develop the property for residential use was obtained from the Coastal Commission and the City of Morro Bay.
5. The approval came with major concessions and "development costs."
 - a. All the ocean front property was given (deeded) to the state.
 - b. 120, not the originally proposed 600 residential lots, were approved in two clusters.
 - c. It was required by the City of Morro Bay that a major portion of the property be deeded to the City for a public park, public trails and public open space, including a lake. The developer would be responsible for the design and to bear all costs in developing the public park, restroom and trail network.
 - d. Another large parcel on the north end of the development, at the City's demand, was deeded to the City and designated for a fire station. It is currently determined to be excess property and is subdivided into six lots and is presently for sale by the City.
 - e. Furthermore, the developer was also required to maintain the roads and public areas until 90% build out was achieved. At the time, this was viewed as a financial protection for the City, because the developer was only selling lots, and individuals were building homes independently at an undetermined rate. Normal tax base growth rate was uncertain.
 - f. In conjunction with item e., a special tax district was established by the City and agreed to by the developer (the sole owner at the time) to obligate each future parcel purchaser to pay a special tax up to a maximum of \$1241.20 per year. Initial estimates for this tax included non-recurring costs such as equipment including a tractor and truck. It is interesting to further note, however, that year in and year out, the estimate somehow always equals the maximum possible and has always been approved by the City Council.
6. The Special Assessment Tax was intended to be temporary until the City could find another way to fund these costs. Per city documents during this time period, the Conditions of Approval - Condition 10e, "...This requirement **shall** be modified **when** an entity acceptable to the City assumes ownership maintenance

responsibility for a particular area or improvement." It reads **shall**, not **may**, and **when**, not **if**... The intent was clearly to protect the city until 90% build out and then use general tax funding. At the time, another alternative was also evaluated, a city-wide SAD for public park funding. It was rejected, which suggests that it was determined to be wrong. However, the Cloisters SAD continues to double tax its owners for public park maintenance.

7. This temporary SAD did protect the City until the homes were built and homeowners started paying property taxes to support the City services, including the maintenance of "all the public parks." The Cloisters development of over one hundred homes is estimated to pay approximately \$750,000 per year in property taxes. Many homes are not occupied full time (vacation homes), few homes have children (many retirees), all have fire sprinklers, and many have home security systems. It is a fact that the Cloisters homeowners pay more than "their fair share" of taxes to support education, police and fire protection, and public park maintenance without the SAD tax.

8. The SAD was established under the Landscape and Lighting Maintenance Act of 1972. The law is very clear. **Special tax for special benefits NOT available to the general public.** It also requires annual estimates and reviews to insure it is being appropriately applied. **These are extremely important facts to consider in this review and approval process.**

9. The Cloisters residents protested this tax in years 2002, 2003, 2004, and 2005. Upwards of 75% of the residents signed a petition protesting the SAD. Several heated, argued and extremely close 3 to 2 Council Member votes maintained the SAD. For two years running, a certain councilman vowed that he didn't agree with the SAD, but voted for it, anyway (peer pressure), and said openly at the city council meeting that it would be his last year in supporting it, then went right on the following year and the year after that to go back on his word and continue to vote for the SAD.

10. In 2005, after exhausting all reasonable alternates, a vast majority of the residents contributed to a fund to hire an attorney and file suit against the City. At the conclusion of the hearing, in San Luis Obispo on August 18, 2005, the Honorable Judge Hilton declared in favor of the residents and against the City, declaring that the law was specifically clear, and that any entity cannot have a SAD for a public benefit. He went on to state, in open court, that the residents of the Cloisters could look forward to his written decision in approximately 60 days with regard to this matter. Sixty days came and went. The law reads that the judge has ninety days to rule after a decision. As Judge Hilton was retiring, apparently he wasn't concerned with this particular law, and after nearly six months, with no notice or explanation, whatsoever, he changed his mind and ruled against the plaintiffs, in spite of what he said in court about the law reading, "no special tax without a special benefit not available to the general public." Out of the blue, he blatantly ruled in favor of the City to maintain the SAD. The reason given was loosely stated that since the original landowner (developer) agreed to it and no one at the time objected to it, it was okay. Okay???... The people who purchased the parcels were notified of the SAD and as indicated above, have continued to exercise their right to protest.

Potential Future

1. If the City Council votes, as recommended, to NOT levy the SAD, The City could continue to maintain the public park and open space with general funds generated by the Cloisters' normal taxes. **In addition**, the sale of the six city lots, which were originally given to the city for a fire station, could provide over one million dollars to transition from special tax to general funding. If done appropriately, this transition could be done over five to ten years. It has recently been indicated that the City may be planning to use these funds for the fire department. If this was determined to be legal, and appropriate for fire department funding, it should consequently lower general funding requirements for the fire department operation and therefore provide transitional funding as described above.
2. If the City were to continue the SAD, the potential exists for a civil lawsuit to recover previous taxes paid and the cost of the fire station parcel, which were included development costs incorporated in each of our original parcel purchase prices. This is not intended as a threat, but merely a potential possibility. It has been suggested that the law firm, Rutan and Tucker, are experienced in this area and might find a several million dollar civil suit attractive on a contingency basis. Although the previous court finding found the SAD was legally established and a maximum limit was established, the city still has the responsibility to **obey the law** on which the SAD was established. The city is required to annually estimate maintenance costs, publically review them, receive public comment, and submit to the county only the current, complete, and accurate estimated costs for the SAD special benefits NOT AVAILABLE TO THE GENERAL PUBLIC!



AGENDA NO: D-1

MEETING DATE: June 25, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: June 19, 2013

FROM: Eric Endersby, Harbor Director

**SUBJECT: Consideration of Future of Lease Site 69-70/69W-70W, Morro Bay Aquarium
(Dean and Bertha Tyler)**

RECOMMENDATION

Staff recommends that the Council consider the alternatives and provide staff direction.

ALTERNATIVES

- A. Accept the Leaseholders' proposal and authorize staff to begin lease negotiations with the Leaseholder for their proposal.
- B. Direct staff to prepare and bring back a Request for Proposals (RFP) for the site.

FISCAL IMPACT

No fiscal impact at this time.

SUMMARY

The Leaseholder on lease site 69-70/69W-70W has submitted a proposal for a new 10-year lease for public comment and Council consideration. Council is being asked to consider their proposal and provide staff direction on the alternatives.

BACKGROUND

Lease Site 69-70/69W-70W is a 50-year Pipkin lease that expires in September 2018. This lease site is within the last five years of its lease term. In 2011 and again last year, staff contacted the Leaseholders to see if they were interested in a new lease after 2018, and if so, to submit a proposal for improvements. Receiving no proposal, last fall the City Council directed staff to put the site out for Requests for Proposals (RFP). Due primarily to constraints in available staff time, to date an RFP has not been issued.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

On February 28, 2013 the Leaseholders submitted a modest proposal for a new 10-year lease. In addition, staff is now in receipt of a new proposal from the Leaseholders, again for a new 10-year lease. Both proposals are attached to this staff report. Staff has met several times with the Leaseholders and their representatives to discuss their proposals.

At the May 2, 2013 Harbor Advisory Board (HAB) meeting, the aquarium was on the agenda for a general public discussion of the future of the lease site. The staff report and pertinent minutes of that meeting are also attached to this report. While the HAB took no formal action during that meeting, the board was generally supportive of the Tylers while at the same time recognizing the need for site improvements and modernization.

DISCUSSION

The City's Lease Management Policy in regard to Negotiations states:

“All lease sites eventually need to be reconstructed or significantly remodeled. In general, the City desires such reconstruction to bring improvements up to modern building codes, design criteria, and market conditions. The City acknowledges that tenants will need to renegotiate leases to new longer terms to amortize and collateralize their investment on the public property. “

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 Leaseholders have submitted two proposals. The first proposal consists of dock and piling repairs, and a cosmetic upgrade to the building, while keeping the existing structure and use essentially as-is. The second proposal adds increasing the price of the current admission in order to generate new revenue that would go into a new dedicated fund that would be turned over to the City at the end of a ten-year lease period. This fund would be dedicated toward the future rebuild/remodel of the site. The Leaseholders are estimating that this would potentially generate between \$500,000 and \$750,000 over the ten years. The two alternatives for Council to consider are being provided.

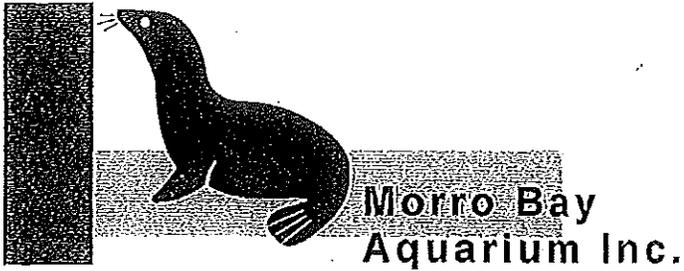
Alternative A is accepting the Leaseholders' proposals and directing staff to work with the Leaseholder on the details of a new lease. Staff will report back to Council in closed session on the status of these negotiations as they progress.

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

The City has received numerous public correspondences on whether or not to enter into a new lease with the Leaseholders, both in favor and against, that are available for review in the City Clerk's office.

CONCLUSION

Staff recommends that City Council take public input, consider the Leaseholders' proposals as submitted, and provide staff direction on the alternatives being presented. The Leaseholder is a tenant in good standing and is considered to have a "good history of lessee performance" per the Lease Management Policy.



595 Embarcadero
Morro Bay, CA 93442

Phone: (805) 772-7647
Email:
mbaquarium@charter.net

February 3, 2013

City of Morro Bay

Attn: Rob Schultz

595 Harbor Street

Morro Bay, CA 93442

Re: Lease Site 69-70/69W-70W (Morro Bay Aquarium site)

This letter is in regards to the above mentioned lease site. I am respectfully requesting a ten year lease. I recognize that the City shouldn't give a new lease without having some benefits in return. To that end, I would like to offer the following items for your consideration.

- Change the current lease format to include a percentage of gross sales for the retail shop. This will result in additional annual revenue to the City
- Dock repairs including new pilings
- Cosmetic upgrade to the building
- Keeping the lease site as an aquarium

The Morro Bay Aquarium Inc. is a well-established business that has served the City of Morro Bay for over fifty year by bringing in visitors from all over the world and has helped in many community events. It is an integral part of the Embarcadero by drawing thousands of tourists and locals to feed the seals and view marine life up close. All in all, we would say that the Morro Bay Aquarium Inc. has helped contribute to the local economy.

The Morro Bay Aquarium will be embarking on a new capital improvement venture that will surely transform the look of the current building. I have other improvements that I would like to begin now pending a new ten year lease.

The City's Harbor Lease Management Policy recognizes the need for reconstruction or significant modifications to bring the waterfront buildings up to modern code, design criteria and market conditions. It further acknowledges that tenants will need to renegotiate the lease to longer terms to amortize and collateralize their investment on public property. With this in mind, we would sincerely like to work with the City on obtaining a new ten year lease agreement for the Morro Bay Aquarium Inc.

In this case, the building is in good condition and does not warrant demolition at this time since we are only requesting for a ten year lease. It is a charming building and should be kept in the current configuration as best as possible with some modern cosmetic work. It has a retail shop, offices and aquarium. Therefore, it is not feasible for us to design a major renovation to the site at this time. Once these improvements have been completed, the City will most certainly reap financial benefits. We are committed to making this project work.

The downturn in the economy over the last few years has hit both municipalities and business. In times such as this, I feel it extremely important that we continue a partnership between the City and local businesses to effectively turn this around and make us whole again. Hence, the request for a new lease agreement at this time will allow us to move forward with the current renovations and the new project which will in turn reward the City with added financial benefits sooner.

We have been a good tenant for the City for over fifty years. We have always paid the rent on time and have made some significant improvements. Which have included; adding a second story and increased the gift shop area. We are asking for the Council's support of this new lease in exchange for the benefits we have listed above and to allow us the opportunity to work to build a project that will be beneficial to all of us.

In support of our request, the Morro Bay Aquarium Inc. has maintained a great record with the City for compliance with lease conditions and responsiveness to Harbor Department needs. Furthermore to promote the City's long term vision outlined in the Waterfront Master Plan and other important City planning documents.

We thank you for your time and consideration on this matter and we will look forward to discussing this with you soon. Please don't hesitate to contact me if you have any further questions.

Sincerely,

Dean & Bertha Tyler

Morro Bay Aquarium Inc.

In pursuit of the above stated results, and for the stated reasons, the Tylers would like to propose increasing the price of admission to the Aquarium in a sum certain, and dedicating such increased revenues to a capital improvement fund for the Aquarium site. The funds thus collected are estimated by the Tylers (without benefit of professional financial analysis, but upon conservative financial principles) to be not less than \$500,000.00 over ten years and potentially in excess of \$750,000 over ten years. In order to continue operationally, the Aquarium would require the City to maintain a monthly rental rate substantially equivalent to that currently being paid. The Tylers believe this approach would strike the best balance of accommodating the interdependent needs of the Aquarium, the City, and the public, while best respecting not merely history and heritage, but also the progress and promise of the future.

The Tylers would like this proposal to be a starting point for a discussion about how to secure the best results for all involved, and they are optimistic about discussing additional ideas they have for the terms of a lease or license. As there are approximately three months remaining before the Aquarium hits its "five years out" mark, there would seem to be time yet to discuss the various options for the Aquarium.

Eric, I would be in your debt if you would treat the above as a rough proposal on behalf of the Tylers and forward it to the appropriate people within the City. Please advise as soon as possible if I can help things along by providing this information directly to anyone in particular.

Thank you again for your assistance yesterday, and please do pass long the same regards to everyone present. The Tylers and I look forward to working with you and your colleagues in finding an appropriate solution to the Aquarium lease renewal.

Very truly yours,

Tave Holland

Law Offices of J. Tavener Holland
1220 Marsh St.
San Luis Obispo, CA 93401
Ph: (805) 781-0788
Fax: (805) 781-0828

tave@jthollandlaw.com



AGENDA NO: B-3

MEETING DATE: May 2, 2013

Staff Report

TO: Harbor Advisory Board
FROM: Eric Endersby, Harbor Director
SUBJECT: Morro Bay Aquarium

DATE: April 23, 2013

RECOMMENDATION

Receive and facilitate testimony.

BACKGROUND

The 50-year lease with Dean and Bertha Tyler for the Morro Bay Aquarium expires in 2018. The City Council-adopted Lease Management Policy stipulates, in part, that all lease sites eventually need to be reconstructed or significantly remodeled to bring sites up to modern codes, design criteria, market conditions, and to incorporate elements of the City's General Plan and Local Coastal Plan. Since this process can take several years from inception, through permitting, and into construction, the City typically desires to start into this process at the five-year mark from lease expiration.

In 2011 and again last year staff contacted the Tylers to see if they were interested in a new lease after 2018, and if so what their proposal was to receive one. Receiving no proposal, last fall the City Council directed staff to put the site out for Requests for Proposals (RFP). Due to constraints in available staff time, to date the RFP has not been issued.

DISCUSSION

The Morro Bay Aquarium is an important and historical lease for the City of Morro Bay. Since its inception and construction in 1968, and subsequent upstairs addition in the 1980's, it has served as a marine mammal rescue and rehabilitation center, information and education center, and tourist and local attraction for almost five decades. While its current configuration may be argued in terms of appropriateness in this day and age, it cannot be denied that the Tylers have dedicated their lives to the community and to operating a popular and important center of marine education, display, and animal rehabilitation over the years.

In recent months considerable interest and ideas have been expressed for this site, including from the Tylers, the public, City Council, and other groups. This meeting is a first organized public step for the community and the lease holder to weigh-in on what they see as the future of the aquarium and this site. A City Council hearing is tentatively set for June 25th.

Prepared By: EE

Dept. Review: EE

CITY OF MORRO BAY

HARBOR ADVISORY BOARD

PERTINENT EXCERPTS FROM SYNOPSIS MINUTES

The regular meeting of the City of Morro Bay Harbor Advisory Board was held Thursday, May 2, 2013 at 6:00 PM in the Veteran's Hall, 209 Surf ST, Morro Bay, California.

ESTABLISH QUORUM AND CALL TO ORDER

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| Present: | Members: | Gene Doughty Jeff Eckles Bill Luffee Dana McClish Lynn Meissen Jim Phillips (Vacant Seat) |
| | Staff: | Eric Endersby, Harbor Director Polly Curtis, Office Assistant |

B-3 Morro Bay Aquarium

Mr. Endersby said the Aquarium lease site is an important and historical lease for the City. It has served as a marine mammal rescue and rehabilitation center, information and education center, and an attraction for almost five decades. He said the Lease Management Policy stipulates in part that all lease sites eventually need to be reconstructed or significantly remodeled to bring sites up to modern codes, design criteria, and market conditions. Lease sites are public property, and the Tylers' lease expires in 2018. As with most older sites at the end of their term, a remodel or redevelopment is typically warranted.

Mr. Endersby said the Tylers are in good standing as leaseholders, and have now submitted a modest proposal for development. Last fall, because the Tylers had not yet submitted any plans, the City Council directed staff to put the site out for Requests for Proposals. He said tonight is simply the first step in the process for the community and the leaseholder to express what they see as the future of the Aquarium and this site. A City Council hearing is tentatively set for June 25th. Mr. Endersby welcomed input from the public.

Mayor Jamie Irons said he and the Board have received many letters and emails about the Aquarium, both for and against. He said Dean and Bertha have been stewards of the Aquarium in Morro Bay for a very long time, and they are good people and good souls. He said this lease expires in five years, and all state and city laws are being complied with by the Tylers. The City is giving the Tylers opportunity to submit plans. The mayor asked the Board and the public to show compassion for the Tylers and whether the public is for or against the issue, to be considerate and respectful when speaking about the Tylers.

Mr. Dean Tyler, leaseholder of the Morro Bay Aquarium, said he has been running the Aquarium since 1960. He said that he and his wife, Bertha, have visited 35 different Aquariums over the years to see how they are run. He reviewed 11 of those visits from Sitka, Alaska, to Amsterdam, explaining the general attractions of each site. Mr. Tyler said that each Aquarium had at least one special point of interest, depending upon what the people want to see, such as a bear in Sitka, and a diver who hand-feeds the octopus in Depot Bay.

Mr. Tyler said of all the Aquariums he visited, Morro Bay is the only one he saw where people can buy seal food and feed the seals, who then clap and jump in the air, which makes people feel like seal trainers.

Mrs. Bertha Tyler said she owned a restaurant in Morro Bay, which she sold in 1973 in order to work with Dean at the Aquarium rehabilitating marine animals. They began by sometimes earning as little as .75-cents per day to now seeing an annual number of visitors upwards of 200,000 people. Mrs. Tyler said the Aquarium is an asset to the community, good for the local economy, and gives a lot of pleasure to people. She reviewed the lives of many animals, including one seal who has lived for 25 years at the Aquarium. She said their grandson, John, will take over running the Aquarium eventually, and she asked Morro Bay to keep the Aquarium. She said she hopes it stays forever, and hopes the lease will be renewed for them in 2018.

The following citizens spoke generally in favor of the Tylers and/or the Aquarium:
Lupe Sylvester, Maria Gutierrez, Gayle Bickford, Bill Robinson, Patty James, Susan Fortman, Katie Fortman, Bill Martony, Nathaniel Player, Renee Hicks, Marlene Owens, Jeremiah O'Brien, Ed Sylvester, Deborah Hesch, and John Elkhorn.

The following citizens spoke generally in opposition to the current state of the Aquarium:
Jenny Brantley Jones, John Weiss, Claudia Ferreday, Randal Huss, Sarah Spegamin, Julie Thomas, and Carol Carson.

The Board expressed concerns over the Aquarium's age and need for improvements; the importance of keeping this site connected to waterfront uses rather than just a gift shop; the fact that the current permit for allowing intake and discharge of seawater is a difficult one to obtain; and encouraging the Tylers as well as other people to submit proposals for improvements to the Aquarium and the whole lease site. Chair Eckles reminded the public that this is the initial discussion and talks will continue, and that the Lease Management Policy does require capital improvements prior to lease renewal.



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| AGENDA NO: | D-2 |
| MEETING DATE: | 06/25/2013 |

Staff Report

TO: Honorable Mayor and City Council Members **DATE:** June 18, 2013

FROM: Andrea K. Lueker, City Manager
Rob Livick, Public Services Director
Joseph M. Woods, Recreation and Parks Director

SUBJECT: Update and Identify the City's Way-Finding Signage Inventory and Status of Signage Improvement Efforts

RECOMMENDATION

Staff recommends the City Council receive this report regarding the status of the following signage issues: directional signage for the Visitor's Center within the City; update from Caltrans regarding signage from Highway 1 to the Visitors Center; and, an update regarding the signage from the State Park(s) to the Visitors Center.

Staff further recommends the City Council review the inventory of City Entrance Signs and Way-Finding signs and provide staff direction for changes, increases or decreases as they see fit.

ALTERNATIVES

1. Review the staff report and make no changes to the signage inventory.
2. Recommend changes to the City Entrance Signs and/or Way Finding sign inventory.
3. Recommend this item be forwarded to the Recreation and Parks Commission and the Public Works Advisory Board for recommendations.

FISCAL IMPACT

Additional City Entrance signs and/or Way Finding signs have not been budgeted and should the City Council direct staff to pursue additional signs, funding would need to be determined.

BACKGROUND

This item came forth as a result of two separate, but related issues. After the Visitors Center was relocated from the Embarcadero to Morro Bay Blvd., it became apparent that signage was necessary so that visitors could locate the facility. In addition, at the April 9, 2013 City Council meeting, Mayor Irons indicated interest in a review of the City Entrance signs, the necessity of additional

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

Entrance signs, a review of the Way Finding signs as well as the potential to add the City's 50th Anniversary Logo to signage. The Mayor received support for this issue to come back to the City Council as a staff report, as well as support of a review of signage for the Visitors Center.

DISCUSSION

Visitor's Center Signage – upon relocation of the Visitors Center and the hiring of the Director of Tourism, there became a concerted effort to provide additional signage to the Visitors Center. Director of Tourism, Ms. Moss and City Staff took two separate “field trips” to determine what efforts could be made within the City of Morro Bay's jurisdiction to provide directional signage to the Visitors Center. The results of those field trips and further discussion provided the following:

1. On the City Entrance Sign that includes a slide-in board for event announcements on Westbound Highway 41, the bottom two brackets now advertise the following: **Morro Bay Visitors Center, Take Morro Bay Blvd. Exit**. This same information has been added to the City Entrance sign on Southbound Highway 1. On Northbound Highway 1, Morro Bay is prominently featured on a billboard, with directions to “Exit Morro Bay Blvd”. Once visitors are on Morro Bay Blvd., they will be directed to the Visitors Center by several banners placed on strategic banner poles guiding them to the Visitors Center. Note the banners have been ordered, and received and are expected to be put in place as soon the appropriate mounting brackets are received.

The City contacted Caltrans in an attempt to be able to have directional signage placed in the Caltrans right of way on existing signage that directs traffic into Morro Bay. After talking to the appropriate department, the City has learned that the Morro Bay Blvd. Visitors Center does not meet the criteria that Caltrans has established to install such signage. Per Caltrans and the California Manual on Uniform Traffic Control Devices Section 2I.08 the following is required for an on freeway "Tourist Information" signs:

1. Facilities should be within 0.5 mile of the highway and have reasonably direct access from, and return to, the highway.
2. Facilities should provide lighting, telephone and information on a 24-hour basis and cover the entire area served.
3. Information should include area and regional maps, and 24-hour service information including, but not limited to medical, police, fire, restrooms, auto repair service and fuel.
4. Outside maps and displays must be provided at all manned centers for use during periods when the facility is not manned.

Based on a conversation with Ms. Moss, the Morro Bay Visitors Center facility, at this time, does not meet the requirements specified as far as signage, telephone, 24-hour info, etc.

There was also discussion regarding signage in the State Park campground(s) to direct visitors to the Visitors Center. City staff identified the contact person in the State Parks system and forwarded that

information to Ms. Moss for her to continue with those efforts.

City Entrance Signage Inventory – the City has Entrance Signs at both Westbound Highway 41 and Southbound Highway 1 which feature slots for public events to be noticed as well as information about the Visitors Center (as mentioned above). The City also has a newer type of Entrance Sign and those are located on Northbound South Bay Blvd. and Northbound Highway 1. There is also an Entrance Sign on private property at the Mobile Gas Station near the Round a Bout at Morro Bay Blvd. and Quintana.

Also in regard to the City's Entrance Signs, there have been several discussions regarding the installment of the City's 50th Anniversary Logo on the City Entrance Signs. Staff is prepared to work with the City's 50th Anniversary committee on installing the logo as soon as it has been created.

Way Finding Signage – several years ago, the Public Services Department was instrumental in receiving grant funds for Way Finding signage in and around the City of Morro Bay. There were several public hearings/meetings held to determine the installation locations, wording for these signs and logos. The signs were installed and have been very popular. Approximately 3 years after installation, many of these signs had significantly weathered and faded. City staff contacted the sign producer and was successful in getting most of the signs replaced with new, original color signs.

1980's Way Finding Signs – in the late-1980's the Recreation and Parks Director at that time, had some Way Finding signs installed along Main Street and on the Embarcadero. Those signs, which had become extremely faded and worn, were refurbished a few years ago by City staff and reinstalled.

Other Way Finding Signs – there are several other varied signs in Morro Bay that point out facilities and locations and a sampling of those are included on the attached photos.

CONCLUSION

The City has some consistency with its signage, both in terms of Entrance Signs and Way Finding signs. Should the City Council determine that significant changes or enhancements need be made to the signage; staff recommends this item be presented to the Recreation and Parks Commission and Public Works Advisory Board for their input and recommendations.

Highway 41/EB



City Park



Main St.



Main/Highway 41



Main/San Jacinto



Main/Yerba Buena



Highway 1/SB



1980's Finding Signage



1980's Finding Signage

1980's Signage-Embarcadero

Main Street near State Park

Entrance Signage South Bay Blvd/NB



South Bay Blvd/Quintana



Bill Board Highway 1/NB



Entrance Signage Highway 1/NB



Entrance Signage Private Property Morro Bay Blvd/Quintana



Other Way Finding Signage



Other Way Finding Signage

Other Way Finding Signage



Other Way Finding Signage

