

# City of Morro Bay

## City Council Agenda

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### *Mission Statement*

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

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**REGULAR MEETING – OCTOBER 27, 2008**

**CLOSED SESSION – OCTOBER 27, 2008  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

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

**CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to 1 parcel.

Property: Morro Bay Power Plant Outfall.  
Negotiating Parties: Dynegy and City of Morro Bay.  
Negotiations: Lease Terms.

**CS-3 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.** Discussions regarding Personnel Issues including two (2) public employee regarding evaluation, specifically the City Attorney and Interim City Manager.

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

**PUBLIC SESSION – OCTOBER 27, 2008  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

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

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

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

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

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

COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS OF SEPTEMBER 22, 2008 AND OCTOBER 13, 2008; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 65-08 AUTHORIZING PARTICIPATION IN THE CALIFORNIA ASSET MANAGEMENT PROGRAM (CAMP) AND DESIGNATING TRANSACTION OFFICERS; (FINANCE)

**RECOMMENDATION: Adopt Resolution No. 65-08.**

A-3 APPROVAL OF RESOLUTION NO. 67-08 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO ABANDONED WATERCRAFT ABATEMENT FUND CONTRACT #08-214-505 WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 67-08.**

A-4 APPROVAL OF RESOLUTION NO. 68-08 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO THE SECOND AMENDMENT TO GRANT AGREEMENT #05-128-980 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA REHABILITATION PROJECT PLANNING; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 68-08.**

A-5 APPROVAL OF RESOLUTION NO. 69-08 AUTHORIZING A BERTHING LEASE AGREEMENT #HSCG89-09-L-6-63-002 WITH THE UNITED STATES COAST GUARD FOR BERTHING SPACE AND USE OF A PORTION OF THE NORTH T-PIER, AND FOR USE OF PARKING SPACES IN THE VICINITY OF THE NORTH T-PIER; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 69-08.**

A-6 APPROVAL OF RESOLUTION NO. 70-08 AUTHORIZING A NEW LEASE AGREEMENT WITH THE MORRO BAY COMMERCIAL FISHERMAN'S ORGANIZATION FOR THE FISHERMAN'S GEAR STORAGE AREA LOCATED AT 1622 EMBARCADERO; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 70-08.**

A-7 AUTHORIZATION TO FILL THE PLANNING MANAGER VACANCY AT THE SENIOR PLANNER LEVEL AND AMENDMENT TO THE SENIOR PLANNER JOB DESCRIPTION; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize staff to fill the Planning Manager vacancy at the Senior Planner level and approve the updated job description for the Senior Planner.**

A-8 CONTINUATION OF EMERGENCY PER PUBLIC CONTRACT CODE SECTION 22050 FOR THE INSTALLATION OF DESALINATION PLANT ENERGY RECOVERY EQUIPMENT; (PUBLIC SERVICES)

**RECOMMENDATION:** Determine the necessity to continue the emergency per Public Contract Code 22050 for the installation of desalination plant energy recovery equipment.

A-9 AUTHORIZATION TO FILL THE ASSOCIATE PLANNER VACANCY; (PUBLIC SERVICES)

**RECOMMENDATION:** Authorize staff to fill the Associate Planner vacancy.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPROVAL OF RESOLUTION NO. 66-08 ACCEPTING \$100,000 GRANT FROM THE STATE OF CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM; (POLICE)

**RECOMMENDATION:** Adopt Resolution No. 66-08.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 PRESENTATION FROM BUXTON COMPANY ON RETAIL MARKETING STRATEGIES FOR MORRO BAY; (PUBLIC SERVICES)

**RECOMMENDATION:** Receive the presentation from Buxton Company and direct staff accordingly.

D-2 CONSIDERATION OF FINANCIAL ASSISTANCE FROM THE AFFORDABLE HOUSING IN-LIEU FUND FOR A 15-UNIT WORK FORCE HOUSING PROJECT AT THE SEA SHELL RETIREMENT HOME LOCATED AT 1405 TERESA DRIVE; (PUBLIC SERVICES)

**RECOMMENDATION:** Direct Staff to credit \$43,660 in Building and Plan Check Fees, and release \$170,598 in Affordable Housing In-Lieu Fees upon issuance of a Certificate of Occupancy for the project.

D-3 PRESENTATION FROM THE AMERICAN RED CROSS ON DISASTER PREPAREDNESS; (COUNCIL)

**RECOMMENDATION:** This item has been pulled from the agenda.

D-4 DISCUSSION ON REQUIRING A BUSINESS LICENSE FROM BUSINESSES THAT MAKE DELIVERIES WITHIN THE CITY LIMITS; (FINANCE)

**RECOMMENDATION: Continue charging delivery vehicles a business license fee.**

D-5 CONSIDERATION OF A TWO-YEAR BUSINESS LICENSE RENEWAL CYCLE; (FINANCE)

**RECOMMENDATION: Maintain the one-year Business License renewal cycle and change the renewal dates to coincide with the business start date.**

D-6 DISCUSSION REGARDING AMENDING COUNCIL POLICIES & PROCEDURES RELATED TO THE APPOINTMENT OF VICE-MAYOR, THE APPOINTMENT OF COUNCIL MEMBERS TO DISCRETIONARY BOARDS, THE ORDER OF BUSINESS ON THE CITY COUNCIL AGENDA, AND THE USE OF CITY LETTERHEAD; (CITY ATTORNEY)

**RECOMMENDATION: Review the City Council Policies and Procedures Manual Sections set forth in the Staff Report and provide direction to Staff.**

D-7 DISCUSSION ON RESOLUTION NO. 11-07 AMENDING AND ESTABLISHING GUIDELINES FOR MAJOR VEGETATION REMOVAL, REPLACEMENT AND PROTECTION; AND MUNICIPAL CODE SECTION 12.08 (CITY TREE REGULATIONS) IN REFERENCE TO THE DEFINITION OF LANDMARK TREES; (COUNCIL)

**RECOMMENDATION: Discuss and direct staff accordingly.**

E. ADJOURNMENT

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

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

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

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó OCTOBER 13, 2008  
VETERANS MEMORIAL HALL - 6:00 P.M.

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

|          |                 |                                    |
|----------|-----------------|------------------------------------|
| PRESENT: | Janice Peters   | Mayor                              |
|          | Melody DeMeritt | Councilmember                      |
|          | Rick Grantham   | Councilmember                      |
|          | William Peirce  | Councilmember                      |
|          | Betty Winholtz  | Councilmember                      |
| STAFF:   | Andrea Lueker   | City Manager                       |
|          | Robert Schultz  | City Attorney                      |
|          | Bridgett Bauer  | City Clerk                         |
|          | Rick Algert     | Harbor Director                    |
|          | Bruce Ambo      | Public Services Director           |
|          | John DeRohan    | Police Chief                       |
|          | Rob Livick      | City Engineer                      |
|          | Mike Pond       | Fire Chief                         |
|          | Susan Slayton   | Administrative Services Director   |
|          | Dylan Wade      | Utilities/Capital Projects Manager |
|          | Joe Woods       | Recreation & Parks Director        |

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

CLOSED SESSION REPORT ó There was no Closed Session agenda.

PUBLIC COMMENT

Bill Black addressed the number of tickets sold by the Friends of the Morro Bay Police, Friends of the Morro Bay Fire and Rotary, which the winning ticket won a 2008 Prius.

Keith Taylor acknowledged those who sponsored the Rock-to-Rock Fun Run that benefited the Morro Bay Community Foundation.

Ken Vesterfelt stated the Morro Bay Boulevard/Quintana Road roundabout is moving very smoothly. He also thanked those who sponsor the annual Thanksgiving dinner.

John Barta addressed the proposed conference center and the lack of parking on the Embarcadero.

Kathy Wells expressed concern with the Council's action in not renewing the lease for the Outrigger Restaurant.

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Cristie Hale, representing the Recreation & Parks Commission, requested Council consider the recommendation of the Commission to ban smoking at City parks and designate the parking lots as smoking areas.

Noah Smukler thanked the City on the State Water update that was sent out to residents. He also expressed support for Item A-3 (Approval On Alternative Fuel Vehicles For The Recreation & Parks Department) and requested the City promote replacing other departmental vehicles with alternative vehicles. Mr. Smukler addressed Item D-2 (Adoption Of A Position Statement For West Coast Ground Fish Individual Transferable Quota Program In Federal Fisheries) noting the importance of local control for the fishing community.

Carla Borchard addressed the Morro Bay 4-H Club and what it has to offer. She invited the public to the 4-H Club farm in mid-April to see the various animals.

Roger Ewing expressed support for Item A-3; however, he questioned the cost of \$32,000 for a hybrid truck.

Garry Johnson addressed the importance of bringing business to Morro Bay.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:12 p.m.; the meeting resumed at 7:21 p.m.

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendize a discussion on the request from Dynegy to extend their lease on the October 27, 2008 Closed Session agenda; Councilmember DeMeritt concurred.

A. CONSENT CALENDAR

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

A-1 CONSIDERATION OF REVISED RESCUE VEHICLE FUNDING; (FIRE)

**RECOMMENDATION: Approve the expenditure of additional 07/08 Measure Q funds, not to exceed \$55,000, in order to complete the funding of the previously approved rescue vehicle.**

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A-2 AUTHORIZATION TO FILL HOUSING PROGRAMS COORDINATOR POSITION; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize filling the position.**

A-3 APPROVAL ON ALTERNATIVE FUEL VEHICLES FOR THE RECREATION & PARKS DEPARTMENT; (RECREATION & PARKS)

**RECOMMENDATION: Approve the purchase of one electric vehicle and one hybrid vehicle for the use of Recreation and Parks Department.**

Councilmember DeMeritt pulled Item A-3 from the Consent Calendar.

MOTION: Councilmember Grantham moved the City Council approve Items A-1 and A-2 on the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-3 APPROVAL ON ALTERNATIVE FUEL VEHICLES FOR THE RECREATION & PARKS DEPARTMENT; (RECREATION & PARKS)

Councilmember DeMeritt requested staff clarification on the purchase of a Ford Escape Hybrid vs. a hybrid truck for the same money.

Recreation & Parks Director Joe Woods responded there was a need for a vehicle for the Superintendent of Parks, which does not require hauling equipment. He said this vehicle would also be used as a pool car for the department.

Councilmember Winholtz stated she would prefer the purchase of a hybrid vehicle vs. a hybrid sports utility vehicle.

MOTION: Councilmember DeMeritt moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

B-1 REVIEW OF MUNICIPAL CODE ORDINANCE 9.24 REGARDING THE PROHIBITION OF SMOKING IN CITY PARKS; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated Morro Bay Municipal Code Section 9.24.020 states: "smoking is prohibited and is unlawful within the boundaries of any City beach and on the City t-piers." Furthermore, the State of California prohibits smoking

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within 25 feet of playgrounds and tot lots. Mr. Woods recommended the City Council consider the following two options pertaining to the review of Ordinance 9.24: 1) Take no action, leaving the existing Ordinance in place and rely on State regulations for public park applications; or, 2) consider a more stringent regulation than currently exists under State law.

Mayor Peters opened the hearing for public comment.

Mary Ann Britton, representing the Estero Bay Youth Coalition introduced the following students who requested Council's consideration in prohibiting smoking in City parks: Holly Lingabrett, Nina Goldberg, Josh Panko, Ellen (no last name), Emily Gacad, Lillian Campbell, Niko Yaroslaski, Melissa Martinez, Audrey (no last name), Matilda Lowrie, and Brian Crill.

Noah Smukler expressed support for the ban of smoking in City parks; however, did suggest allowing a designated area for smoking with receptacles for disposal of butts.

Christina Lefevre, San Luis Obispo County Tobacco Control Coalition shared information on data received on smoke-free outdoor areas.

Peter Risley addressed the effects of tobacco addiction, and requested Council's consideration on the ban of smoking at City parks.

Nita Kenyon, Estero Bay Youth Coalition expressed support for the Parks & Recreation Commission recommendation to ban smoking in City parks, and not allow smoking in parking lots.

Mayor Peters closed the public comment hearing.

Councilmember DeMeritt stated there should be a provision for butt-containers in designated areas; she does not support a more stringent law that is unenforceable.

Councilmember Grantham stated this proposal is very restrictive and does not allow for personal freedom of rights. He said there is already a law that addresses smoking in public places.

Councilmember Peirce stated he supports the ban of smoking in parks, but not in parking lots.

Councilmember Winholtz stated she could support an extension of the distance required by the current law, but does not support banning smoking completely.

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Mayor Peters stated she supports the recommendation made by the Park & Recreation Commission to ban smoking in City parks, which tends to be self-enforcing.

MOTION: Councilmember DeMeritt moved the City Council take no action leaving the existing Ordinance in place and rely on State regulations for public park applications. The motion was seconded by Councilmember Grantham.

Councilmember Winholtz requested an amendment to the motion for the consideration of placing butt-containers in the parking lots at the entrance of City parks.

Councilmember DeMeritt accepted the amendment to her motion; Councilmember Grantham accepted the amendment to his second.

VOTE: The motion carried with Councilmember Peirce and Mayor Peters voting no. (3-2)

B-2 CONSIDERATION OF A RESOLUTION OF INTENT TO CONTRACT WITH CAL FIRE PENDING ACCEPTANCE OF A CONTRACT; (FIRE)

Fire Chief Mike Pond stated a contract with Cal Fire might provide a means to deliver comparable fire and emergency services at a cost savings to the City. A Cal Fire contract could also provide an opportunity for the City to address disparity in compensation between Morro Bay Fire Fighters and peer fire departments within San Luis Obispo County. It is staff's opinion that a Cal Fire contract alone will not improve services unless there are adequate cost savings available for the City Council to fund additional staffing levels. Once a service level is established for contract negotiations, the discussion should focus on which department or agency is more cost effective as the services provided by each will be substantially equal. Currently, the City does not have an official cost analysis or negotiated contract to confirm which delivery system can provide the desired level of service at the lowest cost. Approving this resolution will initiate a negotiation process whereby Morro Bay staff and Cal Fire staff will identify and negotiate all costs and transitional issues based on the City Council's desired level of service. Chief Pond recommended the City Council adopt Resolution No. 62-08, which would allow the City to proceed further in the process with Cal Fire and determine the actual costs for contract services.

Mayor Peters opened the hearing for public comment.

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Ariane Leiter, Morro Bay Fire Fighter Association, requested Council's support in proceeding further in the process with Cal Fire and determining the actual costs for contract services. She stated this contract could provide an increase in service at a lower cost to the City.

Ken Vesterfelt, Cal Fire Advisory Ad-Hoc Committee, stated this could provide an opportunity for our fire fighters to advance in their position. He said the citizens have already lent their support for a higher level of public safety service.

Noah Smukler stated the City owes it to the Fire Department to continue the process with Cal Fire. He also suggested the consideration of a volunteer fire department in the case of potential fiscal challenges to help augment our paid fire fighters.

Jeff Jones, past Morro Bay Fire Chief, due to the City's budgetary challenges, he urged Council's support in proceeding in the process with Cal Fire in determining the actual costs for contract services.

Carla Borchard stated the option of staffing four fire fighters would be a cost savings to the City because there would only be a need for one paramedic per shift.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated he supports to continue the process with Cal Fire and determine the actual costs for contract services.

Councilmember DeMeritt stated the initial cost to contract with Cal Fire is unaffordable for the City. She said she has always supported having four fire fighters on duty and paid from Measure Q funds. Councilmember DeMeritt stated there have also been alternatives suggested, such as a utility user tax, to maintain a local fire station.

Councilmember Winholtz stated the cost of overtime pay as well as the other costs would be unaffordable to the City. She said she would prefer staffing in-house rather than contracting fire services out. Councilmember Winholtz stated it is unfair to continue the process with Cal Fire knowing the City does not have the funds to move forward.

Councilmember Peirce stated the City should continue the process with Cal Fire in order to determine the actual costs.

Mayor Peters stated she supports our fire fighters with their request to continue the process with Cal Fire in order to determine actual costs.

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MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 62-08 allowing the City to proceed in the process with Cal Fire and determine the actual costs for contract services. The motion was seconded by Councilmember Peirce.

Councilmember Winholtz expressed opposition to the motion not only for financial issues, but also that it would create a loss of control for the City.

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

Mayor Peters called for a break at 9:05 p.m.; the meeting resumed at 9:15 p.m.

B-3 RECONSIDERATION OF PALM AVENUE RIGHT-OF-WAY  
ABANDONMENT ó PATHWAY REQUIREMENT; (PUBLIC SERVICES)

City Engineer Rob Livick stated at the August 25, 2008 City Council meeting, Council placed the reconsideration of the Palm Avenue Right-of-Way Abandonment without the walkway requirement on the Council agenda. It is the opinion of the City Engineer that the walkway is problematic because it will terminate at the northeasterly side of Main Street, which has no pedestrian facilities and would require the pedestrian to cross Main Street mid-block to access the Class 1 multiuse trail on the southwesterly side of Main Street. The existing street intersections of Walnut Street, Oak Street and Shasta Avenue appear to be better locations for pedestrian crossing. The proposal can be found consistent with the California Streets and Highways Code and the City's General Plan and Local Coastal Plan, with the revised conditions. The proposal is exempt under the general rule pursuant to State CEQA Guidelines, and the required findings can be made to recommend abandonment to the City Council for approval. Mr. Livick recommended the City Council adopt Resolution No. 63-08 rescinding Resolution No. 45-08 and restating the abandonment of the street right-of-way for an undeveloped portion of Palm Avenue that does not include a condition for the pedestrian pathway.

Cathy Novak, representing the property owners, stated the proposed walkway is problematic and creates a safety issue for pedestrians in that area of Main Street. She said Resolution No. 45-08 did not adequately address the relief of liability on the property owners in conjunction with the construction and maintenance of the pedestrian path. Ms. Novak noted Palm Avenue is visually degrading the neighborhood because the street is in disrepair and the balance of the right-of-way area is a weed patch and a trash collector, and the property owners would like to clean up and beautify this area with a landscaping plan that would include native and drought-tolerant plants. She said this abandonment would clean up the visual blight, provide attractive landscaping, remove a non-functional street that the City is now required to maintain, and also provides view-

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REGULAR MEETING 6 OCTOBER 13, 2008

shed protection for the neighbors. Ms. Novak stated the conditions placed on this project to date are overly burdensome and continuing with this would make it difficult for the property owners to do the project, which would not be in the best interest of the property owners or the community. She requested the City Council adopt Resolution No. 63-08 rescinding Resolution No. 45-08 and restating the abandonment of the street right-of-way for an undeveloped portion of Palm Avenue that does not include a condition for the pedestrian pathway.

Mayor Peters opened the hearing for public comment; there were no comments and Mayor Peters closed the public comment hearing.

Mayor Peters stated she supports reconsidering the abandonment along with the consideration of obtaining parking spaces on Walnut Street.

Councilmember Winholtz expressed concern with the City giving away property and receiving nothing in return, which is inappropriate. She said the property owners should pay for their encroachment. Councilmember Winholtz stated until the City receives some benefit for this abandonment, she will vote in opposition.

Councilmember Peirce stated the residents of this neighborhood would be better off if the City would pave the street. He said he will support the adoption of Resolution No. 63-08.

Councilmember Grantham stated this property is in bad disrepair and is a liability issue for the City, and he is in support of adopting Resolution No. 63-08.

Councilmember DeMeritt stated she does not support this proposed abandonment because it is setting precedent in giving away public property with no benefit to the City.

**MOTION:** Councilmember Winholtz moved the City Council deny the abandonment of the street right-of-way for an undeveloped portion of Palm Avenue, and request the property owners pay for the encroachment on this property.

Motion dies for a lack of a second.

**MOTION:** Councilmember Grantham moved the City Council adopt Resolution 63-08 rescinding Resolution 45-08 and restating the abandonment of the street right-of-way for an undeveloped portion of Palm Avenue that does not include a condition for the pedestrian pathway. The motion was seconded by Councilmember Peirce and carried with Councilmember DeMeritt and Councilmember Winholtz voting no. (3-2)

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C. UNFINISHED BUSINESS ó None.

D. NEW BUSINESS

D-1 RESOLUTION AUTHORIZATING THE UTILITIES/CAPITAL PROJECTS MANAGER TO ENTER INTO A CONTRACT WITH GENERAL ELECTRIC WATER FOR ENERGY RECOVERY EQUIPMENT; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated authorization to enter into this contract with General Electric Water provides control panels, engineering support, miscellaneous equipment and field services necessary to install the brackish treatment trains previously ordered. This equipment serves the purpose of treating for high nitrate groundwater and helps assure a safe and adequate water supply during the upcoming year. He recommended the City Council adopt Resolution No. 64-08 authorizing the Utilities/Capital Projects Manager to enter into a contract with General Electric Water & Process Technologies as a sole source vendor in the amount of \$244,480 for the installation and programming of brackish water treatment equipment and to enter into Time and Material Contracts with local contractors for installation support in an amount not to exceed \$200,000.

MOTION: Councilmember Peirce moved the City Council adopt Resolution 64-08 entering into a contract with GE Water & Process Technologies as a sole source vendor in the amount of \$244,480.00 for the installation and programming of brackish water treatment equipment and into Time and Material Contracts with local contractors for installation support in the amount not to exceed \$200,000.00. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-2 ADOPTION OF A POSITION STATEMENT FOR WEST COAST GROUND FISH INDIVIDUAL TRANSFERABLE QUOTA (ITQ) PROGRAM IN FEDERAL FISHERIES; (HARBOR)

Harbor Director Rick Algert stated in November 2008, the Pacific Fishery Management Council (PFMC) expects to adopt a plan for transitioning the West Coast ground fish trawl industry from one based on permits and trip limits to an Individual Transferable Quota (ITQ) where harvesters receive an annual guaranteed allocation based on their permits catch history. The terms under which the PFMC elects to implement the new ITQ fishery will have major impacts on the fishing businesses and communities such as Morro Bay which have been economically and culturally dependent on ground fish. On the Central Coast of California a partnership of the City of Morro Bay, Port San Luis Harbor District, local fishing associations and conservation groups is working to transition its local fisheries to greater economic and environmental stability. Mr. Algert

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recommended the City Council adopt Resolution No. 61-08 to outline a detailed position for the West Coast Ground Fish Individual Transferable Quota program currently being considered by federal fisheries managers.

MOTION: Councilmember Grantham moved the City Council adopt Resolution 61-08 outlining a detailed position for the West Coast Ground Fish Individual Transferable Quota (ITQ) program currently being considered by federal fisheries managers. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

ADJOURNMENT

The meeting adjourned at 10:12 p.m.

Recorded by:

Bridgett Bauer  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION 6 SEPTEMBER 22, 2008  
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

|          |                 |                                  |
|----------|-----------------|----------------------------------|
| PRESENT: | Janice Peters   | Mayor                            |
|          | Melody DeMeritt | Councilmember                    |
|          | Rick Grantham   | Councilmember                    |
|          | William Peirce  | Councilmember                    |
|          | Betty Winholtz  | Councilmember                    |
| STAFF:   | Andrea Lueker   | City Manager                     |
|          | Robert Schultz  | City Attorney                    |
|          | Susan Slayton   | Administrative Services Director |
|          | Rick Algert     | Harbor Director                  |

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

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

CS-2 **GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to one (1) parcel.

- Property: 35W and 36W adjacent to 235 Main Street  
Negotiating Parties: Martony, Pekarek and City of Morro Bay.  
Negotiations: Lease Terms and Conditions.

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

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

The meeting adjourned at 5:55 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó SEPTEMBER 22, 2008  
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:05 p.m.

|          |                 |                                  |
|----------|-----------------|----------------------------------|
| PRESENT: | Janice Peters   | Mayor                            |
|          | Melody DeMeritt | Councilmember                    |
|          | Rick Grantham   | Councilmember                    |
|          | William Peirce  | Councilmember                    |
|          | Betty Winholtz  | Councilmember                    |
| STAFF:   | Andrea Lueker   | City Manager                     |
|          | Robert Schultz  | City Attorney                    |
|          | Jamie Boucher   | Deputy City Clerk                |
|          | Rick Algert     | Harbor Director                  |
|          | Bruce Ambo      | Public Services Director         |
|          | John DeRohan    | Police Chief                     |
|          | Steve Knuckles  | Fire Captain                     |
|          | Susan Slayton   | Administrative Services Director |
|          | Joe Woods       | Recreation & Parks Director      |
|          | Mike Prater     | Planning Manager                 |
|          | Rachel Grossman | Associate Planner                |

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

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

PUBLIC COMMENT

Keith Taylor acknowledged the Chamber of Commerce for the Avocado Margarita Festival, which was a huge success. He also noted that all the bricks have been sold for the first phase of the Fire Department, and the money raised will help defray costs to the Morro Bay Fire Reserves who attend Paramedic School.

Bill Black stated the Friends of the Morro Bay Police, Friends of the Morro Bay Fire and Rotary are selling raffle tickets to win a Prius, and other monetary awards and the winning tickets would be pulled at the Harbor Festival.

Anita Ayoob and Mary Stallard, members of the Morro Bay Pups invited pet owners to come to Del Mar Park on Saturday, October 4<sup>th</sup> to get their pets picture taken.

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Ken Smokoska, volunteer with the Sierra Club and leader of the Climate Protection Campaign thanked Council for signing the Climate Protection Agreement along with 650 other cities. He expressed support for Item A-6 (Resolution No. 56-08 To Join International Council For Local Environmental Initiatives - Local Governments For Sustainability In Order To Conduct A Greenhouse Gas Emissions Inventory For The City Of Morro Bay).

Bill Martony congratulated the Chamber and Morro Bay on the success of the Avocado & Margarita Festival. He encouraged people to continue their support of the local avocado industry all year long. Mr. Martony emphasized that water is critical to avocado growers and noted tertiary water treatment would be helpful to their industry.

Nancy Bast addressed Item A-2 (Resolution No. 58-08 Approving Of New Lease Agreement For Lease Site 129W-131W Located At 1215 Embarcadero With Morro Bay Fish Company) and Item A-3 (Resolution No. 59-08 Approving Of New Lease Agreement For Lease Site 132W-133W Located At 1235 Embarcadero With Tognazzini Family, Inc.), and noted she is pleased to see that Morro Bay has a bona-fide fish buyer to take over this dock. She expressed concern with dividing the dock up with two competing fish buyers in a small space, and there may be an unfair advantage to the restaurant owner. Ms. Bast also expressed concern that there are too many unknown costs and unforeseen problems not under warranty with the ice plant.

Nancy Castle announced the public will be able to view meetings on their computers at [www.slospan.org](http://www.slospan.org) or through the City's website via a live-stream on Channel 20. She also announced that Chess Live would be performing at the Harbor Festival.

Claire Grantham invited the public to Sierra Vista Hospital on Saturday, October 18<sup>th</sup> from 8-11am for free flu shots.

Doug Claassen requested Council's support in approving Item A-5 (Approval Of Resolution No. 60-08 For Approval Of Lease Agreement For Real Property Located At 1700 Embarcadero, Jointly Owned By The City Of Morro Bay And Cayucos Sanitary District, With Morro Dunes Travel Trailer Park & Resort Campgrounds).

Noah Smuckler encouraged the City Council to revitalize the City's Adopt-a-Tree Program as part of the Urban Tree Management Plan. He also thanked Morro Bay Beautiful for their \$5,000 donation to get this program restarted.

Ed Ewing expressed support for Items A-2 and A-3, noting it will be a positive working relationship between the two lessees.

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Ken Vesterfelt congratulated Gerry Doris on her retirement from the local business Best Friends, and thanked her for her continued efforts at revitalizing the downtown business district. He also addressed a parking problem on Atascadero Road as well as Quintana Road where people are using these areas as used car lots; he requested the City consider instituting a no parking zone between 11:00 p.m. ó 6:00 a.m.

Hank Roth stated he recently attended a workshop in Sacramento and was introduced to a program called òRad Kidsò, which is a program that teaches kids how to protect themselves against their environment. He said he is hoping to bring this program to the elementary school in Morro Bay.

Mayor Peters closed the hearing for public comment.

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember DeMeritt requested to agendize an item to re-establish the Adopt-a-Tree Program.

Councilmember Grantham requested to agendize a discussion on makeshift car lots and parking time limits on City streets.

Councilmember Peirce requested to agendize a presentation from the Buckston Group, a market research company that studies consumer-spending habits in an effort to bring new business to Morro Bay.

Councilmember Winholtz requested to agendize her presentation on what defines a Landmark Tree in October.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF SEPTEMBER 8, 2008; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 58-08 APPROVING OF NEW LEASE AGREEMENT FOR LEASE SITE 129W-131W LOCATED AT 1215 EMBARCADERO WITH MORRO BAY FISH COMPANY; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 58-08.**

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A-3 RESOLUTION NO. 59-08 APPROVING OF NEW LEASE AGREEMENT FOR LEASE SITE 132W-133W LOCATED AT 1235 EMBARCADERO WITH TOGNAZZINI FAMILY, INC.; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 59-08.**

A-4 RESOLUTION NO. 57-08 APPROVING SUBLEASE AGREEMENT FOR A PORTION OF LEASE SITE 124-128/124W-128W LOCATED AT 1215 EMBARCADERO BETWEEN VIRG'S LANDING, INC. AND SLO DIVERS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 57-08.**

A-5 APPROVAL OF RESOLUTION NO. 60-08 FOR APPROVAL OF LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 1700 EMBARCADERO, JOINTLY OWNED BY THE CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT, WITH MORRO DUNES TRAVEL TRAILER PARK & RESORT CAMPGROUNDS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 60-08.**

A-6 RESOLUTION NO. 56-08 TO JOIN INTERNATIONAL COUNCIL FOR LOCAL ENVIRONMENTAL INITIATIVES - LOCAL GOVERNMENTS FOR SUSTAINABILITY IN ORDER TO CONDUCT A GREENHOUSE GAS EMISSIONS INVENTORY FOR THE CITY OF MORRO BAY; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution No. 56-08.**

A-7 PROCLAMATION DECLARING OCTOBER 5-11, 2008 AS òNATIONAL FIRE PREVENTION WEEKö; (FIRE)

**RECOMMENDATION: Adopt Proclamation.**

A-8 PROCLAMATION DECLARING SEPTEMBER 27, 2008 AS òSAN LUIS OBISPO COUNTY CREEK DAYö; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Proclamation.**

Councilmember Winholtz pulled items A-1, A-2, A-3, A-4, and A-5 from the Consent Calendar; Councilmember DeMeritt pulled Item A-8.

**MOTION:** Councilmember Winholtz moved the City Council approve Items A-6 and A-7 of the Consent Calendar. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

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A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING  
OF SEPTEMBER 8, 2008; (ADMINISTRATION)

Councilmember Winholtz requested the following amendment to the minutes of September 8, 2008, page 7 ó 1) 1.0 floor-to-area ratio less ~~than~~ normal setbacks such as Los Angelesí ö

MOTION: Councilmember Winholtz moved the City Council approve Item A-1 of the Consent Calendar as amended. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-2 RESOLUTION NO. 58-08 APPROVING OF NEW LEASE AGREEMENT  
FOR LEASE SITE 129W-131W LOCATED AT 1215 EMBARCADERO WITH  
MORRO BAY FISH COMPANY; (HARBOR)

Councilmember Winholtz asked for clarification on the metering of water and electricity on the dock; about the grant status accepted by the conservancy to help with the ice plant; and the letter Council received from John Lindsay regarding over-crowding of this area.

Harbor Director Rick Algert reviewed the proposed lease agreement for clarification.

MOTION: Councilmember Peirce moved the City Council approve Item A-2 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

A-3 RESOLUTION NO. 59-08 APPROVING OF NEW LEASE AGREEMENT FOR  
LEASE SITE 132W-133W LOCATED AT 1235 EMBARCADERO WITH  
TOGNAZZINI FAMILY, INC.; (HARBOR)

Due to a conflict of interest, Councilmember Peirce excused himself from this item.

Councilmember Winholtz requested to go on record that she feels this lease site agreement violates Measure D. She also said the language regarding the CPI should read that the rent should be increased only, never decreased and that the word ödecreasedö should be removed from the agreement.

MOTION: Mayor Peters moved the City Council meet past 11:00 p.m. The motion was seconded by Councilmember Grantham and carried with Councilmember DeMeritt voting no and Councilmember Peirce absent for the vote. (3-1-1)

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MOTION: Councilmember Grantham moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember DeMeritt and carried with Councilmember Winholtz voting no and Councilmember Peirce abstaining. (3-1-1)

A-4 RESOLUTION NO. 57-08 APPROVING SUBLEASE AGREEMENT FOR A PORTION OF LEASE SITE 124-128/124W-128W LOCATED AT 1215 EMBARCADERO BETWEEN VIRG'S LANDING, INC. AND SLO DIVERS; (HARBOR)

Councilmember Winholtz requested to go on record that she feels this lease site agreement violates Measure D.

MOTION: Councilmember Grantham moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Peirce and carried with Councilmember Winholtz voting no. (4-1)

A-5 APPROVAL OF RESOLUTION NO. 60-08 FOR APPROVAL OF LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 1700 EMBARCADERO, JOINTLY OWNED BY THE CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT, WITH MORRO DUNES TRAVEL TRAILER PARK & RESORT CAMPGROUNDS; (HARBOR)

Councilmember Winholtz requested the following amendments to the lease agreement: 1) the CPI being used is San Francisco, she would like that changed to Los Angeles/Riverside in order to be consistent with all other current leases; and, 2) on page 8, section 3.04 of the lease agreement, the phrase "except as acceptable by law" needs to be added to the definition of Hazardous Materials.

Councilmember Grantham requested the addition of language deemed necessary by the City and Cayucos Sanitary District and read and approved by Mr. Claassen as follows: "Notwithstanding the term of this lease, in the event that the CITY/DISTRICT's use of the Wastewater Treatment Plant (WWTP) necessitates a rearrangement, relocation, reconstruction or construction of the WWTP onto the premises, CITY/DISTRICT may terminate the lease for that part of the premises that is necessary for a rearrangement, relocation, reconstruction or construction of the WWTP upon thirty (30) days prior written notice to TENANT. If termination for part of the premises occurs, the minimum rent pursuant to Section 2.01 shall be pro-rated."

Councilmember Winholtz also wanted to publicly acknowledge that the Cayucos Sanitary District was going to take part in the cost of the negotiation of this lease site. City Attorney Robert Schultz confirmed that in his discussions with Manager Bill Callahan, Cayucos will be paying the agreed upon percentage portion.

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Councilmember DeMeritt feels that we need consistency with our lease sites; if we go to San Francisco with this one we need to follow suit with the rest.

**MOTION:** Councilmember Winholtz moved the City Council approve Item A-5 of the Consent Calendar with the above-mentioned amendments to the definition of Hazardous Waste and the addition of language provided by Councilmember Grantham. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Councilmember Winholtz then questioned how to proceed with the CPI language. She encouraged feedback from the rest of Council. She would be willing to make the change to Los Angeles or she would wait to see how the remaining lease sites were handled later on in the meeting.

Councilmember DeMeritt suggested continuing this portion of this item until we get to Items A-2, A-3, and A-4 and the CPI portion of A-5 could be discussed then; Councilmember Winholtz concurred.

**A-8 PROCLAMATION DECLARING SEPTEMBER 27, 2008 AS "SAN LUIS OBISPO COUNTY CREEK DAY"; (PUBLIC SERVICES)**

Councilmember DeMeritt requested staff clarification on this item.

Associate Planner Rachel Grossman reviewed the details of the upcoming event.

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

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

**B-1 EXTENSION OF AN INTERIM URGENCY ORDINANCE MODIFYING THE DEVELOPMENT REVIEW FOR PARCELS IN THE R-1 DISTRICT ZONE THAT EXCEED 2,500 SQUARE FEET PENDING COMPLETION OF STUDIES AND THE PREPARATION OF AN UPDATE TO THE CITY'S ZONING CODE; (CITY ATTORNEY)**

City Attorney Robert Schultz stated the City Council initially granted an Interim Urgency Ordinance for forty-five days and for ten months and fifteen days, and staff is now recommending Council hold a public hearing and extend the period in order for staff to develop regulations for development in the R-1 zone. Mr. Schultz recommended the City Council adopt Interim Urgency Ordinance No. 543 which would extend the previously enacted Ordinance modifying the development review for parcels in the R-1 district zone that exceed 2,500 square feet pending completion of studies and the preparation of an update to the City's zoning code.

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Mayor Peters opened the hearing for public comment.

Dorothy Cutter expressed support for this extension and finds it provides protection for people with small houses on small lots.

Mayor Peters closed the public comment hearing.

**MOTION:** Councilmember Grantham moved the City Council adopt Ordinance No. 543 Modifying the Development Review for Parcels in the R-1 District Zone that Exceed 2,500 Square Feet Pending Completion of Studies and the Preparation of an Update to the City's Zoning Code. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

**B-2 RECONSIDERATION OF THE DENIAL OF A REQUEST FOR A TWO-LOT SUBDIVISION AT 735 CABRILLO PLACE PURSUANT TO COURT ORDER; (PUBLIC SERVICES)**

Associate Planner Rachel Grossman stated on June 18, 2007, the Planning Commission continued the applicant's request for a Coastal Development Permit and parcel map approvals for a lot split at 735 Cabrillo Place, and requested staff return with findings for denial at the next regular meeting of the Planning Commission. On July 2, 2007, the Planning Commission approved findings for denial for the proposed lot split. The applicant subsequently appealed the Planning Commission's decision to the City Council, who denied the applicant's appeal and approved findings for denial on September 10, 2008. The applicant subsequently legally challenged the City's denial of the requested lot split at 735 Cabrillo Place. The court ruled the City's findings for denial did not fully support the City's conclusions and that the subject neighborhood was not clearly defined within the City's administrative record. As a result of this ruling, the Court remanded the matter so that proper findings could be made, and so the neighborhood within which the project is located could be clearly defined. Ms. Grossman recommended the City Council deny the project and adopt revised findings that support denial of the project, and that clearly define the neighborhood and characteristics that make this area a unique and worth preserving as supported by the goals and policies of the City.

Bill Walter, attorney for applicants, stated the court gave the City a second chance to identify the specific policies that would justify their decision to deny this appeal. He said staff has misread the direction of the court by giving an arbitrary definition of neighborhood. Mr. Walter stated the court asked the City to adopt findings, to make those findings specific, and have those findings identify specific policies that reference the neighborhood. He said the City has been unable to make those findings, and requested Council review the situation along with abiding by the law.

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Cathy Novak, representing the appellant for the Cabrillo Place appeal, stated the findings for denial conclude that the project is inconsistent with the City's policies due to neighborhood characteristic and lot size. The staff report defines the neighborhood as Tract 41 as well as adjacent properties to the north, south, east and west. As noted in the staff report the neighborhood area is a "diverse array of housing types and lot sizes adjacent to the subject property including lots ranging in size from 2,500 ó 46,710 square feet and uses ranging from single family residential to condominiums to trailer parks." She noted in the staff report, "the definition of a neighborhood is of a subjective matter the process by which is not clearly defined within the Subdivision Ordinance, Zoning Ordinance, General Plan or Local Coastal Plan." Ms. Novak stated the lots chosen, as a comparison for this project was purely subjective. She said Council in the past has repeatedly asked applicants to design projects that are consistent with City rules and regulations, and this project meets those standards.

Mayor Peters opened the hearing for public comment.

Jim Bianchi stated the CCR's in which this neighborhood was created are not irrelevant and established the character of this area as they defined lot size, restricted lot splits as well as restricted units to one per lot. He said he disagrees with the applicant's suggestion that Tract 41 is not a neighborhood and urged the City Council to define neighborhood.

Ruth Bianchi stated this tract has specific boundaries and characteristics defined by large lots and wide-open spaces. She said the lots in this tract average 12,000 square feet and by allowing a lot split would change the character of this neighborhood in a negative way.

Skip Barnhart stated the City Council's role should be subjective when considering issues such as this. He said as a resident in this neighborhood he supports denial of this project, which if approved could set a precedent for all neighborhoods in the City.

Karyn Convertini stated this neighborhood was planned back in 1946 and has been kept up for over 60 years. She said she is unaware of anybody who is in favor of this particular change to the neighborhood.

Barbara Attinello stated she has owned property in Morro Bay since 1982 and chose the home she now owns in Tract 41 because of the large lots, the views and the character of the neighborhood. She requested Council deny this appeal.

Kathy Phipps requested Council maintain this neighborhood character. She said the neighbors know each other, they take care of each other, they walk the neighborhood together and it is a very defined neighborhood.

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Joe Attinello stated the specific neighborhood where the proposed lot split is located was established in 1946. He said the CCRs specifically prohibit lot splits. Mr. Attinello stated each home in the neighborhood has between 40-50 feet minimum spacing between each house. He also feels that should this lot split go through, property values in this tract would be significantly reduced.

Bill Luffee stated this lot split would not be in the best interest of Morro Bay or the neighborhood. He said the neighborhood residents should be able to define their own neighborhood character. Mr. Luffee noted the applicant bought the property in August 2006 when the 40-foot frontage guidelines were not in place, and there should not have been any expectation of a lot split at that time.

Dorothy Cutter stated this is one of Morro Bay's most attractive neighborhoods and this lot split would denigrate its beauty. She urged Council's denial of the appeal.

Dan Glesmann stated while splitting the lot into two and building maximized housing provides for greater wealth for the developer it extracts wealth for the neighboring properties.

Mayor Peters closed the public comment hearing.

Councilmember DeMeritt stated that due to the legal nature of the situation, it is the attorney's job to review this material. She said Tract 41 is a neighborhood and one of our best gateways in the City. Councilmember DeMeritt stated she would be voting to deny the appeal and let the attorneys handle the rest of it.

Councilmember Grantham requested the following be placed as part of the record: A) the proposed lot split is not consistent with the General Plan and Coastal Land Use Plan because the resulting lot sizes and shapes would not be consistent with the neighborhood character evident in the defined neighborhood of Tract 41; B) the design and improvement of the proposed subdivision are not consistent with the General Plan and Coastal Land Use Plan because the resulting lot sizes and shapes would not allow for an amount of open space that would be consistent with neighboring development; and, C) if subdivided, the site would not be physically suitable for a development type and density consistent with the neighborhood because it would allow the construction of an additional single family residential unit, which would not be compatible with the development pattern in the neighborhood.

Councilmember Peirce stated this proposed lot split is not compatible with the rest of the neighborhood; it degrades the visual quality of the neighborhood and is inconsistent with existing single-family residences in this neighborhood.

Councilmember Winholtz stated Morro Bay has many neighborhoods; for example the Radcliffe neighborhood, the Beach Tract, the Bananabelt, and Morro Heights. She said she does not believe postponing this decision is wise, and is in favor of denying the appeal.

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Mayor Peters stated another definition of a neighborhood is the people who live within it, and these neighbors want to maintain its character. She expressed support for maintaining this neighborhood character.

MOTION: Councilmember Winholtz moved the City Council deny the appeal as well as deny the requested lot split at 735 Cabrillo Place. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B-3 CONCEPT PLAN APPROVAL FOR THE EMBARCADERO CONFERENCE CENTER LOCATED AT 801-833 EMBARCADERO, UPO-212; (PUBLIC SERVICES)

Planning Manager Mike Prater stated the applicant is proposing to demolish portions of two detached buildings on separate lease sites and remodel the structures while adding new square footage by constructing a 6,257 square foot conference center, 7,770 square foot commercial retail, 2,188 square foot restaurant, add 17 new boat slips, 8-foot lateral access, and view decks, and create two public plazas by requesting expansion of lease space in exchange for the street end to facilitate the project. The project is anticipating only partial removal of the existing buildings. The applicant is requesting the project be considered a remodel in order to retain the historic parking credits. The previous uses required 31 parking spaces for the Outrigger building and 79 parking spaces for the Embarcadero Grill. The new uses generate a parking demand of 197 parking spaces and various parking management strategies are proposed to offset the projects shortfall. Mr. Prater stated this project can be found consistent with the waterfront design guidelines with offsetting public benefits and the project's potential impacts can be reduced to less than significant levels through incorporation of a mitigation-monitoring plan. The applicant has agreed to incorporate the mitigation-monitoring plan into the project and fully comply with its mandates. The proposed project is consistent with the development standards of the Zoning Ordinance and all applicable provisions of the General Plan, and Local Coastal Plan with incorporation of recommended conditions.

Steve Puglisi, the project's architect presented the project to the Council stating that it meets all conditions set forth in the City's General Plan, Zoning Ordinances and Codes and Waterfront Master Plan which include land use, view corridors, sidewalk widths, building setbacks and architectural character. He reviewed several issues for Council's consideration in order to allow this project to proceed.

Andy Peas with In Balance Green Consulting, the project's green consultant, stated this design would meet all the criteria for LEED certification, and a preliminary analysis finds the building will achieve LEED certification.

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Mary Beatie, TPG Consulting, worked on the approved City's Parking Management Plan for the Embarcadero. TPG has concluded that while there is a perception of a parking shortage there really is not one; it is more of an issue of getting the visitors to the parking they need. Ms. Beatie went on to present documentation that shows how the project will be able to procure the additional 187 parking spaces it will need. They will utilize valet parking, trolley use as well as shuttles. They currently have a signed lease agreement with San Luis Coastal Unified School District to provide 104 spaces at Morro Elementary and they are in negotiations with Bank of America and Rabobank to provide the remaining required spaces.

Myraline Whittaker, with Central Coast of California Hospitality Consulting Services reviewed the project from a hotel standpoint and what the impact to the hotel community might be. She stated in 2007/08, the Morro Bay hotel community was only at 50% occupancy rate; Morro Bay has also lost 9% of its share of visitor spending. The hotel community would be able to take advantage of this conference center project as it would bring much needed business in the form of transient occupancy tax and visitor spending in restaurants, retail, arts, recreation, and food stores to Morro Bay.

Mayor Peters opened the hearing for public comment.

Richard Snyder stated the City does not want change but are willing to destroy the look of the waterfront. He said people would not want to be shuttled to and from a conference. Mr. Snyder stated he supports a conference center but not on the waterfront.

Troy Leage stated he commends the owners of the Outrigger for what they have done for the business since they took over in 1998. He said he could not say whether a conference center would work in this location but he does know the Outrigger does work. Mr. Leage also said there is a huge parking issue on the Embarcadero.

Dannie Tope stated there is already a parking problem on the waterfront. She said she is a proponent of the conference center but not at this location.

Gail Queen stated the Brannigan's site should be the first choice for a conference center. She said the City should wait to proceed with this proposal until they receive the request for proposals that are due for the purchase of the Brannigan property. Ms. Queen noted the Coastal Commission would think we are out of our mind with this proposal.

Dan Reddell stated he has brought the City an offer of 3.5 million dollars for the Brannigan property, and his client is confused as to where the City stands with that offer.

Dan Dorn stated he is not against the concept of a conference center; in fact he is in favor of it, just not at this location. He said the City should leave the two lease sites intact as both are currently bringing in money to the City, and look elsewhere for a conference center location such as the Brannigan property. Mr. Dorn expressed concern with the view shed and noted in 1997 he attended a Coastal Commission meeting for the ratification of the Waterfront Plan. The Plan was accepted but an amendment was attached called the Dorn Amendment,

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which said that for all time the public view from the street ends at the bluff level cannot be interfered with; this includes the view of the rock, the sand spit and the water; so any proposal brought to the Commission will be under the scrutiny of this amendment.

Floyd Davison stated the Planning Commission saw weaknesses in the proposed parking plan and as such required an additional 87 spaces. He said he wants to see the signatures on the contracts that the applicant has obtained before this proceeds.

Ed Ewing stated he has lived in Morro Bay for 40 years and has seen the waterfront grow as well as change and does not believe a conference center on the waterfront is a good idea, and does not feel the Coastal Commission would either. He said the Brannigan property is a perfect spot for a conference center because it has a larger height limit. Mr. Ewing suggested the City wait until the bids on the Request for Proposal are received on the Brannigan property.

Bob Purcott stated there was a theater group attempting to move into this waterfront location, which never happened because the request hit a brick wall with the Coastal Commission over parking issues. He expressed support for a conference center; however the Brannigan property is a better location.

Susan Stewart stated she strongly supports the concept of a mid-size conference center in Morro Bay and likes the look of the project, especially the added boat slips and additional retail outlets.

Andrea Klipfel, member of the Chamber of Commerce, read a statement written by Peter Candela, CEO of the Morro Bay Chamber of Commerce. Mr. Candela recognizes the need for a conference center in Morro Bay, as it will bring countless visitors to our City.

George Leage expressed concern with parking on the waterfront, and noted there are more appropriate locations for a conference center. He said petitions have been circulated and for every 100 signatures they are receiving it shows 97 against the proposed site. Mr. Leage also stated the proposal will not get past the Coastal Commission because it will not meet the requirements.

Dorothy Cutter stated this project has tremendous parking problems.

John Barta stated the proposed zero parking spaces on the site will not work. He said he is concerned with the north-side view of the center, which will look like a massive wall that will never be approved by the Coastal Commission. Mr. Barta stated this site would not work as a conference center site because they only work in conjunction with a hotel; there is no room flexibility; you need breakout rooms, general session rooms, and on-site valet parking.

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Colin McKay stated there are other locations that would be more suitable for a conference center. He said it is the location of the conference center that is questionable, not the plan itself.

Tracy Neil encouraged Council to look at the effects this conference center will have on the surrounding businesses. She expressed concern that the construction phase would have a bad effect on Embarcadero business. Ms. Neil stated the Embarcadero does not have the infrastructure to support the parking needs. She said while she would like to see a conference center project move forward, she does not want to see it there.

Gene Doughty, Harbor Advisory Board Member, expressed concern that the Harbor Advisory Board never heard this concept plan for a conference center. He said he is also concerned that this project's plan to enlarge the waterfront lease site towards the navigation channel. Mr. Doughty stated technically it won't encroach into the channel but might force the smaller boats and kayaks into the tidal stream of the larger boats going up and down the bay. He said he also does not believe this project meets the Waterfront Master Plan.

Ken Vesterfelt stated he agrees the City needs a conference center. He said he had conversations with the manager at Bank of America and he said he was unaware of any parking lot negotiations. Mr. Vesterfelt stated while he respects the parking study that was done he feels that if you actually live here, you can see that we have a parking problem. He also finds that while new restaurants and/or hotels would possibly do well, without parking how can retail do well.

Neil Farrell stated he sits on the Board of Directors of Ride-On and the use of Ride-on vehicles as shuttles for this project has never been discussed at the board level. He said if the opportunity was there and there was a contract to supply this service, Ride-on would provide the vans.

Bill Martony stated one of the original purposes of the conference center was to provide a link between the waterfront and the downtown area with the hope of stimulating the economy of downtown; he said the Brannigan site could do this where this proposed site cannot. He said the Embarcadero has already lost some of its old character and this project will not help.

Mayor Peters closed the public comment hearing.

Councilmember Peirce stated years ago the City hired a consultant who informed the City that our attempts to put a conference center and hotel at the Brannigan's site would not work because of the costs. He said the consultant also noted that a conference center by itself has more problems than one with a hotel in close proximity. Councilmember Peirce stated he likes the plan but would rather delay the decision for two weeks until the request for proposal for the Brannigan's site are received.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó SEPTEMBER 22, 2008

Councilmember Winholtz stated there are two public benefits to this project, the LEED certification and two new public restrooms. She expressed concern with the project being built too far out into the water and does not like the fact that the slips will be pushed out further than any other slips that currently exist. Councilmember Winholtz stated she is also concerned that there is not adequate parking.

Councilmember DeMeritt stated she is in favor of the project in order to increase the local hotel occupancy rate to over 50%. She said she is in favor of voting for this project but does have the following issues: 1) the two lost handicap spaces should be drawn in across the street; 2) the valet parking should be in front of the building, not across the street; 3) the footprint of the building needs to be pulled back to match the footprint of Roseø from the bay side; 4) the Parking Management Plan will only work if the City implements the other parts of the Parking Management Plan such as signage to the lots at the end; 5) wants to see fewer boat slips as more boat slips create more of a need for parking; and, 6) explore the use of parking-in-lieu fees as a portion of meeting the parking needs rather than locating additional spaces.

Councilmember Grantham stated he would like to review the proposal for parking. He acknowledged this project would probably be a whole different project when it comes back from the Coastal Commission. Councilmember Grantham stated the City requested the applicants to come back with a viable project and they have; and Council should do the right thing and approve this concept plan.

Mayor Peters read a letter prepared by Michele Jacquez, member of the Community Promotions Committee who wrote in full support of the project. She expressed the City needs a conference center, and the applicants who are proposing this project have the experience of doing this before. Mayor Peters addressed the parking problem, and noted she attended the Avocado Margarita Festival this weekend and had no problem finding parking spaces. She said shuttles would work and people who attend conferences will use them.

MOTION: Councilmember DeMeritt moved City Council approve the Mitigated Negative Declaration and conditionally approve the Concept Plan for the Conference Center Project. The motion was seconded by Councilmember Grantham and carried with Councilmember Peirce and Councilmember Winholtz voting no. (3-2)

C. UNFINISHED BUSINESS

C-1 STATUS REPORT ON THE AGP CONTRACT AND CONSIDERATION OF PROVIDING WEB STREAMING OF COUNCIL MEETINGS;  
(ADMINISTRATION)

No discussion was held on this item.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING ó SEPTEMBER 22, 2008

D. NEW BUSINESS - NONE

ADJOURNMENT

The meeting adjourned at 11:08pm

Recorded by:

Jamie Boucher  
Deputy City Clerk



AGENDA NO: \_\_\_\_\_  
MEETING DATE: 10/27/08

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** September 19, 2008  
**FROM:** Susan Slayton, Administrative Services Director  
**SUBJECT:** Resolution No. 65-08 Authorizing Participation in the California Asset Management Program (CAMP) and Designating Transaction Officers

**RECOMMENDATION:**

To approve Resolution No. 65-08, authorizing the City of Morro Bay to join with other public agencies as a participant of the CAMP and invest in shares of the Trust.

**FISCAL IMPACT:**

Becoming a participant of the CAMP would allow the City to have another investment tool and to potentially have a higher yield for short-term investments.

**SUMMARY:**

In order to invest money with the California Asset Management Program (CAMP), a Resolution is required. The City will meet this requirement by adopting this Resolution, which authorizes the investment with CAMP and establishes the officers allowed to invest the City's money based on the annually adopted Investment Policy.

**DISCUSSION:**

In the past, the City of Morro Bay had limited its investments to the Local Agency Investment Fund (LAIF) and Treasury notes, such as Federal Home Loan Bank debentures. With the 2006 change in to the Finance Director position, a new investment style was introduced, one that embraces portfolio diversity within in the confines of the Investment Policy.

Currently, the City is invested in a combination of the LAIF pool, collateralized money market accounts, Treasury notes and Certificates of Deposit, but the bulk of the City's money is with the LAIF. With the current condition of the State of California, Staff feels that it would benefit the City to add another pool to the approved investment options and move money from one liquid pool into another. The pool that has been chosen is the California Asset Management Program (CAMP).

Prepared By: \_\_\_\_\_      Dept Review: \_\_\_\_\_  
City Manager Review:  
City Attorney Review: \_\_\_\_\_      Page 1 of 4

The CAMP is a joint powers authority (JPA) that was created in 1989 when two public agencies formed the California Asset Management Trust (Trust) to meet local government investment needs in a manner, and at a cost, determined by the local governments that use the program. The Trust's activities are directed by a Board of Trustees, all of whom are employees of California public agencies. As a result, the Trust is accountable solely to its public agency participants.

The Trust's Cash Reserve Portfolio (Pool) is a short-term money market portfolio, which seeks to preserve principal, provide daily liquidity and earn a high level of income, consistent with its objectives of preserving principal. Currently, the Pool has over \$500 million in public agency assets under management.

Some of the key benefits of the JPA are as follows:

- Safety: Standard and Poor's (S&P), one of the nationally recognized rating agencies, reviews the assets of the Pool each week. For the Pool to maintain the "AAA" rating, the Pool must meet certain credit rating standards and not exceed the average maturity allowed by S&P. In addition, a third-party custodian holds all cash and securities.
- Daily liquidity: The City may make withdrawals any time (same day if CAMP is notified by 11:00 a.m.), and there is no limit on the number of transactions.
- Competitive money market yields.
- Unlimited deposits and withdrawals.
- Interest earned daily and credited monthly.
- Services to ensure compliance with Treasury Department's arbitrage regulations for bond proceeds including arbitrage tracking, expenditure tests, annual estimates of rebate liability and rebate calculations on Installment Computation Dates.
- Monthly portfolio reports

The CAMP is governed by a seven-member board of highly respected California treasurers and finance directors. PFM Asset Management LLC (PFM) provides day-to-day portfolio management and program administrative services. PFM specializes in providing investment management services to public agencies. PFM currently manages over \$21 billion in public assets, including over \$7 billion for California public agencies.

### **Cost**

As with all money market funds, including the LAIF, all expenses of the Trust are deducted from the Pool's yield. There are no out-of-pocket expenses for money invested in the Trust.

### **Earnings**

As of October 10, 2008, the CAMP's current earnings rate was 2.38%. As of September 17, 2008, the LAIF's current earnings rate is 2.75%; the CAMP's earnings rate is 0.37% lower than the LAIF's. While this is a loss of interest earnings, Staff feels that, with the current economic uncertainty at the State level, diversifying is smart move to protect the City's money.

**RESOLUTION NO. 65-08**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AUTHORIZING PARTICIPATION IN THE CALIFORNIA ASSET MANAGEMENT  
TRUST (CAMP) AND DESIGNATING TRANSACTION OFFICERS**

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

**WHEREAS**, Section 6509.7 of Title 1, Division 7, Chapter 5 of the Government Code of the State of California (the "Joint Exercise of Powers Act") provides that, if authorized by their legislative or other governing bodies, two or more public agencies that have the authority to invest funds in their treasuries may, by agreement, jointly exercise that common power; and

**WHEREAS**, under Sections 6500 and 6509.7(b) of the Joint Exercise of Powers Act, a "public agency" includes, but is not limited to, any California county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission, state department or agency, any joint powers authority formed pursuant to the Joint Exercise of Powers Act by public agencies or any nonprofit corporation whose membership is confined to public agencies or public officials; and

**WHEREAS**, public agencies, which constitute local agencies as that term is defined in Sections 53600 of Title 5, Division 2, Part 1, Chapter 4, Article 2 of the Government Code of the State of California (the "California Government Code"), are authorized, pursuant to Sections 53601(o), to invest all money belonging to, or in the custody of, a local agency, not required for its immediate need, in shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 of the California Government Code that invests in the securities and obligations authorized in subdivisions (a) to (n), inclusive of Government Code Section 53601; and

**WHEREAS**, the California Asset Management Trust (the "Trust") was established, pursuant to and in accordance with the Joint Exercise of Powers Act, by a Declaration of Trust, made as of December 15, 1989, as subsequently amended from time to time (the "Declaration of Trust"), as a vehicle for public agencies to jointly exercise their common power to invest the proceeds of debt issues and public agency surplus funds; and

**WHEREAS**, pursuant to and in accordance with the Joint Exercise of Powers Act, the City of Morro Bay desires to join the other public agencies, which are or will be Participants of the Trust, by adopting and executing the Declaration of Trust, a form which is on file in the office of the Treasurer/Administrative Services Director; and

**WHEREAS**, the City of Morro Bay is a "public agency" as that term is defined in Sections 6500 and 6509.7(b) the Joint Exercise of Powers Act and a "local agency" as that term is defined in Section 53600 of the California Government Code; and

**WHEREAS**, the City of Morro Bay is otherwise permitted to be a Participant of the Trust and to invest funds in the Trust; and

**WHEREAS**, a program guide describing the Trust (the "Program Guide") is on file in the office of the Treasurer/Administrative Services Director.

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

Section 1. The City of Morro Bay shall join with other public agencies, pursuant to and in accordance with the Joint Exercise of Powers Act, by executing the Declaration of Trust, and thereby becoming a Participant in the Trust, which Declaration of Trust is hereby approved and adopted. A copy of the Declaration of Trust, which is available in the office of the Treasurer/Administrative Services Director, shall be filed with the minutes of the meeting at which this Resolution was adopted. The Mayor is hereby authorized to execute, and the City Clerk is hereby authorized to attest and deliver, the Declaration of Trust.

Section 2. The City of Morro Bay is hereby authorized to purchase shares in the Trust from time to time with available funds of the City, and to redeem some or all of those shares from time to time as such funds are needed.

Section 3. The appropriate officers, agents and employees of the City of Morro Bay are hereby identified, authorized and directed in the name and on behalf of the City to take all actions, and to make and execute any and all certificates, requisitions, agreements, notices, consents, warrants and other documents, and any changes, amendments, modifications, or waivers thereto which they, or any of them, might deem necessary or appropriate in order to accomplish the purposes of this Resolution;

|                |                                  |
|----------------|----------------------------------|
| Janice Peters  | Mayor                            |
| Andrea Lueker  | City Manager                     |
| Susan Slayton  | Administrative Services Director |
| Joyce Bunting  | Accountant                       |
| Laurie Goforth | Lead Account Technician          |
| Cris Brazzi    | Account Clerk III Confidential   |

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 27<sup>th</sup> day of October 2008, on the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

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

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



AGENDA NO:         A-3        

MEETING DATE:         10/27/08        

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** 10/27/08

**FROM:** Rick Algert, Harbor Director

**SUBJECT:** Approval of Resolution 67-08 Authorizing the City of Morro Bay to Enter Into Abandoned Watercraft Abatement Fund Contract #08-214-505 with the Department of Boating and Waterways

**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution #67-08 authorizing the Harbor Director to execute the attached \$30,000 Abandoned Watercraft Abatement Fund (AWAF) contract agreement with the Department of Boating and Waterways (DBW) for assistance with demolition of abandoned/derelict vessels and hazards to navigation.

**FISCAL IMPACT:**

Approval of this \$30,000 grant agreement provides funding for demolition of several abandoned/derelict vessels.

**DISCUSSION/SUMMARY:**

The Abandoned Watercraft Abatement Fund (AWAF) was established in 1997. The AWAF provides funds to public agencies to remove, store, and dispose of abandoned, wrecked, or dismantled vessels or other partially submerged objects which pose a substantial hazard to navigation, from navigable waterways or adjacent public property. The Harbor Operations Manager applied for \$65,000 in funding for removal/abatement of 10 vessels and some hazards to navigation. The City was notified that a grant of \$30,000 would be awarded from the AWAF. The City will prioritize the vessels that need to be removed from the Harbor and put the project out to bid this winter. The City will remove as many vessels as possible within the scope of the \$30,000 grant agreement and will use existing budgeted funds for derelict vessel demolition to supplement the grant if necessary.

**CONCLUSION:**

Staff recommends that the City Council adopt Resolution #67. 08, authorizing the City to enter grant agreement #08-214-505 with the DBW for removal of abandoned/derelict vessels and hazards to navigation. Staff also recommends that the City Council authorize the Harbor Director to execute the grant and to act as the City's Authorized agent for the grant agreement.

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

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

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

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

**RESOLUTION NO. 67-08**

**AUTHORIZATION FOR THE CITY OF MORRO BAY TO  
ENTER INTO ABANDONED WATERCRAFT ABATEMENT FUND  
CONTRACT #08-214-505  
WITH THE DEPARTMENT OF BOATING AND WATERWAYS**

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

**WHEREAS**, in City of Morro Bay (City) applied for a grant from the Department of Boating and Waterways (DBW) under the Abandoned Watercraft Abatement Fund (AWAF); and,

**WHEREAS**, DBW awarded a grant of \$30,000 under the AWAF program to the City for removal of derelict/abandoned vessels and hazards to navigation; and,

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay that the City of Morro Bay is hereby authorized to enter into AWAF Contract #08-214-505 for the removal of derelict/abandoned vessels and hazards to navigation in the amount of \$30,000.

**BE IT FURTHER RESOLVED**, that the Harbor Director is hereby authorized to act as the City's agent in regards to all aspects of the grant agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting held thereof on the 27<sup>th</sup> day of October 2008, by the following vote:

AYES:

NOES:

ABSENT:

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JANICE PETERS, MAYOR

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BRIDGETT BAUER, CITY CLERK



AGENDA NO:         A-4        

MEETING DATE:     10/27/08    

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** 10/27/08

**FROM:** Rick Algert, Harbor Director

**SUBJECT:** Approval of Resolution 68-08 Authorizing the City of Morro Bay to Enter into the Second Amendment to Grant Agreement #05-128- 80 With the Department of Boating and Waterways for State Park Marina Rehabilitation Project Planning

**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution #68-08 authorizing the Harbor Director to execute the attached \$90,000 amendment to the grant agreement with the Department of Boating and Waterways (DBW) for planning and design activities on the State Park Marina Rehabilitation Project.

**FISCAL IMPACT:**

Approval of this \$90,000 amendment will provide funding for shoreline bioassay testing, project planning, permit application and preconstruction permits and approvals. The EIR work is being funded through revenue received from the State Park Marina Operator and some initial funding set aside by the Harbor Fund.

**BAC GROUND:**

In October 2002 the City initiated an agreement with the State Parks Department to have the City take the lead on a major dredging and rehabilitation project at the State Park Marina. The revenues from the State Park Marina operator, Associated Pacific Constructors (APC) flow to the City and the City is using those funds to complete an EIR on the rehabilitation project.

In July 2006 the City entered into grant agreement #05-128-980 with the DBW for planning activities associated with the State Park Marina Project. In August 2007 the City entered into the first amendment to grant agreement #05-128-980 for additional preliminary engineering and planning efforts associated with the project.

**DISCUSSION:**

The funding source for the majority of actual construction costs of the rehabilitation project has tentatively been identified as DBW Capital Construction Funds, which are essentially a grant due to the relatively unique nature of this project being a state owned facility. This amendment will provide additional funding for project planning related to obtaining preconstruction permits and approvals.

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

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

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

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

**CONCLUSION:**

Staff recommends that the City Council adopt Resolution #68. 08, authorizing the City to enter into Amendment #2 to grant agreement #05-128-980 with the DBW for planning and permitting for the State Park Marina Rehabilitation Project. Staff also recommends that the City Council authorize the Harbor Director to execute the grant amendment and to act as the City's Authorized agent for the amended grant agreement.

**RESOLUTION NO. 68-08**

**AUTHORIZATION FOR THE CITY OF MORRO BAY TO  
ENTER INTO AMENDMENT #2 TO GRANT AGREEMENT #05-128- 0  
WITH THE DEPARTMENT OF BOATING AND WATERWAYS  
FOR MORRO BAY STATE PARK REHABILITATION PROJECT PLANNING**

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

**WHEREAS**, in 2002 the City of Morro Bay (City) and the California Department of Parks and Recreation (State Parks) entered into an agreement to have the City of Morro Bay manage planning, design and construction for improvements and rehabilitation of the State Park Marina; and,

**WHEREAS**, per the terms of the agreement between the City and State Parks, revenues from the State Park Marina are paid to the City to complete an EIR for the rehabilitation project and,

**WHEREAS**, funding for construction of the actual improvements to the State Park Marina as yet unsecured, but the project may qualify for the DBW Capital Outlay Program; and,

**WHEREAS**, in July 2006 the City and DBW entered into grant agreement #05-128-980 to provide \$80,000 funding for planning work to further identify and analyze dredging disposal analysis and construction alternatives; and,

**WHEREAS**, in August 2007 the the City and DBW entered into amendment #1 to grant agreement #05-128-980 for additional funding of \$85,000 to work on design specifications and cost estimates for the State Park Marina Rehabilitation Project; and,

**WHEREAS**, DBW has agreed to fund an additional \$90,000 through amendment #2 to grant agreement #05-128-980 to work on testing and planning work for the permitting process for the State Park Marina Rehabilitation Project.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay that the City of Morro Bay is hereby authorized to enter into Amendment #2 for grant agreement #05-128-980 for the Morro Bay State Park Marina Rehabilitation Project Planning Grant in the amount of \$90,000.

**BE IT FURTHER RESOLVED**, that the Harbor Director is hereby authorized to act as the City's agent in regards to all aspects of the amended grant agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting held thereof on the 27<sup>th</sup> day of October 2008, by the following vote:

AYES:  
NOES:  
ABSENT:

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JANICE PETERS, MAYOR

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BRIDGETT BAUER, CITY CLERK



AGENDA NO:   A-5  

Meeting Date:   10/27/08  

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** 10/27/08

**FROM:** Rick Algert, Harbor Director

**SUBJECT:** Approval of Resolution 6 -08 Authorizing a Berthing Lease Agreement #HSCG8 - 0 -L-6-63-002 with the United States Coast Guard for Berthing Space and Use of a Portion of the North T-Pier, and for Use of Parking Spaces in the Vicinity of the North T-Pier

**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution #69-08 authorizing execution of Berthing Lease Agreement #HSCG89-09-L-6-63-002 with the United States Coast Guard (USCG).

**FISCAL IMPACT:**

Continue annual rental revenue to the Harbor Fund of approximately \$20,000.

**BAC GROUND:**

The City has two lease agreements with the USCG:

1. A land+lease for the USCG Office on Lease Site 141 executed in 1991 for a term of 50 one-year options at the USCG discretion. The building was constructed by the USCG and the lease rent to the City for this agreement is \$1.00 annually. This is for information only and this agreement is not the subject of this agenda item.
2. Since incorporation, the City has provided berthing space for USCG vessels and use of a portion of the North T-Pier for a small maintenance building. Since the early 1990s the City has charged the USCG rent similar to other berthing arrangements in Morro Bay Harbor because the City is responsible for maintenance of the North T-Pier, parking lots, etc. The last lease for the berthing area was entered into in 1997 for a one-year lease with 10 one-year options to extend. September 2008 was the end of the final year extension on the lease agreement. This new berthing lease agreement is the subject of this agenda item.

|                                    |                           |
|------------------------------------|---------------------------|
| <b>Prepared By:</b> _____          | <b>Dept Review:</b> _____ |
| <b>City Manager Review:</b> _____  |                           |
| <b>City Attorney Review:</b> _____ |                           |

**DISCUSSION:**

Currently, the USCG operates Station Morro Bay here for two 47qrescue vessels and two rigid hull rescue vessels berthed at the North T-Pier. They also have a work shed on the North T-Pier and use of approximately 10 parking spaces. The USCG serves the entire Central Coast area for federal law enforcement, search and rescue, and provides security coverage for Diablo Canyon Nuclear Power Plant and Vandenberg Air Force Base.

The USCG has proposed a new one-year lease, with 10 one-year options to continue berthing of their vessels, use of a portion of the North T-Pier and lease 10 parking spaces. The proposed lease has the same terms and conditions as the prior lease. Following is a summary of the lease terms:

1. Term: One year, from October 1, 2008 . September 30, 2009 with an option to extend for 10 years.
2. Rent: \$1678.35 monthly, adjusted annually based on the change in CPI.
3. Site: 140 linear feet of berthing space along the inboard side of the North T-Pier, two slips, 10 parking spaces and use of the work shack on the end of the North T-Pier.
4. Maintenance and Utilities: The City maintains the pier structure and services. The USCG maintains all their equipment and structures and pays for all utilities.
5. Use: The City may assign vessels to use the leased area when it is vacant, with prior permission of the USCG.
6. Format: This lease is standard federal format as required by the USCG.

**CONCLUSION:**

Staff recommends that the City Council adopt Resolution #69-08 authorizing the City to enter into a Berthing Lease Agreement # HSCG89-09-L-6-63-002 with the USCG for their continued use of the North T-Pier. The Resolution authorizes the City Harbor Director to execute any new extensions to the lease during the 10-year option to extend period as long as the terms and conditions of the lease remain the same.

**RESOLUTION NO. 6 -08**

**APPROVAL OF BERTHING LEASE AGREEMENT #HSCG8 -0 -L-6-63-002 WITH  
THE UNITED STATES COAST GUARD FOR  
BERTHING SPACE AND USE OF A PORTION OF THE NORTH T-PIER,  
AND FOR USE OF PARKING SPACES IN THE VICINITY OF THE NORTH T-PIER**

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

**WHEREAS**, the City of Morro Bay and the United States Coast Guard (USCG) entered into a berthing agreement with the USCG for their use of the North T-Pier in 1997 which expired September 30, 2008; and,

**WHEREAS**, continued operation of USCG Station Morro Bay and requires that the USCG be able to maintain their use of the North T-Pier; and,

**WHEREAS**, the City and the USCG wish to enter into a new lease agreement for use of approximately 140 linear feet of dock space on the inboard side of the North T-Pier, two slips and continued use of the work shed at the North end of the North T-Pier and use of 10 parking spaces.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay that the Mayor is hereby authorized to execute Berthing Lease Agreement #HSCG89-09-L-6-63-002 with the USCG for use of the North T-Pier, slip space and parking spaces.

**BE IT FURTHER RESOLVED**, that the Harbor Director is hereby authorized to execute any future amendments or renewals of this lease agreement as long as the terms and conditions remain the same.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting held thereof on the 27<sup>th</sup> day of October 2008, by the following vote:

AYES:

NOES:

ABSENT:

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JANICE PETERS, MAYOR

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BRIDGETT BAUER, CITY CLERK



AGENDA NO:         A-6        

MEETING DATE:       10/27/08      

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** 10/27/08

**FROM:** Rick Algert, Harbor Director

**SUBJECT:** Approval of Resolution 70-08 Authorizing a New Lease Agreement with the Morro Bay Commercial Fisherman's Organization for the Fisherman's Gear Storage Area Located at 1622 Embarcadero

**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 70. 08 approving a new lease agreement with the Morro Bay Commercial Fisherman's Organization (MBCFO) for the Fisherman's Gear Storage Area, located at 1622 Embarcadero in Morro Bay.

**FISCAL IMPACT:** Continued annual rental revenue to the Harbor Fund of approximately \$3,000.

**BAC GROUND:**

In 1992 the City received a grant from the California Coastal Conservancy to construct the Fisherman's Gear Storage Area. The Morro Bay Power Plant, under ownership of Pacific Gas and Electric (PG&E), approved building the facility on their property and entered into a lease agreement with the City for the site. Construction of the facility was completed in 1994 and the City entered into a sublease agreement with the MBCFO for the Fisherman's Gear Storage Area. A small portion of the site was retained for a Harbor Department storage facility. In 1998 the City and PG&E terminated the lease agreement for the site and the City was granted an easement for use of the site. The City entered into a new lease agreement with the Morro Bay Commercial Fisherman's Organization in 1998 after the easement was granted.

**DISCUSSION:**

The lease agreement between the City and the MBCFO for the Fisherman's Gear Storage Area terminated on April 30, 2008 and has been operating on a month-to-month holdover since that time. Staff and the MBCFO are proposing a new lease agreement for the Fisherman's Gear Storage Area similar in terms to the last agreement. Following is an overview of the lease terms:

**1. Term:** The lease term is for a 10-year period with an effective date of July 1, 2008 and termination date of June 30, 2018. The retroactive date was decided upon for consistency with other leases and to coincide with the City's fiscal year. There is an option to extend for one 5-year period.

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

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

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

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

**2. Rent:** The rent will remain at \$255.00 until July 1, 2009 when it will be increased by \$20.00 a month. Each July 1 thereafter during the term of the agreement the monthly rent will increase by \$20.00.

**3. Permitted Uses:** The site is to be used for rental of commercial gear storage areas to individual owners of commercial fishing vessels and must comply with all the terms of the easement agreement between the City and the Morro Bay Power Plant (Dynegy). The agreement also states that, the purpose of this agreement is to provide a non-profit, low-cost, safe and convenient gear storage area for commercial fishermen. The City may require Lessee to supply City statement of financial activity including all revenues and expenses and a complete listing of the fee schedule or rental rates attributable to the Site so that City may be assured that the Site is being operated for the purpose as stated above.

**4. No Lease Assignment:** The lease agreement shall not be transferable for any reason.

**5. Insurance:** The lease is subject to the City's general insurance requirements for all Tidelands leases.

**CONCLUSION:**

In order to continue operation of the Fisherman's Gear Storage Area, staff recommends that the City Council adopt Resolution No. 70. 08 approving a new lease agreement with the Morro Bay Commercial Fisherman's Organization (MBCFO) for the Fisherman's Gear Storage area, located at 1622 Embarcadero in Morro Bay.

**RESOLUTION NO. 70-08**

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

**APPROVAL OF A NEW LEASE AGREEMENT WITH  
THE MORRO BAY COMMERCIAL FISHERMAN'S ORGANIZATION FOR  
THE FISHERMAN'S GEAR STORAGE AREA LOCATED AT 1622 EMBARCADERO**

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

**WHEREAS**, the City of Morro Bay constructed a gear storage facility on Morro Bay Power Plant Property in 1994 under a grant agreement with the California Coastal Conservancy; and

**WHEREAS**, the City of Morro Bay was granted an easement for use of the gear storage facility site in 1998 by Pacific Gas and Electric which is now held by their successor to the Morro Bay Power Plant, Dynegy; and,

**WHEREAS**, the City of Morro Bay leased a portion of the area to the Morro Bay Commercial Fisherman's Organization for operation of a non-profit, low-cost, safe and convenient gear storage area for commercial fishermen; and,

**WHEREAS**, the lease agreement for the Fisherman's Gear Storage Area had a termination date of April 30, 2008, and that agreement is now in month-to-month holdover; and,

**WHEREAS**, the City of Morro Bay and the Morro Bay Commercial Fisherman's Organization desire to continue the operation of the Fisherman's Gear Storage Area.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the Mayor is hereby authorized to execute a new lease agreement with the Morro Bay Commercial Fisherman's Organization for the Fisherman's Gear Storage area, located at 1622 Embarcadero.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 27<sup>th</sup> day of October 2008 on the following vote:

AYES:  
NOES:  
ABSENT:

---

Janice Peters, Mayor

ATTEST:

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Bridgett Bauer, City Clerk



AGENDA NO: \_\_\_\_\_

Meeting Date: October 27, 2008

Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** October 20, 2008

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

**SUBJECT:** Authorization to Fill the Planning Manager Vacancy at the Senior Planner Level and Amendment to the Senior Planner Job Description

**RECOMMENDATION:**

It is recommended that the City Council authorize staff to fill the Planning Manager vacancy at the Senior Planner level and approve the updated job description for the Senior Planner.

**FISCAL IMPACT:**

The Planning Manager position has been budgeted in the FY 08-09 adopted budget. Under filling the Planning Manager vacancy at the Senior Planner level could potentially result in a budget savings ranging from \$16,000 to \$28,000 annually.

**BACKGROUND/DISCUSSION:**

The City Council instituted a hiring freeze when the FY 04-05 budget was adopted. The policy set forth in the hiring freeze requires Council approval for the filling of any new or vacant positions while the freeze is in effect. The former Planning Manager, Mike Prater, has resigned. Staff believes that the current workload and associated complexities of the work program could easily be fulfilled by a journey-level Senior Planner. In the recent past during a more prosperous development economy and prior to the extreme budget cuts the City and department when through in FY 04-05, the Public Services Department had a planning staff of up to six, comprised of a Planning Manager, Senior Planner, Associate Planner, a Contract Associate Planner, and two Planning Interns.

We are now down to one Associate Planner with a considerable backlog of Advanced Planning projects (including the General Plan/Local Coastal Plan Update, New Zoning Ordinance, Neighborhood Compatibility Standards, FAR, etc.). Hopefully the new Senior Planner will be able to handle these projects with increased assistance from the Public Services Director and the Associate Planner. The Senior Planner job description has been updated with minor clarifications and corrections, and staff has added the preference for a certified planner.

Attachment

1. Updated Senior Planner Job Description

Prepared by: \_\_\_\_\_ Dept. Review: \_\_\_\_\_  
City Manager Review: \_\_\_\_\_



AGENDA NO: A-8

MEETING DATE: 10/27/08

# Staff Report

**TO:** Honorable Mayor and City Council **DATE:** October 20, 2008  
**FROM:** Dylan Wade Utilities/ Capital Projects Manager  
**SUBJECT:** Continuation of Emergency per Public Contract Code Section 22050 for the Installation of Desalination Plant Energy Recovery Equipment

**RECOMMENDATION:**

Staff recommends the City Council determine the necessity to continue the emergency per Public Contract Code Section 22050 for the installation of desalination plant energy recovery equipment.

**BACKGROUND:**

At your October 13, 2008 Council meeting, The City Council adopted resolution 64-08 declaring that an emergency condition exists regarding immediate improvements to its Desal plant.

With the equipment design of the brackish membrane trains now complete, and a shipping date set in early December, it would take a minimum of several months to get the bid specifications completed, advertise, accept bids and bring a contract award to the Council. The delivery projections for State Water during the next calendar year are currently at 15%. There is insufficient time to go through the normal bidding procedures and complete the upgrade in between the end of this year's State Water shutdown and the beginning of next year's reduced State Water deliveries. Given the reduction in State Water deliveries and the increasing nitrate pollution we are experiencing in both the Morro and Chorro groundwater basins it is critical that we get the brackish water system operational as quickly as possible, and as such we need to continue the emergency per Public Contract Code (PC) Section 22050 for the installation of energy recovery equipment.

Pursuant to PC 22050(c)(1) the City Council must review that action and reaffirm by 4/5<sup>th</sup> vote at every regularly scheduled meeting until that action is terminated. Accordingly staff will place this item on each subsequent agenda until the project is complete.

**CONCLUSION:**

Staff recommends the City Council determine the necessity to continue the emergency per Public Contract Code Section 22050 for the installation of desalination plant energy recovery equipment.

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



AGENDA NO:

MEETING DATE: October 27, 2008

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 23, 2008  
**FROM:** Bruce Ambo, Public Services Director  
**SUBJECT:** Authorization to Fill the Associate Planner Vacancy

**RECOMMENDATION:**

It is recommended that the City Council authorize staff to fill the Associate Planner vacancy.

**FISCAL IMPACT:**

This position is funded in the budget and there are no fiscal impacts associated with the replacement of this position.

**BACKGROUND/DISCUSSION:**

The City Council instituted a hiring freeze when the FY 04-05 budget was adopted. The policy set forth in the hiring freeze requires City Council approval for the filling of any new or vacant positions while the freeze is in effect. Rachel Grossman, our current Associate Planner has accepted another job in Northern California for a larger jurisdiction and staff is requesting authorization to fill this vacancy.

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



AGENDA NO: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 14, 2008

**FROM:** John DeRohan, Police Chief

**SUBJECT:** Approval of Resolution 66-08 Accepting \$100,000 Grant from the State of California Citizens Option for Public Safety (COPS) Program

### **RECOMMENDATION:**

The Police Chief recommends that Council hold a public hearing and adopt the attached resolution authorizing the proposed spending plan for the \$100,000 that will be received from the Citizens Option for Public Safety (COPS) grant program that complies with the requirements of Government codes 30061, 30062, 30063 and 30064.

### **FISCAL IMPACT:**

COPS grant funds are established pursuant to Government Code Section 30061 with each law enforcement agency guaranteed a minimum of \$100,000 per fiscal year. Funds are distributed to local agencies through the County Supplemental Law Enforcement Oversight Committee. The funds must be maintained in a separate, interest bearing account (outside the general fund) to insure the funds (including interest) supplement and do not supplant existing Police Department or City budgets. There are no local matching funds required for the expenditure of these funds.

### **SUMMARY:**

Since 1996, the Citizens Option for Public Safety (COPS) established by AB 1913 and codified as Government Code Section 30061, has been distributing State grant funds to local law enforcement agencies to supplement front line law enforcement services. These funds are also known as Supplemental Law Enforcement Services Funding (SLESF). The legislation requires a report in September to the City Council on how the funds are proposed for use by the Police Department and annual reporting to the County Oversight Committee on the proposed use and actual expenditures of COPS funds. However, this report requirement

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

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

City Manager Review:

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

Page 1 of 4

was delayed this year due to the State budget adoption delay and uncertainty of the grant funding. Since the recent passage of the State budget, law enforcement agencies are now preparing the required resolutions.

This year, the Police Department is scheduled to receive a minimum of \$100,000 in COPS grant funds. These funds will be tracked separately by the Finance Department in a separate account with any interest earned credited to the account. To comply with the COPS program, each City Council is requested to act upon the written request from the Police Chief. This report is presented to Council in compliance with annual hearing/reporting requirements and to adopt the proposed expenditure plan by the Police Department.

**DISCUSSION:**

The City Council is required to hold a public hearing and consider whether the recommendation submitted by the Police Chief complies with the requirements of the Government Code. Once adopted, the recommendation is then forwarded to the County Oversight Committee who then distributes the COPS funds to the local jurisdictions. The funds can then be expended and/or encumbered by the police department.

Annual reports are submitted by the local agencies to the County Oversight Committee to insure that the funds are being properly expended. The Morro Bay Police Department has been complying with all requirements required under the legislation.

COPS funds in past years have been mostly used for a myriad of equipment replacements and upgrades since the Police Department equipment depreciation plan has not been funded. Last year a good question was raised by a council member as to why we don't use the funds for additional police officer positions. The funds are not guaranteed from year to year. We usually receive the funds in October or November and this year we will probably receive them in December. It takes at least two months to complete the recruiting and hiring process for police employees. The funds have to be spent or encumbered by June 30<sup>th</sup> of each year. It would be very difficult if not impossible to recruit police officer positions and only guarantee the recruit employment for the duration of the grant (4 months). It is highly unlikely anyone would accept such a position for this short period of time with no guarantee of employment beyond the grant period.

The proposed spending of this year's COPS funds is outlined below. It should be noted that the amounts are approximations and will fluctuate depending on actual costs and increases. It is also recommended that the Police Chief be given discretion to use these funds during the grant period for other purposes authorized by the grant in the event of a change in department priorities.

It is recommended that the \$100,000 be allocated as follows:

1. The entire amount is proposed to be spent on two large steel storage/garage buildings for the annex area across the street from the police department. The police department is in dire need of large storage. The wood garage that housed the DARE vehicle, supplies and other equipment was torn down this past year due to unsafe conditions. The other existing wood building across the street is old, it leaks, is falling apart, and provides minimal storage space. It houses the police bicycles, training equipment, vehicle equipment, range equipment, ammunition, crime prevention supplies, etc. Bulk evidence is stored in a rented cargo container at that site. The DARE vehicle, radar trailers, and traffic safety trailer are parked in the open and are unprotected from the weather and elements. A large steel storage building would provide the needed storage for all these items including future items such as police motorcycles. This project falls under Vision 2020 priority # C1.

Several vendors have been contacted and bids are being received. It appears the project can be completed within the allotted funds. In addition to the building purchase and construction, the funds would be used to demolish the old wood building, relocate the electrical and phone service, soils reports, fencing, and other related fees and costs. This project will be coordinated with the planning and building department.

**CONCLUSION:**

It is appropriate to use these grant funds on this building as it will enhance our front line law enforcement efforts and is in compliance with the Government Code. It will provide badly needed storage for the above-mentioned equipment and evidence.

**ATTACHMENTS:**

1. Resolution

**RESOLUTION NO. 66-08**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,  
CALIFORNIA ACCEPTING \$100,000 GRANT FROM THE STATE OF  
CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM**

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

**WHEREAS**, Government Code Sections 30061 through 30064 is providing supplemental funds for front line municipal police services after the City adopted its 2007-2008 budget; and

**WHEREAS**, it is proposed that the Police Chief be given discretion to use these funds during the grant period for other purposes authorized by the grant in the event of a change in department staffing and priorities; and

**WHEREAS**, the required public hearing has been held.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the expenditure of those funds is hereby authorized in accordance with the Government Code as recommended by the Police Chief.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, California, at a regular meeting thereof held on the 27<sup>th</sup> day of October 2008, on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Janice Peters, Mayor

ATTEST:

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Bridgett Bauer, City Clerk



AGENDA NO:

MEETING DATE: October 27, 2008

# Staff Report

**TO:** Mayor and Councilmembers                      **DATE:** October 20, 2008  
**FROM:** Bruce Ambo, Public Services Director  
**SUBJECT:** Presentation from Buxton Company on Retail Marketing Strategies for Morro Bay

**RECOMMENDATION:**

It is recommended that the City Council consider the presentation by Buxton Company and provide further direction to staff.

**FISCAL IMPACT:**

There are no direct fiscal impacts associated with hearing the presentation from Buxton Company. If the City decides to go forward with the program it is anticipated that the costs could total \$50,000, which would be split evenly between fiscal budget years at \$25,000 for FY 08-09 and FY09-08. If the City is successful in attracting new business to the community the potential economic benefit could be substantial and would provide more diversity to the retail mix in the community, which might also be an advantage to residents of the community and tourists.

**DISCUSSION:**

The proposal to develop a Retail Economic Development Strategy for Morro Bay and some other information on Buxton is attached to this report. Staff recommends that the Council consider the presentation and provide further direction to staff.

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



bathroom. Three of the 15 units are required to be deed restricted as affordable housing units for 30 years. By design, all of the studio units are considered "market-rate affordable" as work force housing.

**Affordable Housing Policies – Financial Assistance**

The City's adopted Housing Element of the General Plan that was certified by the State Department of Housing and Community Development on December 22, 2004 establishes the policies and programs for the provision of affordable housing within the community. Policy H-12 (Incentives) identifies a number of incentives that the City may use to promote the provision of affordable housing including, but not limited to, "fee assistance and any other modifications/incentives or combination of modifications/incentives, which are jointly agreed upon by the applicant and the decision-maker, as an incentive for constructing specific affordable housing projects. This is not intended to be an exhaustive list of modifications/incentives available to the applicant and/or decision-maker." Policy H-25 (Fee Assistance) specifies, "The City may provide fee assistance from CDGB funds and/or the City's affordable housing fund as an incentive for lower-income housing." The whole purpose in establishing the Affordable Housing In-Lieu Fund is to use the funds to leverage the construction of affordable housing projects.

**DISCUSSION:**

The applicant is requesting approximately \$214,208 in financial assistance from either cash from the Affordable Housing In-Lieu Fee Fund to partially offset project expenses in developing the three deed-restricted affordable housing units and the remaining 12 work force housing units. The applicant is requesting the following (please see Attachment 1) fee assistance:

- \$43,660 in Building Permit and Plan Check fees be waived or paid with In-Lieu Funds
- \$31,000 in Sewer Impact fees (not to exceed) be waived or paid with In-Lieu Funds
- \$139,548 in construction costs (approximately half) for the 3 affordable units be paid with In-Lieu Funds

While there are technically only three (3) deed-restricted affordable units, the applicant would like the request considered in the totality of the project, which includes an additional 12 workforce housing units, totaling 15 studio apartment units.

**Analysis**

In the simplest terms the City is only guaranteed three deed-restricted affordable units. In comparing the total package of financial assistance for only the three units, the level of financial subsidy seems high at approximately \$71,403 per unit. Even for the term of the 30-year "affordable" deed restriction, that equates to approximately \$2,381 per year of City-supported financial assistance, which may be excessive.

However, this assistance can realistically be looked at as leveraging the entire 15-unit project, and delivering 15 studio rental units that are in extremely high demand relative to the employees of the retirement home and the community in general. From a broader community perspective, if this project comes to fruition and is constructed, it may deliver the most "affordability" we have seen in a very long time. Furthermore, these apartment projects are very often difficult to get permitted due to neighborhood concerns. In evaluating this request, staff sought the guidance and advice of our housing financial advisors, Urban Futures Incorporated, and they also concur that this level of support and financial assistance is justified (please see Attachment 2).

In order to preserve as much cash as possible in the Affordable Housing In-Lieu fund to help make other affordable housing projects go forward, staff recommends crediting the \$43,660 in Building and Plan Check Fees and \$31,000 in sewer impact fees. This credit would occur upon the submittal of plans for a Building Permit. That would bring the cash subsidy from the In-Lieu Fee program down to \$139,598, which would be released upon issuance of a Certificate of Occupancy. This would leave a remaining balance in the Housing In-Lieu Fund of \$483,402.

#### **Considerations for Future Requests for Assistance**

As a component of the City's affordable housing program, there is no fee for applicants to request financial assistance from the Housing In-Lieu Fees. A considerable amount of time was spent reviewing this application and financial housing advisor expenses were incurred. As a deterrent to frivolous requests for assistance, the City may want to consider establishing an application fee to request financial assistance that is returned if the project is later funded by the City.

#### **CONCLUSION:**

This project potentially represents the most meaningful public/private partnership in providing 12 studio units of workforce housing and three deed restricted affordable units. It has been a long-standing policy of the City to promote and provide affordable housing. It is recommended that the City Council direct staff to credit \$43,660 in Building and Plan Check Fees, and release \$170,598 in Affordable Housing In-Lieu Fees upon issuance of a Certificate of Occupancy for the project.

#### **Attachments:**

1. October 8, 2008 Letter Request from Cathy Novak
2. October 16, 2008 Memo from Urban Futures Incorporated on Sea Shell Request for Assistance



**AGENDA NO.: D-3**  
**Meeting Date: 10/27/08**  
**Action: \_\_\_\_\_**

**THIS ITEM HAS**

**BEEN PULLED FROM**

**THE AGENDA**



# Staff Report

AGENDA NO: \_\_\_\_\_

MEETING DATE: 10/27/08

**TO:** Honorable Mayor and City Council      **DATE:** October 16, 2008

**FROM:** Susan Slayton, Finance Director

**SUBJECT:** Discussion on Requiring a Business License from Businesses that make Deliveries with the City Limits

**RECOMMENDATION:**

Continue charging delivery vehicles a business license fee.

**FISCAL IMPACT:**

Continued revenue from existing delivery vehicles, and increased revenues from others as staff is made aware of them and gains compliance.

**SUMMARY:**

The Municipal Code states that all businesses will be charged a business license fee. In order to equitably treat all persons conducting business within the Morro Bay City limits, vendors who make deliveries to Morro Bay should pay a business license fee.

**DISCUSSION:**

Morro Bay's Municipal Code Section 5.04.050 states: "There is hereby imposed, upon the businesses, trade professions, callings, and occupations specified in this title, license fees as established annually in the Business License Rate Schedule." Staff interprets this to mean that every individual, partnership or corporation that is doing business in Morro Bay is responsible for paying a business license unless it is not legal for us to charge it. This logic would apply to delivery trucks as they: 1) benefit from the advertising on their delivery vehicles; 2) are profiting from the sales of their wares; 3) should pay a similar fee as required of the other businesses within the City limits; 4) have access to the same emergency services as do the license-paying businesses; 5) negatively impact our infrastructure; and 6) do not pay to support our City services as do our license-paying businesses.

Staff sent out an inquiry to other California cities to find out how they manage delivery trucks. The majority of respondents charge a fee unless the delivery vehicle is covered by the interstate commerce law.

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

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

City Manager Review:

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

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# Staff Report

AGENDA NO: \_\_\_\_\_

MEETING DATE: 10/27/08

**TO:** Honorable Mayor and City Council      **DATE:** October 15, 2008  
**FROM:** Susan Slayton, Finance Director  
**SUBJECT:** Consideration of a 2-year Business License Renewal Cycle (MP)

**RECOMMENDATION:**

Maintain the 1-year Business License renewal cycle and change the renewal dates to coincide with the business start date.

**FISCAL IMPACT:**

By smoothing the process more evenly each month, the potential need to work the part-time clerk extra hours is reduced and possibility eliminated.

**SUMMARY:**

The Management Partnersøreport suggested that the business license renewal cycle change from an annual to a biennial process in order to reduce the frequency of the renewal process, and to move the function from the account clerk, who is currently in charge of that function, to the Deputy City Clerk, thereby eliminating the account clerk position. With Councilø approval, Staff has left the function with the account clerk, but has changed the position from full-time to part-time. Staff is concerned about the idea of a two-year renewal based upon other citiesø comments and experiences and losing control over the process that is currently working well. Staff proposes a change from the July 1 annual renewal to an ðevery monthð annual renewal based on the business start date. This will spread the renewal process over 12 months, and while it creates greater redundancy of a task, it smoothes the work flow to lower the potential of working the part-time clerk additional hours to accomplish the renewal process.

**DISCUSSION:**

The May 2008 Management Partnersøreport, *Assessment of City Organization and Financial Options*, addressed the business license function for the City. Currently, the City has 1,400 licenses that it renews annually in July. Primarily, the months of June and July are devoted to this activity with mailing out renewals, responding to calls from businesses, handling walk-in customers and processing receipts for the mailed in payments. It is a very intense and demanding couple of months. The remainder of the

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

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

City Manager Review:

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

Page 1 of 2

year, the clerk handles new business licenses and assists the front office. Recommendation #13 of the report, and the discussion leading up to it, states that the City should streamline the business license function by moving to a biennial renewal and transfer the responsibility of that task to the Deputy City Clerk. Staff felt that it was more prudent to leave the function with the current account clerk, but to reduce the job to a part-time status. This recommendation was presented to Council on 08/25/2008, and it was approved. Staff, however, is concerned about the renewal process because it will likely require the account clerk to work full time during that two-month period .

Staff considered the biennial process, and sent out an inquiry to other cities to learn how they manage the business license process. Out of the responding cities, only one processes business licenses biennially, with the remaining cities processing annually. Several cities renew licenses annually, but on a monthly basis. After a business applies for a license, that license will renew one year from that date. The consensus from the cities was that it evens out the work load; instead of being inundated with renewals, questions and payments in a two- to three-month period, the clerk handles the renewal process for fewer people each month.

Staff has contacted the business license software vendor, Hinderliter, deLlamas and Associates, and has learned that the program can be switched to an annual, monthly renewal cycle for a small fee. HdL estimates that it will require 3 to 4 hours worth of work at \$170 per hour. Staff believes that we can absorb this within the existing budget.



AGENDA NO:

MEETING DATE: October 27, 2008

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 21, 2008

**FROM:** Rob Schultz, City Attorney

**SUBJECT:** Discussion Regarding Amending Council Policies & Procedures Related to the Appointment of Vice Mayor, the Appointment of Council Members to Discretionary Boards, the Order of Business on the City Council Agenda, and the Use of City Letterhead.

## **RECOMMENDATION:**

Staff requests that City Council review the City Council Policies and Procedures Manual Sections set forth in this Staff Report and provide direction to Staff.

## **DISCUSSION:**

At various Council meetings this year, the City Council has requested that Staff bring back potential changes to our Policies and Procedures Manual regarding the appointment of Vice Mayor, the appointment of Council Members to discretionary boards, the order of business on the City Council agenda, and the use of City letterhead. Staff has reviewed the pertinent policies, which read as follows:

**1.2.7 ORDER OF BUSINESS** shall be as follows:

- 1.2.7.1 Establish Quorum and Call to Order
- 1.2.7.2 Invocation
- 1.2.7.3 Pledge of Allegiance
- 1.2.7.4 Thought for the Day
- 1.2.7.5 Mayor and Council Members Announcements and Presentations
- 1.2.7.6 Closed Session Report
- 1.2.7.7 Public Comment
- 1.2.7.8 Council Declaration of Future Agenda Items
- 1.2.7.9 Consent Calendar

**Prepared By:** \_\_\_\_\_      **Dept Review:** \_\_\_\_\_

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

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

- 1.2.7.10 Public Hearings
- 1.2.7.11 Unfinished Business
- 1.2.7.12 New Business

**3.2 APPOINTMENT OF VICE MAYOR**

The appointment of the Vice Mayor shall be for a one-year term and is made on majority vote of the City Council. The Vice Mayor shall be appointed at the first meeting in December.

**5.4 USE OF CITY LETTERHEAD**

Staff will not prepare correspondence representing a Councilmember's personal point of view or a dissenting point of view from an official City policy or Council position. If Councilmembers use their title, position, or City letterhead to express a personal opinion, the official City position must be stated clearly so the audience understands the difference/relationship between the official City position and the viewpoint of the Councilmember. A copy of any and all correspondence developed by or for a Councilmember on City letterhead shall be provided to the City Manager and the rest of the City Council. (Reso. 50-07), (part)

**6.1 COUNTY OR REGIONAL REPRESENTATION**

Annually, the Mayor shall make appointments to a variety of County and/or regional committees and boards. One Member of the Council shall serve as a voting representative and one Member shall serve as alternate. (See 6.6.2 for appointment procedures). To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.

**CONCLUSION:**

Staff recommends Council review this Staff Report and provide direction.



AGENDA NO: D-7

MEETING DATE: 10/27/08

# Staff Report

**TO:** Mayor and City Council

**DATE:** October 22, 2008

**FROM:** Councilmember Winholtz

**SUBJECT:** Discussion On Resolution No. 11-07 Amending And Establishing Guidelines For Major Vegetation Removal, Replacement And Protection; And Municipal Code Section 12.08 (City Tree Regulations) In Reference To The Definition Of Landmark Trees

## **RECOMMENDATION:**

1) Decide if the Council wants a heritage/specimen tree definition added to the Municipal Code for public and/or private trees. 2) If so, decide what criteria Council considers significant. 3) Have PWAB craft an ordinance change in consultation with the City Attorney and City Engineer, and 4) make it part of their discussion of the City's Urban Forest Management Plan.

**FISCAL IMPACT:** Staff time in consultation.

## **SUMMARY:**

The City has lost a number of trees due to storm, disease, and construction in the last decade and a half. There are some significant, individual trees left. Street trees currently enjoy a level of protection. There has been some discussion about whether City park trees are included in that umbrella. Private trees have no protection. With the upcoming Urban Forest Management Plan, it would be helpful to decide whether to include a place for heritage/specimen trees.

## **DISCUSSION:**

In preparing for this report, I have read 29 pages of ordinances from 19 California cities from Pasadena to Palo Alto to Sacramento to Ojai and Modesto. Most protect both public and private trees. Most use some kind of measurement in conjunction with other criteria. Generally, they do it for aesthetic, habitat, and ecological, and community-specific reasons. I would be glad to email you these documents or websites if you want.

Prepared By: Councilmember Winholtz

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

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

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

To refer to a higher authority, the following excerpts are taken from the International Society of Arboriculture website ([www.isa-arbor.com](http://www.isa-arbor.com)), "a worldwide professional organization dedicated to fostering a greater appreciation for trees and to promoting research, technology, and the professional practice of arboriculture."

"Defining special trees: heritage, historic, and landmark trees

...individual trees may be considered important community resources because of unique or noteworthy characteristics or values. Such trees have been described in ordinances as heritage, historic, landmark, legacy, special interest, significant, or specimen trees or various permutations of these terms (e.g., heritage oak, exceptional specimen tree). In some ordinances, trees are simply labeled protected trees (i.e., trees afforded protection by the ordinance)...Most commonly, one or more of the following criteria are used to define a special status tree:

**Size** - Some component of tree size, most frequently trunk diameter, may be used to define a special status tree. Most commonly, a given diameter at 4.5 ft above grade (i.e., diameter at breast height or DBH) is used as the size standard. [Additional rules](#) are typically needed to handle trees that are multi-trunked or branch below 4.5 ft. Because the relationships between DBH and canopy spread or DBH and tree age vary by species, different tree diameter standards may be applied to different species.

Although a tree diameter standard is fairly objective, the threshold diameter is often set more or less arbitrarily. As such, management decisions based solely on a threshold diameter may not be particularly logical... Other components of tree size, such as maximum canopy spread or height, may also be considered independently or in conjunction with tree diameter.

**Species** - Special status may be conferred only to certain species of trees. Special status trees are often, but not always, important locally native species or trees that are associated with the character of a community. Certain species that are relatively rare in an area, whether native or not, may also be granted special status....species is probably the most objective criterion used in defining special status trees.

**Age** - Especially old trees are a link to the past, so many definitions of special status trees include age as a criterion. In practice, tree age is fairly difficult to determine in standing trees ...However, the relationship between age and DBH varies with species, site quality, management history, and other factors, so DBH is usually only a crude estimator of tree age.

**Historic significance** - A tree may be associated with a notable local or regional historical event, person, structure, or landscape. Almost every tree that has been around for a while has some historical significance, whether it is recognized or not. Determining whether the historical significance of a given tree is sufficiently notable is therefore a subjective matter. Historic tree status is typically granted by a governing (e.g., city council) or advisory body (e.g., tree commission).

**Ecological value** - All trees serve a variety of ecological functions. Certain trees or groups of trees may have especially high ecological value because of their location, size, species, and/or condition. For example, a given tree may be an important roost, nesting site, or food source for certain wildlife species; it may be situated in a site where it plays a critical role in stabilizing soil or providing shade needed by other plant or animal species...

**Aesthetics** - Since beauty is in the eye of the beholder, assigning special status on the basis of aesthetics is always highly subjective. A tree may have special aesthetic value due to its form, whether it is especially perfect and symmetrical or notably craggy and idiosyncratic. Also, the function that a tree serves in a landscape may be sufficient to justify special status; for example, a landmark pair of trees that frame an entrance. In the absence of other noteworthy characteristics, it may be contentious to base special status upon aesthetics alone.

**Location** - Trees in particular locations may be accorded special status in recognition of the important aesthetic or ecological functions that they serve. Proximity to a thoroughfare can be used to classify a tree as a street tree, which may be accorded special status whether or not it is in the public right-of-way or is under public or private care. Trees located along or within a set distance from watercourses may also be give special status due to their importance in stabilizing stream banks or providing shaded riverine habitat. In some cases, the location of a tree is considered in conjunction with size or species parameters.

**Required plantings and retained trees** - If trees are have been preserved or planted as a requirement of development, the community has a vested interest to ensure that the trees are protected. The purpose of planting and tree retention is to develop mature tree canopy, and this cannot occur if the subject trees are eliminated, ruined by topping or other poor maintenance practices, or replaced frequently with young trees.

**Other unique characteristics** - This grab-bag term may be added to the list of criteria used to designate special status trees because it is difficult to anticipate all possible situations of significance. For example, a given tree may become a local or regional cultural icon due to an event or apparition that is associated with it. This criterion will again be subjective and typically may be invoked through the approval of a governing body....most definitions include a combination of criteria.

Here are examples from California cities:

- 1) "Heritage tree" shall mean any perennial plant or grove of perennial plants growing on public or private property, having a self-supporting woody main stem or trunk usually characterized by the ability to grow to considerable height and size and the development of woody branches at some distance above the ground, and meeting criteria set forth in Section 9.56.040 of this chapter. "Heritage tree" shall not include trees planted for agricultural crops such as fruit or nut trees.
- 2) Heritage tree is any of the following:
  - (1) Any bay (*Umbellularia californica*), buckeye (*Aesculus* spp.), oak (*Quercus* spp.), cedar (*Cedrus*) or redwood (*Sequoia*) tree that has a diameter of ten (10) inches or more measured at forty-eight (48) inches above natural grade;
  - (2) Any tree or stand of trees designated by resolution of the City Council to be of special historical value or of significant community benefit;
  - (3) A stand of trees, the nature of which makes each dependent on the others for survival;
  - (4) Any other tree with a trunk diameter of sixteen (16) inches or more, measured at forty-eight (48) inches above natural grade.

3) What Trees are Protected?

All Coast Live Oaks (*Quercus agrifolia*) 11.5" or greater in diameter (measured at 54" above the natural grade level -- roughly "chest height")

All Valley Oaks (*Quercus lobata*) 11.5" or greater in diameter

Individual trees of any size and species, which are specially designated by the City Council as "Heritage Trees." To receive such a designation, a tree must be an outstanding specimen, especially old or large, or of distinctive form, location, or historical significance. The Council may be asked to reverse its designation of a Heritage Tree.

4) What is a Heritage Tree?

Any native Bay (*Umbellularia californica*), Buckeye (*Aesculus* species), Oak (*Quercus* species), Redwood (*Sequoia sempervirens*), or Pine (*Pinus radiata*) tree that has a diameter of six (6) inches or more measured at fifty-four (54) inches above natural grade; Any tree or stand of trees designated by resolution of the city council to be of special historical value or of significant community benefit;

A stand of trees, the nature of which makes each dependent on the others for survival; or any other tree with a trunk diameter of ten (10) inches or more, measured at fifty-four (54) inches above natural grade.

The City's Heritage Tree Ordinance declares such trees, whether located on City or private property, to be an asset to the community at large and provides penalties for removing or improperly pruning these trees.

5) "Heritage tree" means any of the following:

1. Any oak, bay, cypress, maple, redwood, buckeye and sycamore tree having a trunk or main stem of twenty-four (24) inches or more in diameter measured at four (4) feet six (6) inches above natural grade;
2. A tree required to be preserved as part of an approved development plan, zoning permit, use permit, site development review or subdivision map;
3. A tree required to be planted as a replacement for an unlawfully removed tree.

6) Trees Protected Under The Ordinance - Section 4-10.03

**Heritage Trees:** Refers to any tree of any genus, whether a species or hybrid of any size, which is designated as such by a resolution of the City Council based on its historical, cultural, or other value as determined by the City Council. A listing of such trees is available at City Hall.

**Mature Tree:** Refers to any tree species equal to or greater than twelve inches in diameter as measured four and one-half feet above the root crown or, in the case of a tree with more than one trunk, any such tree for which the sum of its two largest trunks equals or is greater than fourteen and one-half inches as measured four and one-half feet above the root crown.

**Oak Tree:** Refers to any single trunked tree of the Quercus genus equal to or greater than eight inches in diameter as measured four and one-half feet above the root crown or, in the case of an oak with more than one trunk, any such tree for which the sum of its two largest trunks equals or is greater than eleven inches as measured four and one-half feet above the root crown.

**Sycamore Tree:** Refers to any tree of the platanus genus equal to or greater than eight inches in diameter as measured four and one-half feet above the root crown or, in the case of a sycamore with more than one trunk, any such tree for which the sum of its two largest trunks equals or is greater than ten inches as measured four and one-half feet above the root crown.

7) "Heritage tree" means any of the following:

Any single-trunked tree with a circumference of fifty-five inches or more measured four and one half feet above ground level;

Any multi-trunked tree of which the two largest trunks have a circumference of fifty-five inches or more measured four and one half feet above ground level;

Any tree thirty-five feet or more in height;

Any tree of particular historical significance specifically designated by official action;

A stand of trees the nature of which makes each dependent upon the other for survival or the area's natural beauty.

**CONCLUSION:**

As a Tree City, USA, it behooves the City Council to address the idea of heritage/ specimen trees and refer its decision to the PWAB for further action.