

# 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  
TUESDAY, DECEMBER 10, 2013  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS –

- **Presentation of Painting done by Frank Spada to the City of Morro Bay**
- **Award for Friends of the Fire Department**
- **Quarterly Report from the Economic Development Program**

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

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

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

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

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON NOVEMBER 12, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON NOVEMBER 12, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON NOVEMBER 19, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-4 APPROVAL OF MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON NOVEMBER 19, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-5 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON DECEMBER 3, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-6 RESOLUTION NO. 59-13 ESTABLISHING THE GUIDELINES BY WHICH THE CITY OF MORRO BAY WILL COMPLY WITH THE FEDERAL AFFORDABLE CARE ACT (ACA); (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 59-13; and consider directing staff to bring back costs related to a consultant to ensure compliance with ACA.**

A-7 CITY PROJECT STATUS REPORT; (ADMINISTRATION)

**RECOMMENDATION: Receive and file; informational item only.**

A-8 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

**RECOMMENDATION: Receive and file; informational item only.**

A-9 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLAN; (PUBLIC SERVICES)

**RECOMMENDATION: Receive and file; informational item only.**

A-10 STATUS UPDATE ON THE PURCHASES OF FIRE DEPARTMENT EQUIPMENT BASED ON MONIES PROVIDED BY THE BERTHA SHULTZ TRUST; (FIRE)

**RECOMMENDATION: Receive and file; informational item only.**

A-11 APPROVAL OF THE GRANT AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SOUTH BAY COMMUNITY POOL ASSOCIATION; (RECREATION & PARKS)

**RECOMMENDATION: Review and approve the proposed grant agreement between the South Bay Community Pool Association and the City of Morro Bay and direct staff to fulfill any associated financial obligations.**

A-12 RESOLUTION #58-13 AUTHORIZING CITY STAFF TO SUBMIT A GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION TO PROVIDE FINANCIAL ASSISTANCE FOR AN UPDATE TO THE CITY'S LOCAL COASTAL PROGRAM (LCP) TO REFLECT CURRENT CIRCUMSTANCES AND NEW SCIENTIFIC INFORMATION, INCLUDING NEW UNDERSTANDINGS AND CONCERN FOR THE EFFECTS OF CLIMATE CHANGE; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution 58-13.**

A-13 APPOINTMENT OF KATHRYN THOMAS TO CITIZENS OVERSIGHT COMMITTEE; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Appoint Kathryn Thomas to fill the vacant position on the Citizens Oversight Committee.**

A-14 APPROVAL OF FIRE PROTECTION AGREEMENT BETWEEN THE CITY OF MORRO BAY AND DYNEGY MORRO BAY, LLC; (CITY ATTORNEY)

**RECOMMENDATION: Approve the Fire Protection Agreement ("Agreement") between the City and Dynegy Morro Bay, LLC ("Dynegy").**

**B. PUBLIC HEARINGS**

B-1 REVIEW OF THE SECOND PUBLIC DRAFT OPTIONS REPORT FOR THE NEW WATER RECLAMATION FACILITY (WRF); (PUBLIC SERVICES)

**RECOMMENDATION: Receive the report and presentation, take public testimony, and provide any recommendations or comments to staff and the Rickenbach team for incorporation into the final document; provide direction to staff to commence**

**discussions with property owners on the top three sites as selected by Council; and additionally, provide direction to staff regarding the continuing of discussions on a parallel path regarding a regional facility at the California Men's Colony (CMC) site with the potential partner agencies.**

B-2 REVIEW OF CITY COUNCIL REQUESTED OUTSIDE LEGAL SERVICES; STATUS AND COST; (ADMINISTRATION)

**RECOMMENDATION: Review the costs to date for outside legal services requested by City Council and provide further direction to staff.**

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 HARBOR DEPARTMENT RULES AND REGULATIONS; PROPOSED CHANGE TO SLIP REGULATIONS FOR FISHERMEN OWNING TWO QUALIFIED COMMERCIAL FISHING VESSELS; (HARBOR)

**RECOMMENDATION: Accept the Harbor Advisory Board (HAB) recommendation by adopting Resolution No. 60-13.**

D-2 PROPOSED AMENDMENT TO THE HARBOR ADVISORY BOARD BY-LAWS ALLOWING THE DESIGNATED MORRO BAY COMMERCIAL FISHERMAN'S ORGANIZATION SEAT TO HAVE ADDITIONAL ALTERNATE MEMBERS APPOINTED IN ORDER TO ENSURE THE ORGANIZATION'S ATTENDANCE AND PARTICIPATION; (HARBOR)

**RECOMMENDATION: Accept the Harbor Advisory Board (HAB) recommendation by adopting Resolution No. 61-13.**

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

**THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION.**

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

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

MINUTES – MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
NOVEMBER 12, 2013  
VETERAN’S MEMORIAL BUILDING – 4:00PM

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Anne Russell	Interim City Attorney
	Jamie Boucher	City Clerk

ESTABLISH QUORUM AND CALL TO ORDER

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

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment.

Bridgett Kessling stated that during her 27 years with the City, she felt very fortunate to be part of the City team. Now she feels sadness and fear from City co-workers. It will be all of the citizens of the City who will be paying the extra money needed to fire the City Attorney and City Manager. She would rather see the money spent on infrastructure needs.

Garry Johnson asked what the overall plan was for the termination of Andrea Lueker and how is Council going to hire a replacement. He stated that he is against this termination feeling that the City Manager has done an excellent job of keeping the City above water in bad fiscal years. He also stated that this process has disrupted City employees and their families and is turning the City upside down.

Jeremiah O’Brien thanked Andrea for the incredible job she has done in all the years she’s been with Morro Bay. He can hardly envision Morro Bay without her; she are a breath of fresh air in City Hall and all appreciate the hard work she’s done. He stated that this is the first time in 34 years that he has been disgusted with the activities.

Bill Peirce stated that it was an honor to work for Andrea Lueker. In reference to the personnel issues before you today, “this is nuts”.

Keith Taylor stated that it isn’t too late to reconsider this idea. People who work with her respect her; she has helped service groups over the years; and she has volunteered for many community events. He wished Andrea good luck.

Stevie Anderson thanked Andrea Lueker for taking care of our City and told her she can hold her head high.

Kathy Welles stated that this new Council has been in place for 2 months and she has seen 2 things during that time: on small issues, you can’t make decisions; but, if there is a big decision, it is clear

that your mind was already made up before you took office. Those decisions will cost us hundreds of thousands if not millions of dollars. She doesn't feel we will be able to hire a City Manager or City Attorney with all the chaos going on. She has never seen the City so divided. She thanked Andrea Lueker and Rob Schultz for their fine service to the community.

Rick Grantham thanked and congratulated those who put on the Veteran's Day Celebration. He announced the Thanksgiving Day Dinner being held Thanksgiving Day from 1-3pm. He stated that hard work and doing the right thing used to be rewarded. He is sorry to see this; it's a sad state of affairs for us all.

Janice Peters really thought that when you had to hire 3 attorneys to effect Rob's termination, you would have handled Andrea's termination logically, by recruiting her replacement before she was let go to at least maintain continuity in City operations. If this is the last time that Andrea is going to be sitting in that seat, Ms. Peters wanted say that Andrea has been an excellent City Manager who led us through rough budget years and kept us cooperative and cohesive. It was a personal honor and pleasure to work with her and will miss her and so will our City.

Joan Solu stated the residents are fortunate to enjoy excellent City services. The City Manager and City Attorney are largely responsible for making those services happen on a day to day basis. Those of you making this decision to terminate the top 2 executives without cause seem to be doing so based on a personal agenda that the residents and community are unaware of. This process has been a lingering and lethargic. She feels firing these people for following the direction of the 3 previous City Councils is not a reason. She thanked Andrea for her grace and courage under the enormous amount of pressure that the majority of Council has placed her under.

Dan Costley stated that Andrea Lueker had the foresight at the time about the power plant, taking those funds that would be reduced and placing them in an emergency account. He just returned from Fullerton, he stated that they have been following this in Fullerton and they support what we are doing here.

Carla Wixom allowed Bridgett Kessling her 3 minutes. Bridgett Kessling wanted to thank Andrea Lueker for their time together. Andrea was the best City Manager that Bridgett had ever worked with. She wished Andrea good luck.

Lynda Merrill stated she believes in the Council and supports your decisions this afternoon. She wanted Council to know that she appreciates what they are about to do. She stated that a new and fresh look at our City is difficult for some to stomach but knows this will be a better place to live.

Julianna Epperly is from Los Osos. When she first moved here, Mr. Yates was Mayor and he was fabulous. She has had dealings with Andrea and she is wonderful. She welcomed the Morro Bay residents to "being Los Osos". She stated that if she were a resident of Morro Bay, she would sign the recall petition.

The public comment period was closed.

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

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

- **Property: Lease Site 53-56/53W-56W; Estero Landing, Inc. located at 501 Embarcadero**  
Negotiating Parties: Ken Scott and City of Morro Bay  
Negotiations: Lease Terms and Conditions
- **Property: 307 Morro Bay Blvd.**  
Negotiating Parties: Ford-Durrer, dba Grandma's Frozen Yogurt & Waffle Shop  
and City of Morro Bay  
Negotiations: Lease Terms and Conditions

**CS-2 GOVERNMENT CODE SECTION 54956.9(d)(2) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** Exposure to litigation exists based upon existing facts and the legal advice of legal counsel as to two matters. Under Government Code Section 54956.9(g), the name of the possible litigation is withheld as disclosure of it would jeopardize the City's ability to conclude existing settlement negotiations to its advantage.

**CS-3 GOVERNMENT CODE SECTION 54957(b) - PUBLIC EMPLOYEE DISCIPLINE/ DISMISSAL/RELEASE/TERMINATION OF CONTRACT:**  
Title: City Attorney and City Manager

**CS-4 GOVERNMENT CODE SECTION 54957(b)(1) – PUBLIC EMPLOYMENT:**  
Title: City Attorney

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; Interim City Attorney Anne Russell reported that Council had 2 reportable actions. The first was a vote to approve the separation agreement with Rob Schultz, 5-0. And the second was a decision on a 3-2 vote, to direct Mr. Simas to begin negotiations regarding the termination of the City Manager's employment and a separation agreement. With regards to Government Code Section 54956.8, Property Transactions instructing the City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two parcels: Lease Site 53-56/53W-56W; Estero Landing, Inc. located at 501 Embarcadero; and, 307 Morro Bay Blvd., no reportable action under the Brown Act was taken.

ADJOURNMENT

The meeting adjourned at 6:21pm.

Recorded by:

Jamie Boucher  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – NOVEMBER 12, 2013  
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Anne Russell	Interim City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Eric Endersby	Harbor Director
	Rob Livick	Public Services Director
	Cindy Jacinth	Associate Planner

Mayor Irons called the meeting to order at 6:30 p.m.

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

CLOSED SESSION REPORT – Interim City Attorney Anne Russell reported that Council had 2 reportable actions. The first was a vote to approve the separation agreement with Rob Schultz, 5-0. And the second was a decision on a 3-2 vote, to authorize Mr. Simas to negotiate a separation agreement with the City Manager. With regards to Government Code Section 54956.8, Property Transactions instructing the City’s real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two parcels: Lease Site 53-56/53W-56W; Estero Landing, Inc. located at 501 Embarcadero; and, 307 Morro Bay Blvd., no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS

Morro Bay High School ASB Representative, Mona Panchal gave a presentation on the “goings-on” at MBHS. The Words Matter Anti-Bullying Campaign is ongoing reducing the use of profanity at the school and has a lot of students speaking out against bullying. Alanna Williams, was crowned Homecoming Queen. The Teens Club hosted a dance for Breast Cancer. Cross

Country League finals resulted in a first place for the Boys team, their 2<sup>nd</sup> win in a row. The Girls Volleyball team made CIF playoffs for the first time in 19 years. The Avid Program received a large donation from Wells Fargo Bank; Avid empowers students to go to college who may be less likely to attend. Allie Evans and Joy Franklin made the cover of New Times for the “Winning Images of 2013”.

### PUBLIC COMMENT

Jan Lewis, owner of Sweet Offerings, located at 430 Morro Bay Blvd., with the help of her father Glenn Lewis and sales associate Bonnie Crawford, gave the Morro Bay Business Report. Located 3 doors down from the Bay Theater, they specialize in artisan fudge and chocolates; they make their own candies; and, they also serve Doc Burstein ice cream. The store is a tinsel town store, new into the community; they invited the community to come in and see them.

Monique Nelson, the President of the Coastal Alliance of Plant Expansion, received a copy of Dynegy’s letter announcing the shutdown and is thrilled for the victory for the Estuary. It’s been their job to scrutinize, analyze and critique plans for the power plant. CAPE’s primary focus is on the environment, to protect and improve the air quality and especially to safeguard the Morro Bay Estuary. CAPE feels that the once-thru cooling system causes devastating damage to the Estuary. She hopes the City seizes the opportunity to study the power plant sight to develop a plan to rezone it for new uses.

Barbara Doerr stated that based on the closure of Dynegy, the need to amend the LCP for this site has become a number one priority. Currently only a coastal dependent industrial use has priority at the power plant site. It has become critical to determine the appropriate land uses for the site and it would be prudent to begin with Area 5 – Morro Rock which includes the power plant, WRF, MBHS, recreation and wildlife preservation uses and 2 parks. The City has identified coastal needs that could be incorporated into a rezoned power plant site some of which include a commercial fishing boat yard, boat storage, and Coast Guard boat yard.

Joan Solu stated that the Morro Bay 50<sup>th</sup> Anniversary Celebration Committee has been meeting and brainstorming the last 6-8 months. Ideas are being brought forward to Council tonight. She hopes that Council will consider this and hope that we can move some positive effort forward.

Kathy Welles grew up in Morro Bay and loves our community. We have all been a cohesive community who got along. She thanked Andrea Lueker and Rob Schultz for all their fine service. The saddest and most wrong part of this deal is that we have 3 temporary employees, inexperienced, elected by the majority of those who voted, making decisions that will leave an everlasting black cloud on our fine City.

Jane Heath went to the Community Foundation’s Morro Bay Sings and it was wonderful event. She went on to say that what is happening here is that new energy is emerging. It’s fueled by folks that are the City’s past, present and future. She is looking forward to seeing what the next 50 years brings to Morro Bay.

Marlene Owens thanked Andrea Lueker for the Morro Bay Community Foundation as she was instrumental in its formation and its longevity.

Garry Johnson wants to know what the Morro Bay City Council's overall plan is for the citizens and their future. He stated that the citizens are paying for 3 lawyers at a cost of over \$30,000 and now the Mayor is requesting an additional \$5,000. He reiterated that if you disagree with the way the City Council is doing business, you can confidentially sign the recall petition.

David Nelson asked for clarification as to whether or not Mr. Schultz was full time as he understood he worked for other agencies as well. Regarding the development off of Highway 1, he asked how we could approve a road that big that serves 8 houses; he doesn't feel it is adequate. He is concerned about the Power Plant as currently, they are taking down faulty metal leaving gaping holes. He is fearful of the toxins that we are being exposed to. As long as the stacks stand, Council needs to be/remain on top of this issue.

Dan Costley is tired of the divisiveness. He announced the Rotary Club of Morro Bay's Lighted Boat Parade being put on in partnership with the Chamber of Commerce. It will be held on Saturday, December 7<sup>th</sup>. There will be strolling carolers, a photo opportunity for the children with Santa and Mrs. Claus, and goodies to purchase. He thanked all the local businesses for their financial support.

Christine Barrett has asked for help from everybody and has received help from everybody. She thanked Andrea Lueker and Joe Woods. She stated that this was the first governmental body that she's been comfortable with. She supports Mayor Irons and Andrea.

Gary Owens has 2 questions. Why are 3 lawyers cheaper than 1? And the #1 choice for the treatment plant is 500 yards closer to the ocean than the other one; how does that get it out of the flood plain?

The Public Comment period was closed.

A. CONSENT AGENDA

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

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON OCTOBER 21, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED CITY COUNCIL MEETING HELD ON OCTOBER 22, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON OCTOBER 22, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-4 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON OCTOBER 25, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-5 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON OCTOBER 29, 2013; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-6 APPROVAL OF CITY COUNCIL MINUTES FOR THE JOINT PLANNING COMMISSION / CITY COUNCIL MEETING HELD ON OCTOBER 29, 2013; (PUBLIC SERVICES)

**RECOMMENDATION: Approve as submitted.**

A-7 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED CITY COUNCIL MEETING HELD ON OCTOBER 31, 2013; (CITY ATTORNEY)

**RECOMMENDATION: Approve as submitted.**

A-8 ADOPTION OF RESOLUTION NO. 53-13, AMENDING SECTION 2.2 OF THE CITY COUNCIL POLICIES AND PROCEDURES REGARDING MEMBERS RECEIVING UNEXPENDED MONTHLY DOLLARS FROM THE COST OF THEIR MEDICAL PLANS; (ADMINISTRATION)

**RECOMMENDATION: Adopt Resolution No. 53-13 which strikes the existing language in the City Council Policies and Procedures Manual, Section 2.2, that currently allows Council members to receive any unexpended monthly dollars from the cost of their medical plan.**

A-9 ADOPTION OF ORDINANCE NO. 583; REPEALING, AMENDING, AND REENACTING CHAPTERS 14.01-14.12 AND 14.52 OF THE CITY OF MORRO BAY MUNICIPAL CODE (BUILDINGS AND CONSTRUCTION); (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Ordinance No. 583; repealing, amending, and reenacting Chapters 14.01-14.12 and 14.52 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2013 California Building Standards Code, as adopted by the State of California, and the local modifications thereto..**

A-10 AWARD OF CONTRACT FOR THE PROJECT NO. MB-2013-S4: 2013 STREET REHABILITATION PROGRAM: 3-LAYER CAPE AND MICROSURFACING PROJECT; (PUBLIC SERVICES)

**RECOMMENDATION: Award the project contract to the lowest responsible bidder, American Asphalt South, Inc. of Fontana, CA.**

A-11 RESOLUTION NO. 55-13 ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH MORRO BAY FIRE FIGHTERS ASSOCIATION AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 55-13, approving the Memorandum of Understanding with the Morro Bay Fire Fighters Association.**

A-12 RESOLUTION NO. 56-13 ADOPTING THE AGREEMENT WITH THE MORRO BAY CONFIDENTIAL EMPLOYEES AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 56-13, approving the Agreement with the Morro Bay Confidential Employees.**

A-13 QUARTERLY FINANCIAL STATUS REPORTS FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2013; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Accept the reports as presented.**

A-14 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC SERVICES)

**RECOMMENDATION: Receive and file the report.**

A-15 REVIEW OF DRAFT REQUEST FOR PROPOSAL FOR INTERIM CITY ATTORNEY; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Review the draft Request for Proposal (RFP) for Interim City Attorney, suggest/recommend changes and direct staff accordingly.**

A-16 A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING NOVEMBER, 2013 AS "NATIONAL HOSPICE MONTH"; (ADMINISTRATION)

**RECOMMENDATION: Adopt Proclamation.**

A-17 APPROVAL OF RESOLUTION NO. 57-13 CONFIRMING THE EXPIRATION DATE OF TENTATIVE TRACT MAP 2859 AND AVAILABILITY OF WATER AND

SEWER (RELATING TO 2783 CORAL AVENUE IN MORRO BAY, CALIFORNIA);  
(CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution 57-13 confirming the expiration date of Tentative Tract Map 2859 and availability of water and sewer (relating to 2783 Coral Avenue in Morro Bay, California).**

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

Mayor Irons pulled Items A-4 and A-15; and, Councilmember Christine Johnson pulled Item A-3 from the Consent Calendar.

MOTION: Councilmember Nancy Johnson moved the City Council approve Items A-1, A-2, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13, A-14, A-16 and A-17 of the Consent Calendar as presented. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON OCTOBER 22, 2013; (ADMINISTRATION)

Councilmember Christine Johnson had submitted edits to these minutes to the City Clerk. The Clerk reviewed the tape and concurred with the revisions.

MOTION: Councilmember Christine Johnson moved for approval of the October 22, 2013 minutes as amended. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

A-4 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON OCTOBER 25, 2013; (ADMINISTRATION)

Mayor Irons had submitted edits of these minutes to the City Clerk. The Clerk reviewed the tape and revised the minutes to reflect what occurred.

MOTION: Mayor Irons moved the City Council approve Item A-4 as revised. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

A-15 REVIEW OF DRAFT REQUEST FOR PROPOSAL FOR INTERIM CITY ATTORNEY; (ADMINISTRATIVE SERVICES)

MOTION: Mayor Irons moved continuance of this item to come back for further discussion. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

B. PUBLIC HEARINGS

B-1 REVIEW OF THE DRAFT OPTIONS REPORT FOR THE NEW WATER RECLAMATION FACILITY (WRF); (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

John Rickenbach and Mike Nunley presented a power point presentation whereby they addressed the results of the public workshops. They addressed what the purpose is; what they've learned so far; what they've heard so far; and what we've learned in the past week. All of this will be folded into a revised version and presented in final format at the December 10<sup>th</sup> Council meeting. What is presented tonight is a draft report.

Mayor Irons opened up the public comment period for Item B-1.

Walter Heath hoped that Council would consider water reclamation facility sites that are of suitable size to permit the perspective use of constructive wetlands to treat our municipal wastewater partially or completely. He feels that constructed treated wetlands costs much less to build and odors are non-existent. He stated that it would take 4-25 acres of land per 1,000,000 gallons of wastewater flow/day. While land acquisition costs could be higher, the savings in construction and equipment could be cut by tens of millions.

Steve McElvaine spoke on and gave some history on the prime ag land of the Morro Valley/Righetti property. He is sorry that you took the original plant out of your consideration. He also feels that the CCC has no authority to kick you off of your current site. If you are going to get kicked off, Site B is 10 million dollars cheaper than the 2 on either side of it according to the report.

David Nelson has participated in the workshops. He disagrees and feels that doing it this way is going at it backwards. It seems like we should be starting with the idea of what we want to put some place. He questioned how we can go from 35 million to 90 million dollars just because we moved our site; the plumbing shouldn't cost that much more. He feels we need to reinvestigate prior proposing companies. He also feels we need to check what other people/cities are doing.

Bill Martoney asked whether the City has the right to eminent domain outside of the City limits. It's important to have a willing seller. Regarding sticker shock over the \$90-160 million for a new plant, he wanted to reiterate that the current location was going to be \$34 million to duplicate on-site. He thinks it will only be \$1-2 million more to change sites. He has always suggested the Tri-W site as a very feasible site. He stated that there is an existing plant being built in Oceanside, 4 times the size of Morro Bay's demand, whose current price is \$55 million; the \$90-160 million is way off.

Ahmed Kasam, is gratified that we are looking at the odor question. The odor and distance to residential areas wasn't considered high enough in the first draft and is glad to hear it will be considered in the 2<sup>nd</sup> draft.

Richard Sadowski stated that using forced main is relatively inexpensive. He doesn't agree with the philosophy of taking the design as a complete separate issue. We have a lot of unknowns,

Cayucos and capacity issues from dilapidated infrastructure, those issues are significant enough that they have to be incorporated into the decision. He feels PERC should be revisited; one benefit is that it is a module system. It is important to look at this holistically as we need to know the capacity and design parameters.

Barry Branin stated that one of the biggest factors in any project is the overall cost of the project during its life. He speaks to this because we have the opportunity to look at the CMC plant. There isn't analysis on how the existing CMC plant could be expanded. If you had a partnered plant, you would save on personnel costs over time. A regional facility makes sense 50 years from now.

Jim Pauley stated that it appears that the power plant is going away and we may end up with the power plant. We didn't have that in mind when this project started but since it's here, we should take a look at what the possibilities are for the property in back of the plant. It would be the most economic and least visible. He also says that the Tri-W land makes sense and we should take a look at it.

Carla Wixom stated that people seem to think it's going to be less expensive than the new consultants said it was going to cost. She went through the reasons that some of the sites wouldn't work: power plant – too visible to Scott Street residents and there is an archeological site in the back; Righetti property – too visible to the 50+ residents living over there plus it's a gateway to the town, floods, slides, is in an earthquake fault, etc.; CMC - \$160 million dollars and the existing plant is probably at capacity; Tri-W – Measure G governs that property. It's a lot to think about.

Barbara Doerr thinks an additional workshop is an outstanding idea. If the 23<sup>rd</sup> is selected, then we should mail out a postcard to every resident advertising it. She feels that odors are critical and the plant should be as odor free as possible. She thinks that the constructive wetlands is an outstanding idea. She suggests eliminating the power plant site immediately as it wouldn't be consistent with our General Plan and LCP.

John Diodati thanked the Council for asking for what everyone wants and what's it going to cost. Council has received the information and now can make the best decision possible. He went on to state that we now know that reclamation is very expensive and that its reclamation that is driving the plant costs significantly higher. We have always said we need a plant that is reclamation ready. Doing everything right now isn't advisable but instead phased in over time as appropriate. He thanked Council for funding this alternative study, for reaching out and working cooperatively with the permitting agencies. It's important to find out what the expectations are of the permitting agencies.

Brad Snook stated that to use water once and then flush it into the ocean doesn't make sense, especially since we have a water supply issue. We need to find a home for the water that has been treated. Once the water is reclaimed, whose water is it? You need a partner that will work with you that will help reduce costs of the plant going tertiary, reclaiming the water, cutting your outfall and doing the best to deal with the water supply issue.

The public comment period for Item B-1 was closed.

Councilmember Christine Johnson stated that now is the time to speak out/reach out to the consultant team with your suggestions and/or questions. It's important we consider water as a resource but we have to balance that with what the community can afford. Now that the report is out, she wants to know from Coastal – what will be the condition for approval that they would put on a new project in regards to reclaimed water. With regards to phasing in over time; she would also like to know what “reclamation ready” based on the sites we have means by the next report. She would also like to see a project component chart that reflected cost ranges for the previous unpermitted project. She also wanted to know the cost analysis and realistic risks if we lost ocean outfall. She also feels like the County is reaching out to us regarding the CMC site and hopes we will meet with them in the near future to discuss that option. The question of “whose water is it” needs to be dealt with. At what point will we be able to discuss plant technology?

Councilmember Nancy Johnson doesn't see a great value in a Saturday meeting as there hasn't been a huge request.

Councilmember Smukler thinks it's important to have initial conversations with as many of these property owners as possible; this could very easily take some of these properties off the table. He likes that we are reaching out to regulators. He thinks it's valuable to reach out to CMC for a “shared effort” possibility. He also thinks it's important to dialogue with some potential reclamation users to gauge their possible interest. Affordability is a key component which should be added to goals, both short and long term. It's really important to have some discussion about phasing in reclamation. He thinks neighborhood sensitivity and compatibility needs to be added; he is concerned about contingencies already stated to being built in; with regards to a public workshop, this is a really important project which won't be successful without public participation – as such, we should error on the side of more public participation. He likes the idea of sending out a postcard to residents announcing a workshop.

Mayor Irons spoke on the goals listed on the slide and ones which we have added to: cost/affordability being a key component; reclamation ready/phasing, the site should be expandable; energy recovery – is a phasing component as well; contingencies are too high – if we are set for 30%, do we set ourselves up for those expenditures – we need to be more cost conscience; maybe reserve a public workshop able to include Cayucos; and, odors.

Mr. Rickenbach hit on the key issues as he heard them: reach out to different property owners; look into what the LCP specifically requires; ask the CCC what their conditions of approval would be for reclaimed water; define what reclamation ready means; can you show the costs of existing plant as a comparison tool to the other sites; what is the realistic risk and cost if we lost the ocean outfall; County Public Works letter in the context of partnering; whose water is it if reclaimed; when is it appropriate to talk about technology; get comments from potential reclamation users; affordability as a key component; neighborhood compatibility; contingencies being thrown into the cost estimate already; the final report will be presented at the December 10<sup>th</sup> meeting; we may pursue an additional workshop in January.

**B-2 AMENDMENT OF CONDITIONAL USE PERMIT #UP0-342 AND ADOPTION OF AMENDED MITIGATED NEGATIVE DECLARATION FOR 901-915 AND 945 (WATERSIDE) EMBARCADERO); (PUBLIC SERVICES)**

Associate Planner Cindy Jacinth presented the staff report.

Councilmember Leage recused himself as he feels he has property within 500 feet of the proposed project.

Cathy Novak spoke representing Mr. Smith Held for the amendment to his project. The project was submitted to the CCC for a Coastal Development Permit. The CCC requested modifications and we have been working with them on making those modifications and to date have done the following: eliminated the view deck, reduced the floating dock finger slip lengths and pushed the floating docks westward, relocated the gangway to the west, reduced the size of the new retail unit and also reduced the size of the existing retail unit where Poppy is located in order to make the 2 retail shops of reasonable size, made the Harborwalk along the new retail unit 8 feet wide, and have increased the Harborwalk to 10 feet wide on the southern portion of the site. During these modifications, the neighboring lease site discussed with the City the idea of relinquishing a portion of his water lease as it wasn't financially feasible for him to build a dock project. This opportunity for Mr. Held to take over this portion of the water lease was then offered by the City. With this new direction, Mr. Held revised his project description to include the new dock area which then required either the Mitigated Neg. Dec. be amended or for a new Mitigated Neg. Dec. to be prepared for that portion of the project only. It was decided that an amendment would be the best direction to go. She requested the project be approved per staff's recommendation.

Mayor Irons opened up the public comment period for Item B-2.

Barbara Doerr hoped that in the future we follow the State standards for Council conflicts of interest being declared. As far as the project goes, she is not opposing the project as much as the design of the project. She doesn't find the design appealing at all; she finds it lacks character and hopes it is approved with the condition to come back to the City Council with an improved design.

The public comment period for Item B-2 was closed.

**MOTION:** Mayor Irons moved to approve staff's recommendation as stated. The motion was seconded by Councilmember Smukler and carried 4-0-1 with Councilmember Leage having recused himself due to a conflict of interest.

**B-3 RESOLUTION APPROVING ADJUSTMENT TO LEASE SITE MAPS FOR LEASE SITES 93W-95W AND 96W; LOCATED ADJACENT TO 901-915 EMBARCADERO ROAD (HELD FAMILY; AND SMITH W. AND HANNAH W HELD FAMILY TRUSTS); (PUBLIC SERVICES)**

Councilmember Leage continued to be recused as he owns property within 500 feet of the proposed project.

Public Services Director presented the staff report.

The public comment period was opened for Item B-3; seeing none, the public comment period was closed.

MOTION: Councilmember Christine Johnson moved approval of the adjustment to lease site maps for lease site 93W-95W and 96W by the adoption of Resolution 54-13. The motion was seconded by Councilmember Smukler and carried 4-0-1 with Councilmember Leage having recused himself due to a conflict of interest.

C. UNFINISHED BUSINESS

C-1 CONTINUED DISCUSSION, CONSIDERATION AND DIRECTION REGARDING THE EXPANSION OF THE UNITED STATES COAST GUARD (USCG) FACILITIES IN MORRO BAY; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Bill Meyn, representing the USCG stated that both the City and USCG have common interests, that the USCG has a legitimate need to expand its facility; the USCG is/has a waterfront use; timing is critical as the money needs to be lined up for construction in 2015; and they can't do this without the City's support.

The public comment period for Item C-1 was opened.

Barbara Doerr is proud to have the USCG in Morro Bay and urges each of the Council to do everything they can to say yes to their needs.

The public comment period for Item C-1 was closed.

Councilmember Leage stated that we have been here before; we are dealing with a piece of property that the citizens of Morro Bay think is valuable and he wonders what the repercussions will be.

Councilmember Christine Johnson stated that based on her conversations with the public, the security fence can be a show stopper; if no fence, then it could possible work.

The Public Comment for Item C-1 was reopened.

Mr. Meyn stated that the fence issue can be modified. With regard to the power plant property, that probably won't fit the timeline for the 2015 funding. It is their intent to preserve public access to the beach and to preserve the bike path and pedestrian path.

Janice Peters stated that using the intake building for the power plant could be an option. Maybe they would be willing to discuss a rental agreement until a more permanent situation would be resolved. She also stated that the fencing provided isn't aesthetic.

The public comment period for Item C-1 was closed.

Councilmember Nancy Johnson wondered if the Harbor Department were moved, could the USCG utilize the Harbor Department space. Mr. Meyn stated they would be delighted to use the adjacent property.

Councilmember Smukler felt that USCG was moving in the right direction; however the requested location is still too much in the center of where beach activity originates. He hoped we could sit down with the USCG and work out a location that meets their needs and while it may be a temporary displacement of our Harbor office, work out a compromise. The area north of the intake structure could also be looked at.

Mayor Irons suggested a Council sub-committee that could be comprised of 2 Harbor Advisory Board and 2 Councilmembers on it. Mr. Meyn stated that they would need a firm response of a location by March at the latest in order to allow for enough time for permitting. Councilmember Smukler felt that if staff is given clear enough direction, then they can begin discussions.

There was Council consensus to have Councilmember Leage and Mayor Irons meet with the Harbor Director and USCG to begin working on the process.

Councilmember Smukler would still like to have some Harbor Advisory Board comment on this. It's important for the sub-committee and staff to ensure we have answer to the Harbor Office as part of this.

MOTION: Councilmember Smukler moved to appoint Councilmember Leage and Mayor Irons as an Ad-hoc Sub-committee to work with City staff and the USCG to evaluate options for expansion of Coast Guard facilities and harbor office needs. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

#### C-2 MULTI-HAZARD EMERGENCY RESPONSE PLAN AND EMERGENCY OPERATIONS CENTER REVIEW; (FIRE)

Fire Chief Steve Knuckles presented the staff report which contained information about the City's Multi-Hazard Emergency Response Plan (MERP). The MERP prescribes the City's policies and concepts for responding to emergencies, which could affect the health, safety, environment, and property of the public within the City limits. In addition, this plan intends to: provide a basis for City coordinated disaster response capability; establish a mutual understanding of the emergency responsibilities and functions of civil government during emergencies; identify those historical and major potential disasters that may affect the City; provide continuity of government; and, coordinate operations with the emergency service organizations of other jurisdictions. The MERP consists of 3 parts: the Basic Plan which is an overview for elements of response and which the Council reviewed and adopted; hazard specific

annexes which provide checklists for approach to various emergencies; and, support materials and references and are intended to provide emergency personnel with information and data to support the emergency response efforts.

MOTION: Mayor Irons moved to continue the meeting beyond 11:00pm. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

The public comment period for Item C-2 was opened; seeing none, the public comment period was closed.

This item was informational only; no action was taken.

D. NEW BUSINESS

D-1 APPROVAL OF SUBLEASE OF 307 MORRO BAY BLVD TO GRANDMA'S FROZEN YOGURT AND WAFFLE SHOP (LENNY DURRER AND BEVERLY FORD-DURRER); (CITY ATTORNEY)

Interim City Attorney Anne Russell presented the staff report.

Beverly Ford-Durrer, the applicant, stated that everyone has worked so well to try and move this forward and she very much appreciates everybody's efforts. She will be moving this forward to their attorney to ensure they are protected for a number of reasons. She posed some questions that staff will have to investigate/research before being able to address those issues: location of bike racks, ADA compliance, location of storage, who pays taxes based on improvements.

Interim City Attorney Anne Russell suggested continuing the item to a date uncertain until she could visit the site and research the issues.

MOTION: Mayor Irons moved to continue this item and bring it back to the next available meeting to discuss the sublease. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

D-2 REVIEW AND ADOPT DRAFT FUNDING RECOMMENDATIONS FOR THE 2014 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS; (PUBLIC SERVICES)

Associate Planner Cindy Jacinth presented the staff report.

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

Councilmember Christine Johnson stated that a good City project was selected as it does relate to our City Goal 7(b) and 7(h), Improve City Infrastructure.

MOTION: Councilmember Christine Johnson moved to approve the funding recommendations for the 2014 CDBG funds and forward recommendations to the San Luis Obispo County Board of Supervisors for inclusion with the other draft funding requests for the Urban County Consortium. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-3 DISCUSSION OF THE CITY OF MORRO BAY'S COMMITMENT TO THE CITY'S 50TH ANNIVERSARY CELEBRATION; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Councilmember Nancy Johnson presented the requests from the Morro Bay 50<sup>th</sup> Anniversary Celebration committee; they included appointing Recreation & Parks Director Joe Woods to serve on the committee to help plan and allocate the authorized funds for each event; regarding the 2014 items, the markers are just a guess at this time; the community legacy project – the Women's for Fisheries we hope will be finished; under promotion and promotional items, the hope is that City Council request the Tourism Bureau and the Economic Development Department of the Chamber use their funds to take care of this – banners, advertising and printing; regarding the State's 150<sup>th</sup>'s Anniversary – First Day Hike – hoping there is money to buy t-shirts which will be for sale and the other State event we are already participating in is the Quilt project.

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

Councilmember Smukler appreciates the amount of work that has gone into this planning. He is interested in keeping the focus on the citizens of Morro Bay as much as possible; he would like to also see the focus on ideas that won't cost a lot of money; he is interested in limiting the City's financial obligations; and he supports Joe Woods as the City liaison to the committee.

Councilmember Christine Johnson has been able to attend 2 meetings so far and is appreciative of the energy and great ideas. She has been asking people in the community and the feedback that she has received is: keep it simple and focused on the locals; and, don't overdo the events. We have 2 diverse celebration opportunities: the 1<sup>st</sup> Day Hike and the Quilt project, both in conjunction with the State Parks 150<sup>th</sup> Celebration. She liked being able to leverage Morro Bay where we can with the 150<sup>th</sup> Celebration of the State Parks. She loves the idea of a parade and a community picnic which would keep the focus local. She also likes the idea of partnering with other groups such as the Tree Committee, the Bike Committee, etc. She loves the Anniversary logo. And supports Mr. Wood's working with the committee.

Mayor Irons hopes that the Black Hill Gang will be asked to be involved in the First Hike. He is in favor of the logo banners but hopes that maybe we can combine in the investment of them – we wouldn't need a "50<sup>th</sup>" on each banner which would allow us to continue to use them. He agrees in keeping theme of keeping it local. He asked about the Street Tree project.

Councilmember Nancy Johnson stated that Tyler Newton is raising and giving 50 Cypress trees to local merchants who will be able to use them over the holidays that then will be donated back to the Tree Committee for planting; the events are all community related; most events are tied to already existing events; promotions would be within the City, Economic Development and Tourism Bureau; and the January 11<sup>th</sup> kickoff event, “This is Your Life Morro Bay”, is being co-sponsored by the Chamber of Commerce with ballots being placed in this week’s Bay News so that people can nominate “citizens of each decade”. If this is going to work, then the committee needs money to get it started; money not used would be reimbursed back to the City. She is asking to approve this as a concept plan and authorize funds to get it started. She is asking for \$50,000. The full request is based on getting the money from Dynegy.

Councilmember Leage was in full support of funding this as this is a once in a lifetime opportunity that will bring people to Morro Bay.

Councilmember Christine Johnson is leaning towards funding this at a level of \$5,000; this is based on previous allocations to other Morro Bay activities/events. She is also cautious of funding events that weren’t open to all the public and weren’t family friendly.

Councilmember Nancy Johnson responded that funding the full \$50,000 is important as this is not just a “one event” request; it’s a calendar of events and does include the entire community. This money will also go towards some advertising.

Councilmember Smukler stated that the City can offer the most support in permitting. He is uncomfortable with writing a check and working backwards, he’d like to see more information. He’d also like to see more in-kind support and not cash.

Mayor Irons stated that everybody can be in agreement that this will be a worthwhile celebration. He feels that some events will be sponsored like the trees but there are some hard cost items like the banners and website. He is leaning towards committing \$15,000 towards the event(s).

Councilmember Smukler continued to be in favor of starting with \$5,000 and then having the group come back with more information about what the event costs would be.

Councilmember Nancy Johnson said that the bare minimum that they would be able to work with is \$36,000 and then hopefully the Chamber and Tourism Bureau could come up with the remaining \$14,000 for promotional items. This is time sensitive as the January 1<sup>st</sup> and January 11<sup>th</sup> events are being held prior to the first January Council meeting.

Councilmember Christine Johnson agreed with Councilmember Smukler, it would be good to start with an amount and then get more detail coming back. She would like to see a list and funding needs for the entire years’ calendar worth of events.

Councilmember Smukler, after looking at the events calendar, feels that \$5,000 will work for now and should cover the January events and then revisit after more detailed information is brought forward.

MOTION: Mayor Irons moved to fund the Morro Bay 50<sup>th</sup> Committee \$15,000 to get started. The motion was seconded by Councilmember Christine Johnson and carried 4-1 with Councilmember Smukler voting no.

D-4 DISCUSS AMENDING THE CONTRACT WITH SIMAS & ASSOCIATES FOR THE PURPOSE OF TRANSFERRING SIGNATOR FROM MAYOR IRONS TO INTERIM CITY ATTORNEY, AND DISCUSS AUTHORIZING ADDITIONAL FUNDS FOR THE PURPOSE OF COMPLETING PERSONNEL MATTERS WITH OUR CITY ATTORNEY AND CITY MANAGER NOT TO EXCEED 20 HOURS OR \$5000.00 DOLLARS; (MAYOR)

Mayor Irons presented the staff report.

Mayor Irons opened the public comment period for Item D-4.

Kevin Rice stated that it has been exactly 2 months since we started the crusade against the City Attorney. It has been confusing and disappointing with up to \$17,500 in attorney's fees to do what you could have done in 5 minutes. This has been a lot of waste of public money and public frustration and has divided the City.

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

Councilmember Christine Johnson wanted to ensure that this would be a "not to exceed an additional \$5,000".

Councilmember Smukler stated that we need to keep moving through this and find resolution so he is in favor.

MOTION: Mayor Irons moved approval of the recommendations as stated in the staff report. The motion was seconded by Councilmember Smukler and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Mayor Irons requested a discussion on Dynegy concerning direction to take regarding land and facilities; Councilmembers Smukler and Christine Johnson concurred.

#### ADJOURNMENT

The meeting adjourned at 12:30am.

Recorded by:

Jamie Boucher  
City Clerk

MINUTES – MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
NOVEMBER 19, 2013  
VETERAN’S MEMORIAL BUILDING – 4:30 P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Anne Russell	Interim City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Susan Slayton	Administrative Services Director
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

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

Mayor Irons stated that CS-3 would not be heard this evening as it is not ready to be discussed and will be continued.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment.

Carla Wixom wanted to take the opportunity to let people know City Manager Andrea Lueker’s accomplishments over the years: created cohesive top notch department head team; obtained millions of dollars in grants; part of bringing the Fire Station, Teen Center, Harborwalk, Round-a-Bout, etc. under her watch; worked with unions towards pension reform; consolidation of departments; created a community quota fishing non-profit group; reinstated the goal setting process; and helped create the Community Foundation. She then thanked Andrea for her service; she’s sorry to see her getting repaid in this way.

Janice Peters stated that reference has been made by the Mayor’s supporters to the “good ole boys club” yet those Councils, diverse as they were, accomplished some wonderful things for the City. This Council, regarding the City Manager and City Attorney, despite a negative response from the citizens are continuing on with their plan possibly feeling that the emotions have diminished as less and less people are attending meetings. Not true, people aren’t here not because they don’t care but because the Council majority is set on this vendetta, despite the cost both financial and emotional to this community. In August, 2012 she published an opinion piece warning that any new location for the sewer plant would potentially double the costs of the sewer bills. Mayor-elect Irons responded to this piece by stating that this viewpoint is fear based, inaccurate and divisive to the community. She submits that with Council’s actions, this is exactly what is going on right now.

Hank Roth stated that the Council is wrong in what they are doing; and they have been ignoring the people. The opposition here is nothing compared to what we have gotten from the Surfriders Foundation or the Outfall Group in previous years. He understands there are different views which are okay but to spend \$20,000 to accomplish nothing is wrong.

The public comment period was closed.

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

**CS-1 GOVERNMENT CODE SECTION 54956.8 - PROPERTY TRANSACTIONS:**

Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to one parcel.

- Property: 307 Morro Bay Blvd.
- Negotiating Parties: Ford-Durrer, dba Grandma's Frozen Yogurt & Waffle Shop and City of Morro Bay
- Negotiations: Lease Terms and Conditions

**CS-2 GOVERNMENT CODE SECTION 54956.9(d)(2) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** Exposure to litigation exists based upon existing facts and the legal advice of legal counsel as to one matter.

- Kevin Rice, Public Records Request

**CS-3 GOVERNMENT CODE SECTION 54957(b) - PUBLIC EMPLOYEE DISCIPLINE/ DISMISSAL/RELEASE/TERMINATION OF CONTRACT:**

Title: City Manager

**CS-4 GOVERNMENT CODE SECTION 54957(b)(1) – PUBLIC EMPLOYMENT:**

Title: City Attorney and City Manager

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; Interim City Attorney Anne Russell reported that with regards to the items heard in Closed Session, no reportable action under the Brown Act was taken.

ADJOURNMENT

The meeting adjourned at 6:03pm.

Recorded by:

Jamie Boucher  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING – NOVEMBER 19, 2013  
VETERAN’S MEMORIAL HALL – 5:30 P.M.

Mayor Irons called the meeting to order at 6:11p.m.

- |          |                   |                                  |
|----------|-------------------|----------------------------------|
| PRESENT: | Jamie Irons       | Mayor                            |
|          | Christine Johnson | Councilmember                    |
|          | Nancy Johnson     | Councilmember                    |
|          | George Leage      | Councilmember                    |
|          | Noah Smukler      | Councilmember                    |
| STAFF:   | Andrea Lueker     | City Manager                     |
|          | Anne Russell      | Interim City Attorney            |
|          | Jamie Boucher     | City Clerk                       |
|          | Susan Slayton     | Administrative Services Director |
|          | Rob Livick        | Public Services Director         |
|          | Amy Christey      | Police Chief                     |
|          | Joe Woods         | Recreation & Parks Director      |
|          | Eric Endersby     | Harbor Director                  |

- I. ESTABLISH QUORUM AND CALL TO ORDER
- II. MOMENT OF SILENCE
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC COMMENT

The public comment period for the special meeting was opened; seeing none, the public comment period was closed.

- V. REVIEW, DISCUSSION AND DIRECTION OF DRAFT REQUEST FOR PROPOSAL FOR INTERIM CITY ATTORNEY

Administrative Services Director Susan Slayton presented the staff report.

Interim City Attorney Anne Russell made some recommendations to be added to the draft RFP which consisted of a 50 hour/month retainer with all excess hours be quoted at the same or different rate; provide for 4 hours of office hours in Morro Bay twice a month, hopefully to coincide with Council meetings; and proposal deadline no later than the 2<sup>nd</sup> week in January.

Councilmember Christine Johnson proposed the following edits to the RFP: page 7, G, #2, add the following to the end “... legal costs **so that City legal costs are held to a minimum**”; #4 from Hollister page 6, insert “**Describe how you would proactively advise the City Council about legal developments or issues of concern, without being asked**”; insert #8 from Hollister page 6, “**How do you evaluate the costs/benefits of litigating or settling cases?**”; insert #9

from Hollister page 6, “**How would you evaluate whether to use another attorney from another firm to handle a case, provide expert advice, or provide other needed services? How will fees enter into your judgment of who to use in your role as City Attorney representing the interests of the City of Morro Bay?**”; our page 7, I 1) would suggest **3 clients instead of 5 clients** and would say **5 years instead of 3 years**; our page 4, #4 would insert “**Provide legal advice, telephone, email and personal consultations with members of the City Council and City Staff Manager**”; also #4 insert, “**Provide legal advice to staff upon request of the City Manager.**”; and #16, insert “**Communicate with the press when authorized to do so by the City Council or City Manager.**”.

Ms. Russell suggested that re: page 4, #4, it would be best to leave that to the discretion of the City Manager as it would be important at times to have a department head meet with the City Attorney; maybe add language that consultation would be during office hours.

Mayor Irons, on page 10 had questions in regards to the review and selection process; he’d like to maintain a 2 person sub-committee from just Council and facilitation of a designee. With regards to process on A) there are specific dates that need adjusting; he’d like to see something to effect of seeing some kind of a score card to ensure consistent questions and rating criteria.

Councilmember Nancy Johnson stated that it was important to either include all of Council in the decision making process, not just 2 people; or have a committee of 2 Councilmembers, one from the majority and one from the minority as well as experienced staff sit on the committee.

Councilmember Christine Johnson was comfortable with 2 Councilmembers and Ms. Slayton and Ms. Russell.

Councilmember Nancy Johnson feels that a) all Councilmembers should look at all the proposals, providing a ranking of each; b) the committee (2 Council and staff) receives these and goes through a final ranking, narrowing the field down; and, c) the proposals come back to the entire Council for final selection and interviews.

Interim City Attorney Anne Russell suggested that in the section that stated the contract would be for up to 6 months, should instead say that this could lead to a more permanent or longer term arrangement.

Council discussed who should be named to the 2 person sub-committee. Councilmember Nancy Johnson and Christine Johnson volunteered.

**MOTION:** Mayor Irons moved to proceed with the RFP with the recommended changes and approved sub-committee members of Nancy Johnson and Christine Johnson. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

**VI. APPROVAL OF SUBLEASE OF 307 MORRO BAY BLVD TO GRANDMA’S FROZEN YOGURT AND WAFFLE SHOP (LENNY DURRER AND BEVERLY FORD-DURRER)**

Interim City Attorney Anne Russell presented the report. The only major change being made is a request by the sub-tenant to reduce the rent based on costs of maintaining the restroom. Ms. Russell recommended that language be deleted and that some language acceptable to the sub-tenant, the right to terminate if the City was not amenable to the rent reduction be inserted. This can be found in paragraph 3.

MOTION: Councilmember Nancy Johnson moved approval of the lease as recommended. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

## VII. ADJOURNMENT

The meeting adjourned at 6:47p.m.

Recorded by:

Jamie Boucher  
City Clerk

MINUTES – MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
DECEMBER 3, 2013  
VETERAN’S MEMORIAL BUILDING – 10:00 A.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Anne Russell	Interim City Attorney
	Jamie Boucher	City Clerk

ESTABLISH QUORUM AND CALL TO ORDER

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

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment.

Carla Wixom stated that there are very few employees these days that can boast of a 27 year career with the same employer. This speaks volumes to the job that Andrea has done.

Janice House stated that Council doesn’t understand that they are temporary, part-time employees of the City. The actions being taken will be bad for the City for many years. She stated that other employees are in fear that they may be next. She thanked Andrea Lueker for all her years of service and for making Morro Bay a better place.

Bill Peirce announced that the flowers given to Ms. Lueker were given to her as a tribute to her many years of service. She has worked well for the City. This is truly unfortunate.

Homer Alexander stated that in his talks with Morro Bay citizens, they universally agree that the City provides great services. Without strong leadership at the top, that doesn’t happen.

Rick Grantham stated that based on the abundance of flowers at Ms. Lueker’s desk, someone is loved in this building. He thanked her for the patience she showed him as a new Councilmember in his efforts to understand City government.

Judy Thompson fully supports the actions of the majority of the Council. She thanked the majority for making this a much more transparent City to live.

Marlene Peter has worked with Andrea on the Morro Bay Community Foundation for years. All she could say at this point was “Thank You”.

Stan House stated that there was nothing transparent about these proceedings. He went on to say that Andrea could leave with her head held high as she has done a fantastic job, has been good to the people, and has volunteered for many community activities.

Maureen Kispersky stated that hers would be an extremely tough act to follow, if it’s even possible.

Keith Taylor thanked Andrea Lueker for all the work that she’s done for our City. All love you and appreciate all you’ve done.

Garry Johnson met Andrea in the 1990’s and has always been impressed by her work. He feels that if the newcomers had been in town back then, this wouldn’t be happening. He thanked Andrea very much. He encouraged registered voters to sign the recall petition.

John Solu thanked Andrea for her service for the past 27 years. He feels the majority Council has created a new word in the dictionary – management by fear.

Janice Peters presented an extended list of City Manager attributes – all of which Andrea possesses. Andrea has total dedication and love for this City. She feels that the majority Council hasn’t talked to her enough; she can only be as good of an employee as you let her be. She finished by saying that it has been a pleasure to work with Andrea and she has been wonderful to the City.

Joan Solu said that there is a number that Andrea can add to her resume – the number 1500 which represents the number of children who have benefitted from scholarships given out by the Morro Bay Community Foundation – because of you.

The public comment period was closed.

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

**CS-1 GOVERNMENT CODE SECTION 54957(b)(1) - PUBLIC EMPLOYEE DISCIPLINE/ DISMISSAL/RELEASE/TERMINATION OF CONTRACT:**

Title: City Manager

**CS-2 GOVERNMENT CODE SECTION 54957(b)(1) – PUBLIC EMPLOYMENT:**

Title: City Manager

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; Interim City Attorney Anne Russell reported that with regards to the items heard in Closed Session, no reportable action under the Brown Act was taken and that Mr. Simas was to continue to negotiate a separation agreement with the City Manager.

ADJOURNMENT

The meeting adjourned at 12:05 p.m.

Recorded by:

Jamie Boucher  
City Clerk



AGENDA NO: A-6  
MEETING DATE: 12/10/2013

## Staff Report

**TO:** Honorable Mayor and City Council Members      **DATE:** September 19, 2013  
**FROM:** Susan Slayton, Administrative Services Director  
**SUBJECT:** Resolution No. 59-13 Establishing the Guidelines by which the City of Morro Bay will comply with the Federal Affordable Care Act (ACA)

### RECOMMENDATION

The City Council to adopt the attached Resolution No. 59-13, which establishes the policy guidelines by which the City will comply with the Affordable Care Act (ACA). Additionally, City Council is asked to consider directing staff to bring back costs related to a consultant to ensure compliance with ACA.

### ALTERNATIVES

1. Eliminate the City's requirement to pay for health insurance by mandating that no part-time employee will work more than an average of 29 hours per week.
2. Reduce the City's requirement to pay for health insurance by mandating that only certain classes of employees will be allowed to work more than an average of 29 hours per week and
  - a. Choose 12 month measurement and stability periods with 60 day admin period; **and**
  - b. Adopt the Rate of Pay Safe Harbor method of determining income; **and**
  - c. Instruct Department Directors to monitor hours worked to stay below the 1,560 hour-per-year cap, or limit the number of people allowed to exceed the cap.
3. Allow the Department Directors to make the decision of which part-time employees will be allowed to work more than 29 hours a week, and pay insurance for those employees as required and
  - a. Choose 12 month measurement and stability periods and 60 day admin period; **and**
  - b. Adopt the Rate of Pay Safe Harbor method of determining income; **and**
  - c. Require Department Directors to adjust their current budgets to accommodate the increase in health care costs.

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

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

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

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

## **FISCAL IMPACT**

Possible exposure to the City is health insurance for 10 – 12 part-time employees, which, in 2014 dollars, would cost \$54,860 - \$65,832 for one year (\$457.17 x 10 x 12, \$457.17 x 12 x 12). Rates for 2015 are unknown at this time.

## **SUMMARY**

The purpose of this report and Resolution No. 59-13 is to provide information and to establish the policy guidelines on the requirements of the Affordable Care Act (ACA), by which the City will comply. Staff has developed recommendations for guidelines on the basis of minimizing the City's exposure to the tax penalties under ACA, while maintaining the most cost-effective method of compliance with consideration given to departmental staffing.

## **BACKGROUND**

The City of Morro Bay does not offer benefits to the majority of its hourly part-timers, such as Reserve Firefighters, Lifeguards, and Recreation Leaders. Currently, there are two allocated, benefitted part-time City employees: our ½ time Administrative Technician in the Fire Department and our ¾ time Permit Technician in the Public Services Department.

In March 2010, the Federal Affordable Care Act (ACA) became law. The intent of the ACA is to increase the rate of health insurance coverage and reduce the overall cost of healthcare. The premise behind the legislation is that the more people who have access to affordable health care, the more proactively people will seek and receive care, thus reducing health care costs in the long term. Implementation of this extraordinarily complex legislation is being phased-in from 2010 through 2018, requiring employers and insurance companies to make necessary changes to remain in compliance. Staff has been monitoring the requirements of the ACA, making the necessary changes to remain in compliance, and ensuring the insurance coverage offered by the City is also in compliance. Some features that have already been implemented include: no lifetime dollar limit on essential health benefits, no retroactive cancellation of health insurance coverage, children up to age 26 are eligible as dependents on their parents' plan, and for children under age 19, no pre-existing conditions exclusions are allowed. For the most part, these changes have only resulted in administrative modifications for the City, with the brunt of compliance being born by insurance companies.

On July 9, 2013, the Department of the Treasury and IRS announced the implementation delay of the mandate on large employers (those with 50 or more full-time employees); these provisions of the ACA become effective in January 2015. The delay was also extended to the payment of penalties under the "Play or Pay Mandate," with the same January 1, 2015 effective date. Staff has reviewed the requirements of the ACA, and determined that the City: 1) qualifies as a large employer; and 2) is subject to the "Play or Pay Mandate". Further, staff reviewed the City's current contributions to health insurance for regular, benefitted classifications eligible to participate in the CalPERS health plans, and determined that the City meets the minimum essential coverage, affordable coverage and minimum value criteria under the ACA. While the "Play or Pay Mandate" has been postponed until January 1, 2015, experts are advising that agencies take action to establish parameters for

compliance, including a Standard Measurement Period and Safe Harbor provision, as explained later in this staff report.

## **DISCUSSION**

### ***Compliance with ACA***

Staff has reviewed the requirements of ACA and determined that the City qualifies as a “large employer” (50 or more full-time equivalent employees), and must comply with the requirement to provide health insurance that offers “**Minimum Essential Coverage**.” As a large employer, Morro Bay is subject to the **Employer Shared Responsibility Provision** of the Act, more commonly known as the “Pay or Play Mandate,” which will assess penalties for all large employers who do not offer health insurance that is “**Affordable Coverage**” and of “**Minimum Value**” to full-time equivalent employees. Each of these conditions is discussed in more detail below.

The City must provide coverage to substantially all (95%) full-time equivalent employees (those working 30 or more hours per week) and their eligible dependent children (not including spouses). Failure to meet these requirements will result in penalties imposed by the IRS.

### **1. Minimum Essential Coverage**

The Department of Health and Human Services defines **minimum essential coverage** as including the following:

- Ambulatory patient services, such as doctor's visits and outpatient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

While the ACA requires coverage for each of these categories, the law does not define the specific services that must be covered or the amount, duration, or scope of services.

**To meet this condition, the City offers health insurance through CalPERS, who has assured us that the plan provides minimum essential coverage.**

## 2. Affordable Coverage

For an employee under an employer-sponsored health plan, coverage is considered affordable if the employee's required contribution for self-only with the lowest cost plan **does not exceed 9.5%** of the employee's household income for the taxable year.

According to federal guidelines, income under ACA can be determined under three **Safe Harbor** methods:

1. W-2 method, using the latest year-end W-2, Box 1 to determine income;
2. Rate of Pay Method, calculating the hourly wage times 130; or
3. Federal Poverty Level, using the Federal Poverty Level for single household.

The Safe Harbor tests are all based on the cost of single coverage for the least expensive plan offered. Under the City's current contract with CalPERS, this would be the Blue Shield NetValue Plan.

Because CalPERS contracting employers all have different contribution amounts based on bargaining group Resolutions, employers must assess the impact of this affordability requirement using their specific contribution levels.

**The current City health insurance bank covers 100% of the cost of the employee only premium. Additionally, Staff recommends that the City adopt the Rate of Pay Safe Harbor to determine income as it is the most cost-effective method.**

For example:

- 30 hours per week (1,560 hours per year) is considered a  $\frac{3}{4}$  time employee
- 2014 least expensive plan is Blue Shield NetValue; employee only = \$457.17 per month
- For employee only coverage, the City's maximum monthly contribution to health for benefitted employees = \$715 for full-time, \$536 for  $\frac{3}{4}$  time, \$358 for  $\frac{1}{2}$  time (no cash back option exists)
- For the  $\frac{3}{4}$  time employee, \$536 is greater than \$457.17, which means that the cost to the employee is \$0

## 3. Minimum Value

Coverage under an employer-sponsored group health plan is deemed to provide "minimum value" if it pays for at least 60% of the total plan costs. This is generally thought to mean and refer to an actuarial standard (although obtaining an actuary is not required) that is based on the anticipated costs of a hypothetical or "standard" population. For example, a plan that pays 100% of total plan costs has no co-pays, deductibles, co-insurance or other cost-sharing features. A plan that pays

60% of total plan costs means that the employee pays the remaining 40% through co-pays, deductibles, co-insurance or other cost-sharing features.

**To meet this condition, the City has been told by CalPERS that the plans meet the minimum value condition; however, certification from CalPERS on this is not yet available.**

As mentioned in the *Compliance* section above, two penalties may be imposed for failure to meet the requirements under ACA:

1. “A” penalty - this penalty occurs if the employer does not offer substantially all (95%) of its full-time employees and their child dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan **and** one or more full-time employees receives a premium tax credit or cost-sharing reduction for purchasing individual coverage through a Health Benefits Exchange (Covered California). The assessment is \$2,000 for each full-time employee (whether or not offered coverage) minus the first 30 employees.

For Morro Bay, this means that **if even one** Morro Bay employee was denied the opportunity to enroll in our health plan, and because of this, he/she received assistance with purchasing coverage through Covered California, the City would be assessed \$2,000 x (97 – 30), which equals \$134,000.

2. “B” penalty – this penalty occurs if the City does offer coverage to substantially all (95%) of its full-time employees and their child dependents, **but** the coverage is either not affordable or does not provide minimum value **and** one or more full-time employees receives a premium tax credit or cost-sharing reduction for purchasing individual coverage through a Health Benefits Exchange (Covered California). The assessment is \$3,000 for each full-time employee who is not offered affordable coverage providing minimum value and who receives a premium tax credit or cost-sharing reduction (in total, not to exceed \$2,000 for each full-time employee, minus the first 30 employees).

For Morro Bay, this means that **for every one** Morro Bay employee, who is offered the opportunity to enroll in our health plan, but the coverage is not affordable or does not provide minimum value, and because of this, he/she received assistance with purchasing coverage through Covered California, the City would be assessed \$3,000 per employee, with a cap of \$134,000.

#### ***Determining health insurance eligibility***

ACA allows employers to choose a look-back period to determine which part-time employees qualify for insurance coverage. This methodology utilizes a measurement period, an administrative period and a stability period for making this determination.

1. **Measurement period:** this is a period of time from 3 to 12 months which the City uses to review the payroll history of all part-time employees. All employees working 30 hours per week/130 hours per month/1,560 hours per year or more qualify for health insurance coverage during the stability period.
2. **Stability period:** this is a period of at least 6 months, but no shorter than the measurement period, during which the employees, who were determined by the measurement period as eligible to receive health coverage, will be provided health insurance coverage.
3. **Administrative period:** this is a period of up to 60 days at the end of the measurement period, and prior to the stability period, that allows the City to enroll qualifying employees and disenroll unqualified employees, based on the information obtained in the measurement period.

Below are two **examples** of measurement and stability periods; “A” uses twelve (12) months for both periods and “B” uses six (6) months for both periods.

- A. The City determines that the measurement and stability periods should be established at twelve (12) months.
  1. On November 1, 2014, the City will look back at the payroll history of all part-time employees for twelve months beginning with November 1, 2013 through October 31, 2014 (**measurement period**).
  2. All part-time employees, who have worked 1,560 hours or more, will be eligible for health insurance coverage.
  3. During the period of November 1 to December 31, 2014 (60 days), staff will offer enrollment and then enroll those eligible employees and their eligible child dependents in the City’s health insurance plan (**administrative period**).
  4. Health insurance for those part-time employees will be provided for up to twelve months (**stability period**), unless the employee(s) terminates from the City.
- B. The City determines that the measurement and stability periods should be established at six (6) months.
  1. On November 1, 2014, the City will look back at the payroll history of all part-time employees for 6 months beginning May 1, 2014 through October 31, 2014 (**measurement period**).
  2. All part-time employees, who have worked 780 hours or more, will be eligible for health insurance coverage.
  3. During the period of November 1 to December 31, 2014 (60 days), staff will offer enrollment and then enroll these eligible employees and their eligible child dependents in the City’s health insurance plan (**administrative period**).
  4. Health insurance for those part-time employees will be provided for up to six (6) months (**stability period**).

The advantage in using the twelve (12) month measurement and stability periods is that the greater amount of time will reduce the number of qualifying part-time employees by smoothing the seasonal hours over the full twelve months. The disadvantage of this selection is that qualifying part-time employees will be afforded health coverage for the twelve (12) month stability period, as long as they remain employed. During that twelve month period, the qualifying employee's hours may drop below the minimum, but because of the decision to implement measurement and stability periods of twelve (12) months, the employee remains entitled to the insurance for the full twelve months, as long as active employment is sustained.

Using the six (6) month measurement and stability period is solely advantageous to the qualifying employees. "Seasonal" employees will be included in this pool, and since the IRS does not have a seasonal definition or exclusion, it would be prudent for the City to include these individuals, rather than risk the fine. The City would incur unnecessary costs in picking up the additional employees, plus these shorter measurement and stability periods place a greater burden on staff to look back more frequently to review employee qualification. Additionally, staff would be enrolling and disenrolling members on a much more frequent basis.

**Staff is recommending the twelve (12) month measurement period, 60 day administrative period and twelve (12) month stability period.**

*Looking back for new employees*

So far, we have been discussing the existing employee pool, but as new employees come into the system, their measurement period begins with the beginning of the month following their date of employment. For example, if a part-time employee starts work on May 2, 2014, his/her measurement period begins on June 1, 2014. If the measurement/stability periods of twelve (12) months are chosen, staff would look back on this employee on June 1, 2015, reviewing work history from June 1, 2014 through May 31, 2015.

*Continuing education*

The requirements of the ACA are numerous and very confusing. Staff has spent considerable effort attending seminars and following webinars, emails, and conference calls to get a better understanding of what must be done to comply with the Act. Additionally, staff has discussed this with other cities, and the consensus is to use the twelve (12) month measurement and stability periods and Rate of Pay Safe Harbor.

Since the implementation date for ACA has been extended, Staff will continue to monitor these requirements in order to keep the City in compliance, and bring forward updates that would change this Resolution.

### ***Controlling the flow***

There are ways to control the number of part-time people who become eligible to receive health care:

1. Include a section in the Resolution, stating that no part-time employee will work more than 1,500 hours per year, which is an average of 29 hours per week; or
2. Include a section in the Resolution, stating that only certain classes of part-time employees **may** work more than 1,500 hours per year, but that Department Directors should monitor this to limit the number of employees reaching and exceeding the 1,560 hours per year limit.

If the City Council chooses to direct staff to reduce the hours of the part-time temporary employees, thus avoiding the IRS penalties and the requirement to offer access to health insurance coverage that is affordable, it could impair the City's ability to effectively deliver programs to the community. In addition, while this alternative would meet the letter of the law, it would miss the spirit of the law, which is intended to allow more people to have access to health coverage.

As additional information, the City of Pismo Beach is planning to hire a consultant to recommend recordkeeping for the IRS reporting requirement to minimize the City's exposure to penalties and insure overall compliance with ACA. With the limited staff that we have, City Council may want to entertain this as well.

### **CONCLUSION**

Based on the impact to the City, Staff is recommending that the City Council adopt Resolution No 59-13, establishing the policy guidelines for complying with the Affordable Care Act (ACA), utilizing a twelve (12) month Measurement Period, 60 day Administration Period and twelve (12) month Stability Period plus the Rate of Pay Safe Harbor method for calculating affordability.

**RESOLUTION NO. 59 -13**

**RESOLUTION OF THE COUNCIL OF THE CITY OF MORRO BAY  
ESTABLISHING THE CITY'S INTENT TO COMPLY WITH THE AFFORDABLE CARE  
ACT EMPLOYER SHARED RESPONSIBILITY (ACA)**

**WHEREAS**, the Affordable Care Act (ACA) became law in March 2010, and implementation is phased in over eight years with significant changes, which include the Employer Shared Responsibility provisions (Pay or Play), becoming effective January 1, 2015; and

**WHEREAS**, the City of Morro Bay wishes to establish policy guidelines for a fiscally responsible method of compliance under the ACA, on the basis of minimizing the City's exposure to the ACA tax penalties; and

**WHEREAS**, the City of Morro Bay is committed to offer health insurance that provides Minimum Essential Coverage, Minimum Value and meets the ACA definition of Affordable Coverage.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Morro Bay hereby approves and adopts policy guidelines in compliance with the ACA as follows:

**Section 1. Measurement Period.** For determining eligibility for health care coverage, the City adopts the Measurement Period (Look-Back) of twelve (12) month.

**Section 2. Administrative Period.** For enrolling eligible employees in the City's health care plan, the City hereby adopts the Administrative Period of sixty (60) days.

**Section 3. Stability Period.** For all employees who are determined to be eligible for health care coverage per the Measurement Period, the City hereby adopts the Stability Period of twelve (12) months.

**Section 4. Safe Harbor Provision.** Temporary employees of the City, who qualify as full-time equivalents under the definition of the ACA, shall be offered health insurance that is affordable, as defined by the ACA; therefore, the City hereby adopts the "Rate of Pay Safe Harbor" as the method to ensure that health coverage is Affordable.

**Section 5. New Employees.** For new employees, the beginning month of the Measurement Period will be the 1<sup>st</sup> day of the month following employment, and extend for 12 months. The Administrative Period will follow for 60 days, and then the Stability Period will follow for the next 12 months.

**Section 6. Compliance.** The City will comply with all benefit administration, record keeping and reporting requirements of the ACA. The beginning dates of the Measure, Administrative and Stability periods will be based the start of the requirement for large employers.

**Section 7.** The Administrative Services Director, or designee, is hereby directed to calculate the amount of any appropriations necessary to finance the costs associated with the requirements of maintaining compliance with the ACA and shall include such appropriations in future budgets, beginning with the 2014/15 Fiscal Year.

**PASSED AND ADOPTED,** by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 10<sup>th</sup> day of December 2013, by the following vote:

AYES:  
NOES:  
ABSENT:

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JAMIE L. IRONS, Mayor

ATTEST:

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JAMIE BOUCHER, City Clerk



AGENDA NO: A-7

MEETING DATE: 12/10/2013

# Staff Report

**TO: Mayor and City Council**

**DATE: December 5, 2013**

**FROM: Andrea K. Lueker, City Manager**

**SUBJECT: City Project Status Report**

## **RECOMMENDATION**

Staff recommends the City Council review this informational item.

## **ALTERNATIVES**

There are no alternatives to this status report as it is informational only.

## **FISCAL IMPACT**

Not applicable.

## **BACKGROUND**

Since August 2012, staff has presented a City Project Status Report which appears quarterly on the Consent Calendar. The updated spreadsheet of Capital Projects, Measure Q Projects and Maintenance Projects over \$25,000 is attached.

Prepared By: AL

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

City Manager Review: AL

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

City of Morro Bay - Project Status Report									
Last updated: 12/5/13									
Project Name	Department	Project Description	Project Status	Delay Description	Original Start Date	Revised Start Date	Projected Completion Date		
<b>Capital Projects</b>									
Nutmeg Tank	PS	Construction of 1.23 mgal water tank replacing a 140 kgal in order to provide additional storage to meet fire demands for the pressure zone.	Environmental review/county permitting	Redesign to a single concrete tank from dual steel tanks.	6/30/13		9/1/14		
Desal Upgrade/Energy Recovery	PS	Replacement and upgrade of product water pumps, Tanks and Electric Upgrades	Specialty Construction has completed the Maintenance and Repair Items. The additional Calcium Carbonate tanks awaiting CCC decision on desal outfall and wells.	Coastal Permitting Issues need to be resolved prior to Phase 2.	1/11/13	4/30/13	2/15/14		
Morro Creek Bike & Ped Bridge	PS	Construct new bridge to close gap in North Coast Scenic Byway	RDM Design Group is continuing the design Permitting and Environmental Work. Project use permit and env review will be at the December 18, 2013 Planning Commission Meeting.	n/a	7/1/13		Design 4/1/2014 Const. 9/30/2014		
Bike Path Gap Closure	PS	Improve bike path, lanes and routes fm MBHS thru Beach tract towards Cayucos	Wallace Group Preparing Design	Redesign due to property Acces issues on Nort side of Atascadero Rd.	4/30/13		8/15/14		
CDBG Sidewalk Gap Closures	PS	Construct missing segments of sidewalk to improve ADA access	Plans & Specs under review. Ready for informal Bidding.	Scheduling Conflicts	10/1/13		12/31/13		
Blanca Pipeline	PS	Project not economically feasible - deleted	Withdrawn - Reviewing Alternatives	n/a					
Chorro Creek Stream Gauges	PS	Installation of gauges to measure Corro Creek stream flow in accordance with the Water Rights Permit	Environmental Review scheduled for City PC Permitting	n/a	8/30/13		10/30/14		
North Main St. Trunk Line	PS	Upgrade or replace Jointly owned Sewer Main	Delayed pending WRF resiting & future of JPA	Project requires modifications to the Joint Powers Agreement to proceed	n/a	unknown	unknown		
North-T Pier	Harbor	Structural repair of portions of T-pier including piles	Coastal Development Permit and Army Corps of Engineers permit submitted. Staff working with CCC staff and engineering consultant on work plan and othe submittal refinements. CCC permit waiver issued, Corps permit still pending. Engineering and did documents in progress, bid issuance expected late Sept/early Oct	Employee death, consultant illness, staff time committed to other capital projects, Harbor staffing reductions		Fall/winter 2013 for construction	Late 2013/early 2014		
Least Site Audits	Harbor	Scheduled audit of gross sales reporting on leases	Underway	Auditors waited until summer was over to begin in deference to lease holders, start date then slightly delayed until late 2012	9/1/12	11/1/12	7/1/13		
Replace Storage yard metal roof	Harbor	Replacement of failed metal roof	Complete	n/a	n/a				
Water Reclamation Facility (WRF) Project Planning Support	PS	Facilitate project goals and objectives for re-siting the new WRF	The Final Draft options report to be heard at the December 10, 2013 City Council Meeting.	n/a	TBD	n/a	TBD		
New Harbor Patrol Vessel Constr.	Harbor	New 29' Harbor Patrol vessel construction to replace primary rescue/fire vessel	Under construction in Santa Barbara	n/a	3/3/13	9/30/13			
<b>Measure Q Projects</b>									
Streets-curbs, gutters, potholes	R/P	3rd party + in-house staff to fill potholes, High priority to high liability conditions	Ongoing.	Resource availability	ongoing	ongoing	Ongoing until funding is exhausted		
Streets - Pavement Mgt Plan	PS	Continuation of paving per the PMP	The Digout work by Souza Construction is nearing completion. Miosurfacing and other sealing work by American Asphalt to commence during the second week of December.	Resource Availability	10/30/13		12/30/13		
Storm Water Management Plan	PS	Repair and replacement of storm drains systems	Continuing Projects as Resources are available	Resource availability	n/a	n/a	n/a		
<b>Completed Projects</b>									
PD Antenna Replacement	PS/Comm	Replace Communication Antennas oon Tower at PD	Complete. Notice of Completion to CC on 10/8/13	n/a	8/30/13		9/19/13		
Brackish Water Reverse Osmosis	PS		Complete	n/a	12/31/12				
Fire Station #53, Phase II	PS	Construction of offices and living quarters	Project Complete and Accepted by City Council.	Project closeout in progress.	10/1/09	8/1/11	7/9/13		
Hydro Building (Collections Shed)	PS	Re-siding and New Doors	Complete				12/31/09		
Lift Station 3	PS	Force main and gravity sewer trunk line replacement.	Complete	NPDES permitting resolved.	8/1/12	n/a	5/14/13		
Lift Station 2	PS	Reconstruction of WW lift station	Project complete. Notice of Completion approved 2/13/13 and filed w/ County on 2/20/13.	n/a	1/1/12	4/1/12	10/30/12		
Section 6 Rehabilitation	PS	Repair sections of Sewer Main in the Lower Quintana Area	Complete	n/a	2/1/12	n/a	5/30/12		



AGENDA NO: A-8

MEETING DATE: 12/10/2013

# Staff Report

**TO: Mayor and City Council**

**DATE: 12/03/2013**

**FROM: Andrea K. Lueker, City Manager**

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

## **RECOMMENDATION**

Staff recommends the City Council review this informational item.

## **ALTERNATIVES**

Not applicable at this time.

## **FISCAL IMPACT**

Not applicable at this time.

## **SUMMARY**

Staff provides this report as a monthly update to the progress made to date on the new WRF project.

## **BACKGROUND**

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

## **DISCUSSION**

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

<b>Date</b>	<b>Action</b>
01/03/13	Special City Council meeting – City Adopted Resolution No. 07-13 recommending denial of the WWTP project.
01/08/13	WWTP Project denied by the California Coastal Commission (CCC).
01/08/13	January JPA not held due to CCC meeting.
01/24/13	City Staff, Morro Bay JPA Sub-Committee, Cayucos SD representatives, staff and attorney meet and discuss strategy and moving forward.

Prepared By: AL

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

City Manager Review: AL

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

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

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

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

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

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

03/18/13 RFP issued.

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

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

04/05/13 Citizen selection committee deadline.

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

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

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

04/15/13 RFP due.

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

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

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

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

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

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

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

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

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

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

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

06/13/13	JPA Meeting – Cayucos Veteran’s Hall
06/24/13	Kick-off Meeting with John Rickenbach and team members
06/24/13-06/28/13	Work with Rickenbach to determine updated schedule pursuant to the scope of work in the RFP. Determination of Stakeholder groups/individuals
07/03/13	Tentative Schedule from Rickenbach for the New WRF posted online and available.
07/03/13	Working with Coastal Commission staff to finalize date for quarterly meeting/teleconference.
07/11/13	July JPA Meeting Cancelled.
07/18/13	Quarterly Coastal Commission/City of Morro Bay meeting, Rickenbach Team participated in review and discussion of the status of the WRF project.
07/19/13	WSC Report entitled <u>Conceptual Wastewater Treatment Alternatives Technical Memorandum</u> commissioned by the Cayucos Sanitary District (CSD) released on the CSD website and delivered to the City. Report located at the following address: <a href="http://www.cayucossd.org/documents/Conceptual%20WW%20Treatment%20AltTM_CSD.pdf">www.cayucossd.org/documents/Conceptual%20WW%20Treatment%20AltTM_CSD.pdf</a>
07/24/13-07/25/13	Stakeholder Interviews conducted by Rickenbach team
08/08/13	August JPA Meeting Cancelled
08/15/13	Community Workshop #1 held at MB Veteran’s Hall
Week of 8/19/13	Workshop Summary posted on City’s website Comments Form available on City’s website for additional comments on the workshop and/or project.
09/12/13	September JPA Meeting held
09/16/13	Biosolids and Treatment Options Workshop at MB Veteran’s Hall
09/27/13	October 2013 JPA Meeting cancelled
10/21/13	Quarterly Coastal Commission/City of Morro Bay Meeting
10/29/13	Release of Public Draft – Options Report
11/04/13	Public Works Advisory Board – Options Report to Board for Public Feedback
11/05/13	Second Public Workshop – Presentation of Options Report for Public Feedback
11/12/13	Presentation of Options Report to City Council
<b>11/14/13</b>	<b>November 2013 JPA Meeting Cancelled</b>
<b>11/19/13</b>	<b>Meeting with RWCQB Staff regarding project Status and Permit Renewal</b>
<b>12/10/13</b>	<b>Presentation of Options Report to City Council</b>

## **CONCLUSION**

City Council, since the denial of the WWTP permit in January 2013, has made measured and deliberate progress in the WRF project, as outlined above.



**AGENDA NO: A-9**

**MEETING DATE: December 10, 2013**

## **Staff Report**

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

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

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

### **RECOMMENDATION**

Staff recommends that this report be received and filed.

### **ALTERNATIVES**

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

### **FISCAL IMPACT**

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

### **DISCUSSION**

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

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

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

Staff's primary focus has continued to be on the next Fiscal Year and the projects contained within the FY 13/14 WWTP budget that was adopted by both the City and District. The adopted budget contains \$1.04M in funding for MMRP projects presented during the budget hearing at the JPA meeting. Staff is currently working on developing and refining an implementation schedule for the projects funded in the FY 13/14 budget. An outline of the

**Prepared by: RL/BK/RS Dept. Review: RL**

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

**City Attorney's Review: \_\_\_\_\_**

desired repair time frames and key project milestones has been identified and the schedule will be finalized after peer review with our technical support team.

Staff's focus for the month of November included continuing to perform and develop a schedule for the repairs and maintenance procedures for digester #2. Staff met with Mike Nunley (MKN) to discuss development of an RFP for the sandblasting and coating of digester #2. In addition they continued to refine work tasks and schedules for completing projects required to bring the digester back on-line. Tasks performed in November included disassembly and inspection of the piping for the digester gas mixing system. Plant staff has also ordered parts for the replacement or rebuilding of the numerous critical valves used to mix and transfer sludge within the digester. MKN is still waiting for the results of the structural testing performed by NV5, and upon receipt of those results, will further modify the work plan.

The draft work plan will include repair or replacement of the heat exchanger piping. Staff and MKN are also working to address other mechanical and piping repairs or replacement related to the sludge and gas systems, in addition to crack repair at the chlorine contact tank. WWTP staff is currently scheduling and performing valve repair work which could reduce the level of effort during construction. The plan is to issue a separate bid package for the repair/replacement of piping and the final scope will depend on the availability of WWTP staff to address some repairs themselves. Staff has authorized an additional 30 hours of effort (\$4,500) to prepare the additional bid package/specifications for the heat exchanger, sludge, and gas piping impacts to the budget for this task after an approach is identified. MKN will advise the City on any additional impacts to the budget for this task after an approach is identified.

City and District staff has met with MKN to discuss the various procurement options for the purchase and installation of the influent screens at the headworks and the required equipment for the chlorine contact tank. After discussion of the various options it was decided to have the City and District procure the influent screens and then have a contractor install the equipment. This option provides for a quicker implementation time-line, as most screen manufacturers state that it takes approximately 18 to 24 weeks to manufacture and deliver the equipment once a purchase order has been cut. In addition, having the City and District procure the equipment provides the City and District with more control over the type and manufacturer of the screening equipment. This is important for the screening project because there are numerous screens available on the market, but not all screens meet the specific parameters for this particular installation. This process will involve developing and public noticing a RFP for procurement.

During the procurement process for the screens, a second RFP would be developed for hiring a contractor to install the screen units. The RFP for hiring the contractor would also include provisions for the purchase and installation of the required equipment for the chlorine contact tank. This would allow the selected contractor to coordinate the installation of the screens and the chlorine contact tank, and should result in savings to the City and District by reducing mobilization fees, procurement cost and project coordination.

The time schedule for this process is currently being refined, but the goal is to advertise for the purchase of the screens in late December with bid openings in late January. This would allow staff to bring the award for procurement to the February JPA meeting, giving the successful vendor a notice to proceed on the manufacture of the screens. The RFP for the installation portion of the project would be developed so that the award would be made before the end of the fiscal year. This would allow 90-120 days for completion of construction before October 2014.

On November 12<sup>th</sup> and 13<sup>th</sup>, an electrical engineer from Black & Veatch (B&V) toured the plant to perform an assessment of the plant's electrical system and update the Electrical Facilities Overview from the Facility Master Plan (Appendix H of the Facility Master Plan dated September 2007). This assessment of the electrical system will assist staff with putting together a work plan for any recommended repairs and maintenance procedures for the plant's electrical system and assist staff in budgeting for the MMRP in FY14/15. Staff is currently waiting for a copy of the assessment from B&V.

### **CONCLUSION**

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



AGENDA NO: A-10

MEETING DATE: 12/10/2013

# Staff Report

**TO: Morro Bay City Council**

**DATE: December 10, 2013**

**FROM: Fire Chief, Steven C. Knuckles**

**SUBJECT: Status Update on the Purchases of Fire Department Equipment based on monies provided by the Bertha Shultz Trust**

## **RECOMMENDATION**

This item is informational only, no recommendation is required.

## **ALTERNATIVES**

As this item is informational only, no alternatives are provided.

## **FISCAL IMPACT**

There is no fiscal impact.

## **SUMMARY**

The Morro Bay Fire Department recently received \$1,050,000 dollars from the estate of a former Morro Bay resident, business owner, and a supporter of the Fire Department, Bertha Shultz. Ms. Schultz, who grew up in Creston and then lived in Morro Bay with her husband Robert, is described by those who knew her as full of life and incredibly humble. Robert and Bertha owned and operated a plumbing supply store on North Main Street in the 50's, 60', and early 70's. Robert and Bertha helped many Morro Bay residents with assistance in home ownership as well educational scholarships.

The Shultz trust allocated donations to a total of eight civic entities: Morro Bay Fire Department, Atascadero Fire Department and Cuesta College each received just over \$1 million dollars; the Woods Humane Society, Rotary Club of Atascadero and the North County Christian School each received \$250,000; and the Morro Bay Friends of the Library and Charles Paddock Zoo both received \$100,000.

## **BACKGROUND**

Per the "Disposition of Residue of Estate", found in Ms. Schultz's Last Will and Testament, the Morro Bay Fire Department received their check on November 1, 2013. As directed in the Trust,

Prepared By: S.Knuckles

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

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

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

this gift is being made for the exclusive and specific purpose of “purchasing and maintaining the fire equipment and vehicles. This gift is made in the name of Bertha’s Father, Henry B. Humboldt.”

### **DISCUSSION**

In the 2004 Strategic Plan, 2010 Strategic Plan update, budget development, and multiple Measure Q requests, the Fire Department has recognized the need for two large capital purchases. It is important to replace the 31 year old Ladder Truck for fire suppression and exposure control on the Embarcadero, Morro Bay Blvd, Main Street, Quintana Blvd., north Morro Bay, and the Morro Bay Power Plant. Our current Ladder Truck has been out of service for the last 5 years due to broken and fractured bull gears on the ladder turntable. Due to the age of our truck, no replacement parts are available and any possible repair would not be economically or operationally feasible. A new Ladder Truck purchased and built in 2014 will serve the citizens of Morro Bay through 2044.

We have also recognized the need to replace our 13 year old Self Contained Breathing Apparatuses (SCBAs). Our SCBAs are an OSHA requirement for any entry by Fire Department and Harbor Department personnel into environments that can cause immediate death or life hazards. (IDLH) Our current SCBAs were purchased by a 2000 Fire Act Grant Award. Our SCBA units have served the City well but our individual units have shown their wear requiring frequent maintenance and repair. Currently our SCBAs are out of compliance as per National Fire Protection Agency due to age and updated mandated OSHA requirements. The Morro Bay Fire Department purchases and maintains all of the Harbor Department’s SCBAs and would be part of our replacement plan.

Two committees have been developed within the Fire Department to research, design, and develop purchase requests. Our Ladder Truck Replacement Committee is headed by Captain Paramedic Jeff Olson with Captain Paramedic George Rees and Engineer Paramedic Jeff Simpson assisting. Our SCBA Replacement Committee is headed by Engineer Paramedic Scott Subler, assisted by Captain Paramedic Todd Gailey and Firefighter Paramedic Travis Hasch. Both committees are working hard with the objective to produce recommendations to the Fire Chief in January of 2014.

### **CONCLUSION**

This report is an effort to update Council on the progress made to date regarding the possible purchases of fire equipment based on the generous gift from Robert and Bertha Schultz. Robert and Bertha are leaving a legacy of fire protection and suppression for our citizens for many years to come. This planned gift is going a long way to continue the earlier philanthropy work of Robert and Bertha Shultz to the current and future citizens of Morro Bay.



Thomas M. Duggan  
Linda Somers Smith  
Jane E. Heath  
Janet L. Wallace

Tel 805-546-2060  
Fax 805-546-8865

Address 560 Higuera Street, Suite B  
San Luis Obispo, CA 93401  
Web www.dshlawfirm.com

Of Counsel:  
Richard N. Racouillat  
Timothy A. Dolan

Client: SE0998.001

November 1, 2013

By Hand Delivery

Steve Knuckles, Fire Chief  
Morro Bay Fire Department  
715 Harbor St.  
Morro Bay CA, 93442

Re: Estate of Bertha Schultz

Dear Chief Knuckles:

In accordance with Paragraph 4C. "Disposition of Residue of Estate" in the Last Will and Testament of Bertha Shultz, enclosed, please find a check in the amount of \$1,050,000.00 made payable to the Fire Department of the City of Morro Bay from the Shultz Family Trust. This gift is being made for the exclusive and specific purpose of "purchasing and maintaining fire equipment and vehicles." This gift is made in the name of Bertha's father, Henry B. Humboldt. Please have a representative of the Morro Bay Fire Department sign the enclosed Beneficiary Receipt of Distribution acknowledging receipt of the enclosed check.

This check is a preliminary distribution from the Shultz Family Trust. The co-Trustees, Phillip Sexton and Stephen Maguire, have retained a small reserve to cover administrative costs and fees. At termination of the Trust, the remaining reserve, if any, will be distributed to the residuary beneficiaries, including the Morro Bay Fire Department.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

DUGGAN SMITH & HEATH LLP

  
JANET L. WALLACE

JLW:mlh

Enclosures

cc: Clients  
Andrea K. Lueker, Morro Bay City Manager  
Morro Bay City Council



AGENDA NO: A-11

MEETING DATE: 12/10/13

# Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** 12/4/2013

**FROM:** Joseph M. Woods, Recreation and Parks Director

**SUBJECT:** Approval of the Grant Agreement between the City of Morro Bay and South Bay Community Pool Association

## **RECOMMENDATION**

City Council review and approve the proposed grant agreement between the South Bay Community Pool Association and the City of Morro Bay and direct staff to fulfill any associated financial obligations.

## **ALTERNATIVES**

1. Review the proposed grant agreement and direct staff not to participate.
2. Review and approve the proposed grant agreement as presented; and authorize staff to execute said agreement.

## **FISCAL IMPACT**

If the proposed grant agreement is approved, the City would steward the donated funds (approximately \$60,000) from South Bay Community Pool Association, for the exclusive use of designing, constructing, and/or maintaining the Estero Bay Community Pool.

## **SUMMARY**

The South Bay Community Pool Association (SBCPA) was organized in 1993 for the purpose of constructing and maintaining a pool in Los Osos. After a local survey was conducted, it was determined the Estero Bay communities would only support one pool location with the location in Morro Bay as the most desired. While the results affirmed that the SBCPA would dissolve, it was their desire to contribute their accumulated funds to a single effort in the Estero Bay Community Pool project. The current stakeholders include San Luis Coastal Unified School District, Estero Bay Community Pool Foundation and the City of Morro Bay.

Attachments: Proposed Grant Agreement between SBCPA and CMB  
Letter from Toews & Murphy, Inc. dated October 28, 2013

Prepared By: JMW

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

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

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

## **GRANT AGREEMENT**

This agreement is made as of December 1, 2013 at San Luis Obispo, California between SOUTH BAY COMMUNITY POOL ASSOCIATION, a California Nonprofit Public Benefit Corporation ("Grantor") and the City of Morro Bay, a California Municipal Corporation ("City") with reference to the following facts:

### **RECITALS**

- A) Grantor was organized in 1993 to establish a public swimming pool facility in Los Osos, California;
- B) Grantor's efforts to establish a pool in Los Osos have been frustrated for reasons beyond its control, including lack of a suitable location, zoning, water use and environmental considerations and lack of a funding plan which could support such a facility over time;
- C) On October 1, 2012, the Board of Directors of Grantor adopted a resolution authorizing the dissolution of Grantor;
- D) In June, 2013, the City entered into a Memorandum of Understanding ("MOU") with Estero Bay Pool Foundation, a California Nonprofit Public Benefit Corporation and San Luis Coastal Unified School District for the purpose of establishing a community swimming pool ("Pool") at Morro Elementary School which would serve Morro Bay and adjacent communities, including Los Osos;
- E) The MOU provides that the School District will provide the land for the Pool; that the Estero Bay Pool Foundation will raise funds to develop conceptual and space designs for the Pool, and that the City will be the lead agency for planning, permits, construction, operations and maintenance and will also provide a portion of the financial support needed to operate and maintain the Pool;
- F) Grantor's Board of Directors has determined that the most practicable method of using its remaining funds for the purposes for which they were intended is to transfer such funds to the City to be applied towards the construction and operation of the Pool pursuant to the MOU;
- G) City has agreed to accept Grantor's funds on the terms and conditions set forth below;

**NOW, THEREFORE**, the parties agree as follows:

### **1. ATTORNEY GENERAL APPROVAL; TRANSFER OF FUNDS**

Promptly upon execution of this Agreement, Grantor shall apply to the California Attorney General for a written waiver of objections to the transfer of its assets to City pursuant to section 6716(c) of the California Corporations Code.

At such time as Grantor receives a written waiver of objections to this transaction from the Attorney General, Grantor shall transfer its remaining assets to City to be administered as hereinafter provided.

## **2. APPLICATION OF FUNDS**

City shall maintain all funds received from Grantor in a separate segregated account ("Fund") which is designated for use in designing, constructing and/or maintaining the Pool and which may not be used for any other purpose. Assets of the Fund shall not be used to pay overhead allocations of City or for any purpose other than direct expenses of designing, constructing and maintaining the Pool.

## **3. USE OF FACILITY BY LOS OSOS RESIDENTS**

As further consideration for the transfer of funds pursuant to this Agreement, City agrees that residents of Los Osos shall be permitted to use the Pool on terms and conditions not less favorable than those which apply to use of the Pool by residents of the City of Morro Bay.

## **4. ACCOUNTING**

City shall account to Grantor for the Fund from time to time but not less often than annually showing the nature and amount of all expenditures from the Fund. Accountings shall continue until such time as the entire balance of the Fund has been properly expended.

## **5. REMEDIES**

Any dispute regarding proper use of the Fund may be submitted to the Superior Court for resolution by a petition filed by either the Grantor or the City pursuant to section 17200 of the California Probate Code. The parties stipulate and agree that the Fund shall be considered a charitable trust for purposes of section 17200 of which the City is the trustee and that the Grantor shall have standing to bring proceedings under that section to the maximum extent permitted by law.

## **6. RECOVERY OF LITIGATION COSTS**

If any proceeding is brought for the enforcement or interpretation of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

## **7. NOTICES**

All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

To Grantor at: 350 Mitchell Dr., Los Osos, CA 93402

To City at: 595 Harbor Street, Morro Bay, CA 93442

Any party may change its address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

**8. ASSIGNMENT**

The parties acknowledge that Grantor may be dissolved following the execution of this Agreement and agree that, prior to the dissolution of Grantor, the rights of Grantor under this Agreement may be assigned to an individual designated in writing by Grantor to City.

**9. SEVERABILITY**

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

**10. SIGNATURES**

IN WITNESS WHEREOF, the parties to this Agreement have duly executed it as of the day and year first above written.

**SOUTH BAY COMMUNITY  
POOL ASSOCIATION**

**CITY OF MORRO BAY**

\_\_\_\_\_  
Pandora Nash-Karner, President

\_\_\_\_\_  
Andrea Lueker, City Manager



**TOEWS & MURPHY, INC.**

October 28, 2013

Robert Schultz, City Attorney  
City of Morro Bay  
595 Harbor Street  
Morro Bay, CA 934

*Via Electronic Mail Only*

**Re: South Bay Community Pool Association**

Dear Mr. Schultz:

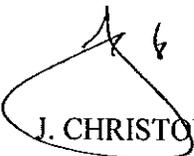
We have been retained by Pandora Nash-Karner on behalf of South Bay Community Pool Association to assist with dissolution of that organization. The Board of Directors of the Association has determined that construction of a community pool in Los Osos is impractical for various reasons and that the remaining funds of the organization will best be utilized by using them to construct the proposed Estero Bay community pool.

Attached is a draft grant agreement between the Association and the City under which the Association would donate its remaining funds to the City (currently about \$60,000) in exchange for the City's undertaking to use these funds to assist construction of the proposed Estero Bay community pool. I am also attaching a copy of the existing MOU between the City, San Luis Coastal Unified School District and the Estero Bay Pool Foundation relating to the design and construction of that facility.

In order to move forward with the dissolution of the Association, we are required to obtain approval from the Attorney General of California and to submit a plan for the disposition of the Association's remaining assets. Since we would like to finish this by year end we would appreciate it if you would review this draft and get back to us as soon as possible with any changes. As soon as the agreement is signed we can apply for the required approval and donate the funds to the City as soon as we receive it.

We appreciate your help and look forward to an early reply.

Sincerely,



J. CHRISTOPHER TOEWS

JCT:sb

Enclosures [as stated]

Cc: Pandora Nash-Karner  
Andrea Luecker  
Joseph M. Woods

S:\N - S Nash-Karner Correspondence\1-Morro Bay\1027013.docx

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\*Certified Legal Specialist in Real Estate Law and Estate Planning, Trust and Probate Law



AGENDA NO: A-12

MEETING DATE: December 10, 2013

# Staff Report

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

**FROM:** Kathleen Wold, Planning Manager

**SUBJECT:** Resolution #58-13 authorizing City staff to submit a grant application to the California Coastal Commission to provide financial assistance for an update to the City's Local Coastal Program (LCP) to reflect current circumstances and new scientific information, including new understandings and concern for the effects of climate change

## RECOMMENDATION

It is recommended that the City Council adopt Resolution 58-13 authorizing the City of Morro Bay to submit a grant application to the California Coastal Commission to provide financial assistance to update the City's Local Coastal Program (LCP) to reflect current circumstances and new scientific information, including new understandings and concern for the effects of climate change.

## ALTERNATIVES

Not Applicable.

## FISCAL IMPACT

The City hired PMC, a planning consulting firm, to assist City staff with completing this grant application. This firm has assisted the City with three grant applications this year. The cost of this assistance was \$6,000. As part of PMC's work program, they have helped develop a detailed outline for completion of the City's proposed Local Coastal Program update. The City has received \$250,000 via the Sea Level Rise Grant, a grant application authorized by Council in early July of this year.

## DISCUSSION

The California Coastal Commission grant will support local governments responsible for planning under the Coastal Act to develop and update Local Coastal Programs (LCP), with special emphasis on addressing impacts from climate change and sea-level rise. For this round there is a total of \$1 million available for LCP planning grants to coastal cities and counties. The deadline for

Prepared By:   KW  

Dept Review:   RL  

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

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

submission was November 22, 2013. City staff submitted Morro Bay's application with a draft resolution by the deadline but now must submit the Council authorized Resolution by December 19, 2013.

**CONCLUSION**

Staff recommends that that the Council adopt Resolution #58-13 establishing the Cities commitment to update the City's Local Coastal Program with an emphasis on addressing climate change and sea-level rise.

**RESOLUTION NO: 58-13**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE  
CALIFORNIA COASTAL COMMISSION LCP PLANNING GRANT APPLICATION**

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

**WHEREAS**, the Budget Act of 2013 provides an appropriation of \$1 million for Coastal Commission grants in FY 13-14 to local governments to support Local Coastal Program (LCP) planning; and

**WHEREAS**, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a competitive grant program to provide such financial assistance for LCP planning; and

**WHEREAS**, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to reflect current circumstances and new scientific information, including new understandings and concern for the effects of climate change; and

**WHEREAS**, grant proposals submitted under this grant program must complete land use plan and/or zoning work to either achieve submittal for certification of a Local Coastal Program (LCP) or an Area of Deferred Certification (ADC) or of an LCP Amendment to significantly update a certified LCP or LCP segments, including with special emphasis on effects of climate change and sea-level rise; and

**WHEREAS**, the City of Morro Bay<sub>2</sub> has an effectively certified LCP; and

**WHEREAS**, the City of Morro Bay<sub>2</sub> desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to update the LCP in whole; and

**WHEREAS**, the City of Morro Bay commits to and agrees to fully support a planning effort intended to update a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Morro Bay<sub>2</sub> hereby:

1. Directs City of Morro Bay staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of \$230,408 to fund the project more particularly described in the grant application package.

2. Authorizes the City Manager of the City of Morro Bay, to execute, in the name of the City of Morro Bay, all necessary applications, contracts and agreements and amendments thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

**PASSED AND ADOPTED** by the Morro Bay City Council at a regular meeting thereof held on this 10th day of December, 2013 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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JAMIE L. IRONS, Mayor

ATTEST:

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JAMIE BOUCHER, City Clerk

# CALIFORNIA COASTAL COMMISSION

## LCP PLANNING

### GRANT APPLICATION FORM

SEPTEMBER 5, 2013

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For Fiscal Year 2013–2014, Governor Brown and the California Legislature approved an augmentation of \$1 million to the California Coastal Commission’s budget to support local governments responsible for planning under the [California Coastal Act](#) (Coastal Act) to develop or update Local Coastal Programs (LCPs). A full description of the grant program is available <http://www.coastal.ca.gov/lcp/lcpgrantprogram.html>.

Coastal Commission staff is available to work with local governments and to assist you during the application process. Please note the entire grant application will be public record upon submittal. Click in the shaded text fields to enter text, numbers and dates. The fields will expand to accommodate the data. Press the tab key to move between fields.

#### APPLICANT INFORMATION

Applicant name (organization): City of Morro Bay

Address: 595 Harbor Street, Morro Bay, CA 93442

Contact name: Kathleen Wold Title: Planning Manager

Telephone: (805) 772-6261 Fax: (805) 772-6268 Email: kwold@morro-bay.ca.us

Federal Tax ID# 95-230-8629

Person authorized to sign contract and amendment: Name: Rob Livick Title: Public Services Director

Application prepared by: Name: Kathleen Wold Title: Planning Manager

Signature:  Date: 11/21/2013

#### PROJECT INFORMATION

Project title: City of Morro Bay Local Coastal Program Update

LCP/ LCP Segment: Morro Bay

Project location: City/Geographic area: City of Morro Bay County: San Luis Obispo

Project timeline: Start date: April 2014 End date: April 2016

#### MAPS AND PHOTOS

Applications must include one map showing the planning area for the project. Additional photos or maps may be included as attachments if needed to illustrate the proposed project. Please note: any photos and maps you submit are subject to the unqualified and unconditional right of the State of California to use, reproduce, publish, or display, free of charge. Please indicate if crediting is requested for the photos and/or maps.

## 1. PROJECT DESCRIPTION

### *Section 1A: Goals and Objectives*

The City of Morro Bay City Council, at its March 26, 2013, goal setting workshop, adopted the update of the Local Coastal Program/General Plan for current and future land use needs as a major City goal. The impetus for the adoption of this major goal was derived from the decades-old age of the City's plan documents, feedback from the community, and City staff's efforts to protect and regulate natural resources with outdated technical studies, changing climate science, and potentially inconsistent land uses present on the City's land use map. The City is committed to update its Local Coastal Program and General Plan within the next two to three years. The City Council's resolution in support of this application is provided as **Attachment A**.

This application presents the City's request for financial assistance to support preparation of the City's Local Coastal Program (LCP). The goal is to merge the LCP into a new, unified single LCP/General Plan document that provides the community's vision and accompanying policy and regulatory framework consistent with state regulations and guidelines. The LCP will include implementing standards that maintain coastal access, adapt to sea level rise, and protect and improve environmentally sensitive habitats and coastal resources, including the Morro Bay National Estuary. This project has four key objectives to achieve the City's goal to have an updated LCP that presents current and future coastal land use needs and prepares the city's working waterfront and coastal-dependent industry to thrive in future climate, economic, natural, and social conditions.

### Key Objectives

- Develop an accurate inventory of existing coastal land uses and environmentally sensitive resources.
- Use the City's Sea-Level Rise Vulnerability Assessment project as a framework for completing a comprehensive climate change vulnerability assessment.
- Engage the community in the planning process, and enhance working relationships with stakeholders to support adoption and certification of the LCP update.
- Collaborate with the Coastal Commission as a partner in the LCP/General Plan process.

As stated, the LCP update is part of a comprehensive LCP/General Plan update process, which would use leveraged funds that are identified in the project budget as described in Section 3 (Application Budget Information). The City is also leveraging \$393,160 from the Sea-Level Rise Vulnerability Assessment project to complete technical analysis and policy development in support of the LCP/General Plan update.

### *Section 1B: Project Details*

The City of Morro Bay is a small coastal community in San Luis Obispo County located on Highway 1, as shown in **Attachment B**. The majority of the city is in the Coastal Zone. According to the 2010 Census reports, the city has a population of 10,234. The city also serves as a primary regional coastal destination with an active harbor and commercial fishing industry.

The Work Program outlines tasks to achieve an updated LCP and General Plan and identifies the LCP-specific efforts by task. The budget in Section 3 outlines matched and leveraged funds to

cover technical studies and the non-LCP portions of the effort. For a summary of deliverables and due dates by task, refer to Section 2 (A Work Program and Schedule).

- **Task 1 – Project Management and Grant Administration:** The City will coordinate essential project management tasks, including internal team check-ins, milestone reporting, and grant administration. This will be an ongoing task throughout the project.
- **Task 2 – Intergovernmental Coordination:** The City will identify and engage key agencies and stakeholders throughout the process. Key partners include the Coastal Commission, the City’s Harbor Department, and the Morro Bay National Estuary Program. The City is committed to maintaining an open and collaborative relationship with its partners. Coastal Commission staff will be an essential partner to the City throughout the planning process, and the City anticipates engaging Commission staff in all tasks to guide, innovate, and formulate solutions for the LCP/General Plan process that comply with the Coastal Act and respond to key issues identified by stakeholders and technical studies. The Coastal Commission will be engaged throughout the project and will be requested by the City to give support to key LCP components at each project milestone. This will be an ongoing task throughout the project.
- **Task 3 – Outreach and Engagement:** The City will be assisted by a Community Advisory Committee that will consist of community stakeholders, strategic partners, and/or consultants and will inform, consult, and involve the community to envision the future of Morro Bay’s Coastal Zone and identify policy solutions to current and future challenges. The Community Advisory Committee will advise the project team. Staff will convene engaging and interactive events to invite community feedback at mobile workshops, using games at farmers markets, open house events, and community barbecues. Diverse sectors of the community will be involved to create a new community vision and prepare for new realities as a result of climate change. The engagement process will include interactive workshops or events, stakeholder focus groups and/or interviews, and a project website, in addition to public hearings and study sessions.
- **Task 4 – Issues, Opportunities, and Constraints Study:** The City, with assistance from strategic partners and/or consultants, will update the inventory of current uses and sensitive habitats, and analyze future conditions of sea level rise and climate change impacts. This task involves updating the City’s existing land use map and preparing technical studies to update baseline information for the LCP, including archaeology and cultural resources, climate change, hazards, environmentally sensitive areas, visual resources, commercial fishing and harbor resources, coastal agricultural uses, infrastructure, visitor-serving facilities, and beach/coastal access. The resource-specific technical studies will inventory and assess current conditions, including a presentation of current and potential constraints and opportunities based on technical studies, staff input, and stakeholder engagement. Technical work will integrate the outcomes of the Sea-Level Rise Vulnerability Assessment, funded by the Ocean Protection Council. The task relies on comprehensive analysis and a solutions-based approach, accounting for the estuary and natural resources that are outside of city limits but directly affect the city’s ability to adapt to climate change impacts.
- **Task 5 – Evaluation:** The City will prioritize the key issues facing Morro Bay and prepare a road map for addressing issues in the LCP/General Plan. Current and future land uses will be evaluated, including rezone potentials at current infrastructure sites. The project team will prepare future scenarios for the community based on technical studies and stakeholder

engagement. Public feedback will be obtained through hands-on activities at mobile workshops and town hall meetings.

- **Task 6 – Land Use Planning Documents:** The City, with assistance from strategic partners and/or consultants, will develop the new LCP in conjunction with the General Plan and in collaboration with the Coastal Commission. City staff will closely involve the Coastal Commission to develop and craft a new LCP that is aligned with Coastal Commission policies. A key objective of this task is to establish a work program that involves the Coastal Commission to provide early coordination of the review of the LCP before the City’s adoption of the LCP as a component of the combined LCP/General Plan.
- **Task 7 – Implementing Ordinances:** The City, with assistance from strategic partners and/or consultants, will prepare the implementing ordinances to be incorporated into the Local Coastal Program. The Coastal Commission will be engaged to support and provide clear direction for the implementing ordinances. Codes and standards will reflect the results of the technical studies, identifying areas that require new performance standards to mitigate climate change impacts. Standards may also provide thresholds that trigger the additional protection of areas expected to experience increasing vulnerability to climate change impacts.
- **Task 8 – Final Documents:** The City, with assistance from strategic partners and/or consultants, will solicit public review of the draft documents and vetting through the Community Advisory Committee, Planning Commission, and City Council. The City will adopt the integrated LCP/General Plan and Zoning Ordinance as one complete package. The City’s project team will prepare an implementation, monitoring, and reporting plan to track coastal indicators and the effectiveness of the plan in mitigating climate change impacts. The City will complete the California Environmental Quality Act (CEQA) process with its own resources.

#### **i. Public Benefit/Significance**

The City’s land use, development, and infrastructure decisions directly affect the region via the impact on the estuary. The City’s ability to maintain its coastal access and tourist-serving amenities is also critical to the regional economy. A Morro Bay that understands its vulnerability to climate change and is able to adapt in a comprehensive way through long-term policy tools is a city that can contribute to the regional economy, maintain a key regional coastal access destination, preserve and enhance biological communities in the city and affected by conditions in the city, and enhance the living conditions for its residents in a variety of future climate conditions. Morro Bay and its surrounding environs are interdependent. From the estuary to commercial fisheries, from coastal wastewater treatment plants to agriculture on the eastern hills, a successful General Plan/LCP update will need to consider a wide range of coastal issues. Due to the numerous coastal issues in Morro Bay, most coastal communities in the state will be able to use Morro Bay as an example and benefit from the outcomes of this project. Key benefits are summarized below.

***Support protection of the Morro Bay Estuary.*** Much of the city’s shoreline abuts Morro Bay, which is a 2,300-acre national estuary. The current LCP was certified in 1984. New technical studies and updates to LCP maps will allow the City to better inventory sensitive resources. Existing maps are outdated and do not accurately identify coastal resources at the parcel level, while existing standards seek only to avoid sensitive resources rather than improve them. New

strategies in the LCP/General Plan will also enhance sensitive habitats and improve the health of the estuary.

***Strengthen the adaptive capacity of the Morro Bay Estuary.*** The city’s sustained health is dependent on a thriving natural ecosystem that buffers land uses from sea level rise and climate change impacts. Collaborating with the Morro Bay National Estuary Program, the City will seek to create a symbiotic relationship between the LCP and estuary programs and policies to sustain coastal and estuary resources that enhance the city’s adaptive capacity from the impacts of climate change, notably potential impacts from sea level rise.

***Respond to climate change.*** The results of technical studies conducted through the project will allow the City to prepare for sea level rise and climate change impacts. The project will identify land use policies that enhance the Coastal Zone’s adaptive capacity to climate change. As appropriate, new policies and codes will provide a threshold-based approach to land use that provides performance criteria and mitigation for applicable development types or land use designations. The City may use tools such as overlay zoning, performance criteria, or other mitigation to anticipate future impacts from climate change. Adaptive considerations that are GHG neutral and that support resiliency will guide the City’s approach to regulating land use.

***Enhance coastal access.*** Rezonings will transition existing industrial uses to recreation and visitor-serving uses and coastal activities, allowing for expansion of coastal access and recreational amenities. The planning areas in the existing LCP have changed since adoption of the LCP, including infill development and provision of new opportunities for coastal access, notably the addition of non-motorized transportation facilities. In addition, key industrial and public works uses are anticipated to transition to new uses that should be evaluated in the LCP update.

***Support local economic growth.*** The City of Morro Bay is home to one of the few remaining commercial fishing fleets in the state. The Coastal Zone also includes the Embarcadero, which is a regional tourist-serving amenity and critical component of the local economy. Drawing on the *Local Coastal Program Update Guide*, the City will conduct a market analysis to identify needs and opportunities of local Coastal Zone industries. The LCP update will seek to provide conditions that allow key industries to thrive in future conditions. Policies in the LCP will seek to attract industries that can remain competitive, support the local economy, enhance coastal access, and increase the integrity of coastal resources over the long term.

***Provide resources for other jurisdictions.*** The City seeks to create a comprehensive approach to land use planning that will be a model for other jurisdictions. The monitoring plan for the LCP/General Plan will provide a new tool for ongoing assessment of climate change vulnerability and adaptation that will provide a model to other jurisdictions. The City will also create dynamic land use models that allow for evolving responses to climate change vulnerabilities as they arise, providing a new pilot approach to land use.

## **ii. Relative Need for LCP Update/Extent of Update**

Due to the age of the documents, the City’s existing General Plan and LCP miss key opportunities for consistency with coastal guidance. The LCP and General Plan currently

constrain rather than encourage long-term decisions to increase the resiliency and adaptive capacity of the city and its resources. The dated nature of the documents results in Coastal Zone land use maps with limited utility and an implementing code that is not aligned with current best practices or requirements. Sensitive resources have evolved in the last 20 years. Changes to the estuary are not documented in the LCP. Key coastal-dependent land uses have changed. The project allows the City to inventory and assess existing resources, a crucial first step to adequately protect those resources.

In 2004, the City attempted to combine the LCP with the General Plan in an update that sought to combine and streamline the two documents. The combined document was adopted by the City Council, but not certified by the Coastal Commission. The City has again started working toward a true comprehensive General Plan and LCP update and has been meeting quarterly with Coastal Commission staff during the process. Although the City is committed to the update, staffing and budget restrictions are causing the update to occur at a slow pace.

The City will function best when its planning tools work in concert with state, county, or regional plans, regional conservation plans, the state's adaptation strategy, the City's forthcoming Climate Action Plan, conservation plans, watershed management plans, and stormwater management plans. By simultaneously understanding vulnerability, creating an adaptation framework, and fostering the update of the General Plan and LCP, this project would allow consistency within and across plans, something the City has been attempting to achieve for the last decade. The benefits of this consistency would be experienced immediately, as decisions such as the City's current desire to transition the parcel of land currently occupied by the wastewater treatment facility from Light Industrial to Visitor Serving Commercial would be expeditiously processed. Updates will streamline processing of Coastal Development Permits and create a transparent framework. The City's current framework is dated; the City seeks to create a new strategic planning framework that accounts for current resources and prepares for future impacts of climate change.

### **iii. Addressing the Effects of Climate Change**

The city is a primary point of regional coastal access and is home to extended stretches of shoreline, a commercial fishing industry, an active harbor, recreational and tourist-serving coastal amenities, environmentally sensitive habitat areas, and Morro Bay State Park. The city contains sensitive infrastructure, including the harbor, the Dynegy-operated power plant (which is now officially slated to be closed as of November 2013), and the Morro Bay-Cayucos Wastewater Treatment Plant (which is currently in the process of relocation). The city is adjacent to the Morro Estuary Natural Preserve and the Morro Bay National Marine Recreational Management Area as well as to agricultural land to the north and east. Although the city is small, the significant influx of visitors and recreational users, combined with the sensitive nature of its surroundings, make the city vulnerable to incremental impacts that could result from potentially inconsistent and outdated planning documents.

The City is committed to addressing the effects of climate change, as well as reducing its contribution to it. This project would allow the City to integrate the Sea-Level Rise Vulnerability Assessment funded by the Ocean Protection Council, as identified in Section 3 (Budget). Policy recommendations from the study will be incorporated into the General Plan and LCP update and

will equip the City to prepare for future sea level rise. The City will be able to leverage the Sea-Level Rise Vulnerability Assessment by using it as a framework to complete a Coastal Zone climate change vulnerability assessment that will consider climate change exposures such as wildfire, extreme weather and heat wave increases, and extreme heat days.

The anticipated effects of sea level rise on the existing wastewater treatment plant, in particular, highlight the importance of this project. The City is currently evaluating relocation of the plant to avoid near- and long-term impacts of sea level rise that are projected to occur at the plant's current location. To ensure long-term protection of City assets, the City intends to rezone the parcel currently supporting the plant from Light Industrial to Visitor Serving Commercial.

Other rezones may be conducted to protect other sensitive sites identified through the mapping process. The City expects many sites to be vulnerable to the impacts of sea level rise and will seek to identify criteria for appropriate uses or, as appropriate, mitigation and retreat. Rezones will allow the City to expand coastal access while relocating sensitive resources. Future land uses will also be considered and evaluated in light of future sea level rise scenarios. Using the results of the Sea-Level Rise Vulnerability Assessment, the LCP will prioritize the protection of natural resources utilizing natural land forms in lieu of armoring man-made facilities. This will allow the City to implement hazard avoidance policies that would protect coastal resources and also minimize and reduce encroachment into coastal habitats.

The LCP/General Plan update is also an opportunity to integrate the City's forthcoming Climate Action Plan (CAP), a strategic document that identifies methods for the City to reduce greenhouse gas emissions from activity within the community. Strategies in the CAP will address land use, alternative transportation, energy efficiency, waste reduction, and water conservation. These strategies will be analyzed in the background report prepared in Task 4 and provide resources to develop new land use policies that minimize the city's contribution to climate change.

#### **iv. Likelihood of Success/Effectiveness**

The City is fully committed to a successful LCP update in full partnership with the Coastal Commission. The Coastal Commission will be engaged as a key collaborator empowered to work with the City for development of the LCP/General Plan. Additionally, the Coastal Commission will be given an early opportunity to review and collaborate with City staff on all parts of the LCP update before the final documents are brought forward for adoption.

City leadership has committed to a comprehensive update of the LCP to achieve real, lasting change for the City. The City Council adopted the LCP update as the third highest priority for the City in 2013 (see **Attachment C**). This public commitment of City leadership demonstrates the City's intent to complete the LCP effectively and successfully. The primary technical tasks for this project will be accomplished with funding from the Ocean Protection Council.

This grant request is necessary to update the LCP and enter into a new era of successful partnership with the Coastal Commission. Leveraging \$250,000 in awarded grant funding from the Ocean Protection Council, the City is equipped to conduct the necessary technical studies and fully understand the impacts of sea level rise on current and future scenarios. This outside

funding bolsters the City’s capacity to successfully complete a new adaptive strategy for land use.

The project will also be characterized by public outreach and extensive coordination with the Coastal Commission, neighboring jurisdictions, and stakeholders such as the Morro Bay National Estuary Program (see letters of support in **Attachment D**). The City is committed to meaningful and collaborative partnerships to fully understand existing conditions so as to achieve a new vision for the city. The City benefits from much of the early work already initiated by key stakeholders, including the USEPA’s CREAT pilot project for the Morro Bay National Estuary.

**v. Workload and Permit Streamlining**

The City cannot efficiently approve new Coastal Development Permits due to inconsistencies and old data contained in the General Plan, Zoning Ordinance, and LCP. Updating the LCP will achieve streamlined permit processing by providing a transparent framework and new regulations based on current trends and updated technical data that will ensure processing is consistent with the Coastal Act. The existing LCP is dated and does not provide clarity for many project applicants, which leads to uncertainty and often delays in the Coastal Development Permit review and approval process. This creates additional labor for both City staff and the Coastal Commission, requiring extensive revisions to applications submitted to the City. By updating LCP policies to reflect new guidance and land use issues, City staff and the Coastal Commission can reduce the staff time necessary to analyze projects and process permits. This approach allows the City and the Coastal Commission to partner together and work toward a fully vetted and unified vision for the city and the coastal resources of Morro Bay.

The project will allow for adoption of a new LCP/General Plan consistent with LCP priorities, equipping the City to approve development in strategic locations that mitigates impacts on coastal resources. The proposed planning documents will emphasize and encourage the provision of resources and infrastructure to ensure the most efficient land development patterns. Essential utilities and services, including transit facilities, as well as walking and biking, will be highly emphasized.

**vi. Project Integration/Leverage/Matching Funds**

The City will leverage a \$250,000 grant (plus the City’s match to the grant) from the Ocean Protection Council for a Sea-Level Rise Vulnerability Assessment. In addition to providing funding for completion of the vulnerability assessment, the grant will allow the City to create a policy framework to address sea level rise. A focus of the project will be natural infrastructure and an educated approach to coastal wetlands, natural lands, and habitat management. The City is already committed to leverage approximately \$76,000 in funding and \$67,000 in in-kind services to support the Sea-Level Rise Vulnerability Assessment.

The City will also provide in-kind staff time and fund consultant resources for several key tasks and the production of outreach materials. The City Council and City leadership are fully committed to this project in order to provide long-term, lasting change for the city. The City is committed to fund the General Plan update separately with General Fund money concurrently with this project. Leveraged City funds will support the LCP only. A summary of the City’s leveraged funding sources is provided in Section 3 (Budget).

**2. A WORK PROGRAM AND SCHEDULE.** Provide a work program and schedule for implementation of the project, including anticipated benchmarks for LCP and/or LCP amendment development and review for the project, using the template provided below. Bear in mind that funds will not be available until early spring 2014 and some work tasks must be scheduled to begin on or before April 30, 2014. Grantees will have two years to complete tasks, and work must be completed on or before April 30, 2016.

**SCHEDULE**

Proposed starting date: April 2014

Estimated completion: April 2016

**Note: Cells shaded in grey note tasks funded by in-kind or leveraged funds. These leveraged tasks are included to demonstrate the City’s plan to successfully complete the project.**

**WORK PROGRAM**

	Complete Date: April 2016
<b>Task 1. Project Management and Grant Administration</b>	
<i>Objective: Effective project management and grant reporting</i>	
1.1 Project management	Ongoing
1.2 Project team meetings	Ongoing
<b>Outcome/Deliverables</b>	<b>Projected date: April 2016</b>
<ul style="list-style-type: none"> <li>Quarterly and annual grant reports, consistent with Coastal Commission requirements</li> </ul>	Quarterly
<b>Task 2. Intergovernmental Coordination</b>	
<i>Objective: Coastal Commission collaboration and engagement of key stakeholders</i>	
2.1 Coastal Commission coordination	Ongoing
2.2 Coordination with other agencies	Ongoing
<b>Outcome/Deliverables</b>	<b>Projected date: April 2014–2016</b>
<ul style="list-style-type: none"> <li>Monthly reports and meetings</li> <li>Early certification of LCP components throughout work process</li> </ul>	
<b>Task 3: Outreach and Engagement</b>	
<i>Objective: Create community vision</i>	
3.1 Community Advisory Committee	June 2014–December 2015
3.2 Community workshops	August 2014–December 2015
<b>Outcome/Deliverables</b>	<b>Projected date: January 2016</b>
<ul style="list-style-type: none"> <li>Input and prioritization from community decision-makers</li> <li>Consultation with and feedback from the public</li> <li>Direction from Community Advisory Committee, other agencies, and</li> </ul>	

<i>decision-making bodies</i>	
<b>Task 4: Opportunities and Constraints</b>	
<i>Objective: Complete technical analysis and integrate Sea-Level Rise Vulnerability Assessment</i>	
4.1 Technical background report Note: partially funded by leveraged resources	August 2014
4.2 Sea level rise analysis and adaptation study	July 2014
4.3 GIS database updates	August 2014
<b>Outcome/Deliverables</b>	<b>Projected date: August 2014</b>
<ul style="list-style-type: none"> <li>• <i>Sea-level rise analysis</i></li> <li>• <i>Background report</i></li> <li>• <i>Updated GIS layers</i></li> <li>• <i>Economic and market analysis</i></li> </ul>	
<b>Task 5: Evaluation</b>	
<i>Objective: Prepare strategy to develop the LCP/General Plan</i>	
5.1 Priorities and recommendations report	November 2014
5.2 Guiding principles and key policies report	February 2015
<b>Outcome/Deliverables</b>	<b>Projected date: January 2015</b>
<ul style="list-style-type: none"> <li>• <i>Review and feedback on key priorities</i></li> <li>• <i>Early identification of controversial issues</i></li> <li>• <i>Prioritization of opportunities for a natural infrastructure approach to the estuary and climate change adaptation</i></li> </ul>	
<b>Task 6: Land Use Planning Documents</b>	
<i>Objective: Prepare the LCP/General Plan</i>	
6.1 Land use alternatives	February 2015
6.2 Draft Land Use Plan of LCP/General Plan	June 2015
<b>Outcome/Deliverables</b>	<b>Projected date: June 2015</b>
<ul style="list-style-type: none"> <li>• <i>Early vetting of land use alternatives</i></li> <li>• <i>Collaborative development and early certification of LCP from Coastal Commission</i></li> <li>• <i>Preparation of General Plan that integrates the LCP, after development and vetting with Coastal Commission</i></li> </ul>	
<b>Task 7: Implementing Ordinances</b>	
<i>Objective: Prepare the Zoning Ordinance and monitoring plan</i>	
7.1 Draft CIP	November 2015
7.2 Draft Zoning Ordinance	November 2015
7.3 Permit Processing Guide	January 2016

<b>Outcome/Deliverables</b>	<b>Projected date: January 2016</b>
<ul style="list-style-type: none"> <li>• Collaborative development and early certification of CIP from Coastal Commission</li> <li>• Codes that address existing uses and anticipated future vulnerabilities</li> <li>• New tools to identify and mitigate future sea level rise impacts</li> <li>• Land use designations that buffer the city from sea level rise impacts and protect natural resources</li> </ul>	
<b>Task 8: Final Documents</b>	
<i>Objective: Public review and adoption of LCP/General Plan and Zoning Ordinance</i>	
8.1 Final LCP/General Plan	March 2016
8.2 Final CIP and Zoning Ordinance	March 2016
8.3 Implementation, Monitoring, and Reporting Plan	March 2016
<b>Outcome/Deliverables</b>	<b>Projected date: March 2016</b>
<ul style="list-style-type: none"> <li>• Adoption of documents after Coastal Commission certification of LCP components</li> <li>• Ongoing program to monitor the City's effectiveness in responding to sea level rise</li> </ul>	

Please list (1) all significant and pertinent project benchmarks related to the project for which funds are being requested, (2) expected dates for reaching or completing those steps. These will be used in monitoring grant progress and in grant reporting under approved contracts.

### **BENCHMARK SCHEDULE**

ACTIVITY	COMPLETION DATE
Task 1: Monthly reports	Monthly
Task 2: Kickoff meeting agenda and summary	May 2014
Task 2: Meeting summaries	February 2016
Task 3: Outreach approach (memo)	May 2014
Task 3: Workshop/event summaries	December 2015
Task 3: Report on community and stakeholder input	January 2016
Task 4: Technical background report	August 2015
Task 4: GIS database layers	August 2015
Task 5: Priorities and recommendations report	November 2014
Task 5: Guiding principles and key policies report	January 2015
Task 6: Admin draft land use alternatives	January 2015
Task 6: Public draft land use alternatives	February 2015

ACTIVITY	COMPLETION DATE
Task 6: Admin draft Land Use Plan of the LCP/General Plan	April 2015
Task 6: Public draft Land Use Plan of the LCP/General Plan	June 2015
Task 7: Admin draft CIP	September 2015
Task 7: Admin draft Zoning Ordinance	September 2015
Task 7: Public draft CIP	November 2015
Task 7: Public draft Zoning Ordinance	November 2015
Task 7: Permit Processing Guide	January 2016
Task 8: Draft final LCP/General Plan	January 2016
Task 8: Draft final CIP and Zoning Ordinance	January 2016
Task 8: Final CIP and Zoning Ordinance	February 2016
Task 8: Draft Implementation, Monitoring, and Reporting Plan	February 2016
Task 8: Final Implementation, Monitoring, and Reporting Plan	March 2016

3. **A BUDGET.** Please provide a proposed budget, including the Application Budget Information and a Budget Summary, using the provided Application Budget Form.

**APPLICATION BUDGET INFORMATION**

**Funding Request: \$230,408**

**Total Project Cost: \$674,730**

If multiple funding sources are being used, in the funding sources matrix below, list the major tasks of the proposed project and indicate the estimated cost of each, including source of funding for task. These tasks should correlate with your overall Work Program. An example follows the matrix.

**PROJECT FUNDING SOURCES**

Task Number	Task	Total Cost	Allocation of total cost among all funding sources			
			Applicant's Funding <sup>(1)</sup>	LCP Grant Funding	Other Funds <sup>(2)</sup>	Other Funds <sup>(3)</sup>
1	<i>Project Management and Grant Administration</i>	\$18,245		\$14,829	\$3,416	
2	<i>Intergovernmental Coordination</i>	\$43,324		\$31,228	\$12,096	
3	<i>Outreach and Engagement</i>	\$146,767	\$6,600	\$70,171	\$7,496	\$62,500
4	<i>Opportunities and Constraints</i>	\$275,106		\$24,990	\$3,856	\$246,260
5	<i>Evaluation</i>	\$97,448		\$11,190	\$1,858	\$84,400
6	<i>Land Use</i>	\$25,764		\$22,250	\$3,514	

City of Morro Bay – Local Coastal Program Update  
Grant Application

Task Number	Task	Total Cost	Allocation of total cost among all funding sources			
			Applicant's Funding <sup>(1)</sup>	LCP Grant Funding	Other Funds <sup>(2)</sup>	Other Funds <sup>(3)</sup>
	<i>Planning Documents</i>					
7	<i>Implementing Ordinances</i>	\$42,861		\$39,735	\$3,126	
8	<i>Final Documents</i>	\$25,215		\$16,015	\$9,200	
<b>TOTAL</b>		<b>\$674,730</b>	\$6,600	\$230,408	\$44,562	\$393,160

**OTHER FUNDING SOURCES (NOT INCLUDING IN-KIND SERVICES)**

\$ Amount	Source of funds	Status (Committed, Applied, etc.)
\$6,600	(1) Applicant's match for producing poster boards and collateral for outreach	Committed
\$44,562	(2) In-kind staff time	Committed
\$393,160	(3) Local Coastal Program Sea Level Rise Adaptation Grant (includes \$76,000 of City's funding and \$67,160 in staff time)	Awarded

**In-Kind Services: \$ 44,562**

In-kind services or contributions include staff time, volunteer time and materials contributed to the project. Please describe and estimate value, and differentiate between expected in-kind contributions and contributions (work or other types of contributions) already obtained/completed.

**BUDGET SUMMARY**

**Grant Application Budget Form**

Organization Name: City of Morro Bay

Project Title: LCP Update

Requested Amount: \$230,408

	<b>Grant Request Budget</b>	<b>Total Project Budget</b>
<b>Personnel</b>		
Salaries and Wages <sup>(1)</sup>	\$0	\$44,562 <sup>a, b</sup>
Benefits	\$0	\$0 <sup>b</sup>
<i>Total Personnel</i>	<i>\$0</i>	<i>\$126,125</i>
<b>Operating Expenses</b>		
Postage/Shipping	\$0	\$0
Supplies/Materials <sup>(2)</sup>	\$2,102 <sup>c</sup>	\$6,600 <sup>c</sup>
Travel <sup>(3)</sup>	\$9,891 <sup>d</sup>	\$0
Indirect Costs	\$0	\$0
Other:		
<i>Consultant costs:</i>	<i>\$218,415 <sup>e</sup></i>	
<i>Leveraged grant funds:</i>		<i>\$393,160 <sup>f</sup></i>
<i>Total Operating Expenses</i>	<i>\$230,408</i>	<i>\$399,760</i>
<b>Total Budget</b>	<b>\$230,408</b>	<b>\$444,322</b>

**Budget Category Notes:**

(1) Attach an explanation of rate(s) and hours for each position for which funds are being requested.

(2) Include a list of the major supplies and materials and how much they cost.

(3) Travel reimbursement rates are the same as similarly situated state employees.

**Grant Request and Total Project Budget Notes:**

a. See **Attachment E** for summary of rates and hours.

b. Fully encumbered rates are provided for in-kind staff hours. Benefits do not exceed 40% of wages. Grant request will not cover staff time or benefits.

c. A list of major supplies and materials is summarized in **Attachment F**.

d. Refer to **Attachment G** for summary of travel assumptions.

e. See **Attachment H** for summary of rates and hours.

f. Includes approximately \$76,000 in City funding and \$67,000 in in-kind services.

**ATTACHMENT A: RESOLUTION FROM THE APPLICANT’S GOVERNING BODY**

*Note: The City will submit the adopted resolution by 5 p.m. December 19, 2013.*

**RESOLUTION NO: XX-13**

**RESOLUTION OF THE CITY COUNCIL BY THE CITY OF MORRO BAY, CALIFORNIA  
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE CALIFORNIA COASTAL  
COMMISSION LCP PLANNING GRANT APPLICATION**

THE CITY COUNCIL  
City of Morro Bay, California

**WHEREAS**, the Budget Act of 2013 provides an appropriation of \$1 million for Coastal Commission grants in FY 13-14 to local governments to support Local Coastal Program (LCP) planning, and

**WHEREAS**, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a competitive grant program to provide such financial assistance for LCP planning; and

**WHEREAS**, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to reflect current circumstances and new scientific information, including new understandings and concern for the effects of climate change, and

**WHEREAS**, grant proposals submitted under this grant program must complete land use plan and/or zoning work to either achieve submittal for certification of a Local Coastal Program (LCP) or an Area of Deferred Certification (ADC) or of an LCP Amendment to significantly update a certified LCP or LCP segments, including with special emphasis on effects of climate change and sea-level rise;

**WHEREAS**, the City of Morro Bay, has an effectively certified LCP; and

**WHEREAS**, the City of Morro Bay, desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to update the LCP in whole,

**WHEREAS**, the City of Morro Bay commits to and agrees to fully support a planning effort intended to update a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Morro Bay, hereby:

1. Directs City of Morro Bay staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of \$230,408 to fund the project more particularly described in the grant application package.
2. Authorizes the City Manager of the City of Morro Bay, to execute, in the name of the City of Morro Bay, all necessary applications, contracts and agreements and amendments

Resolution No. XX-13

thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

PASSED AND ADOPTED by the Morro Bay City Council at a regular meeting thereof held on this 10th day of December, 2013 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

JAMIE L. IRONS, Mayor

ATTEST

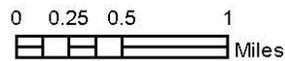
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JAMIE BOUCHER, City Clerk

July 9, 2013

**ATTACHMENT B: MAP OF THE CITY OF MORRO BAY**

Exhibit A



**ATTACHMENT C: MORRO BAY 2013 CITY COUNCIL GOAL #3**

**City of Morro Bay  
2013 Goal Setting Workshop  
Major City Goal – Outline Goal 3**

1. **Objective - Update Plans for Current and Future Land Use Needs**
2. **Brief Discussion** - Develop a strategy and the resources to complete an update of the General Plan and Local Coastal Plan (GP/LCP).
  - a. **Key factors driving the need:** The General Plan was adopted in 1988 and has had a number of minor revisions in the subsequent years. The Local Coastal Plan was approved in 1983 and was last amended in 1994 to include a revised Water Management Plan.
  - b. **What’s been accomplished:** Over the past 4 years, a sub-committee has worked on updating several of the elements in the General Plan, this task has proved to be a significant drain on existing staff time and resources. Due to the complexity of the topic, there are several of the elements that will not be able to be done in-house such as the circulation element. Last year, staff applied for a grant for funds to have a consultant perform the update, unfortunately, the City was not successful in receiving a grant award. A grant submission is currently being prepared for this year’s round of funding. Additionally, staff will continue to work in house to process amendments and revisions to the GP/LCP as resources are available\ and is in the process of seeking outside clerical help to facilitate this process.
  - c. **Challenges/obstacles:** Funding, staff resources
  - d. **Stakeholders:** Morro Bay residents and visitors, City staff, business owners
  - e. **Key assumptions:** While the project can be done in a piecemeal fashion, it is unlikely this approach will be successful and timely in terms of the entire document.
  - f. **Opportunities:** Community support.

3. **Action plan**

<u>Key tasks</u>	<u>Schedule</u>	<u>Measurable milestones</u>	<u>Status</u>
a. Complete the application for grant funding		Completed grant document	
b. Discuss adding 20 hours of staffing to begin the update in-house (long range planning) or contract for project	July 2013		
c. Search for alternative grants	Ongoing		
d. Establish quarterly meeting with the California Coastal Commission to discuss current projects including the GP/LCP update, strategies and review options	April, July, Oct, Jan.	Confirmed meetings	
e. Updating Circulation Element to include Complete Streets Initiative			
f. Develop work plan for the update of the General Plan and the LCP			

4. **Responsible department** – Administration, Public Services
5. **Estimated financial and staff resources** – Staff is seeking a grant for the entire project which is estimated at approximately \$900,000. Alternative approach would be to augment staffing levels at the Public Services Department to begin work in-house with a long range planner.
6. **Desired outcome and community benefit** - an updated and usable document that will help guide the future of the Morro Bay Community.

Source: City of Morro Bay 2013. Goal Setting Workshop. [http://www.morro-bay.ca.us/documents/17/Goals%202013%20Outlines%20Council%20Adopted%20042313\\_201305081526369532.pdf](http://www.morro-bay.ca.us/documents/17/Goals%202013%20Outlines%20Council%20Adopted%20042313_201305081526369532.pdf).

**ATTACHMENT D: LETTERS OF SUPPORT**

STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0035  
(916) 319-2035  
FAX (916) 319-2135

DISTRICT OFFICE  
1150 OSOS STREET SUITE 207  
SAN LUIS OBISPO, CA 93401  
(805) 549-3381  
FAX (805) 549-3400

Assembly  
California Legislature



**KATCHO ACHADJIAN**  
ASSEMBLYMEMBER, THIRTY-FIFTH DISTRICT

COMMITTEES  
CHAIR: LOCAL GOVERNMENT  
VICE CHAIR: ACCOUNTABILITY  
AND ADMINISTRATIVE REVIEW  
BANKING AND FINANCE  
TRANSPORTATION

JOINT COMMITTEES  
LEGISLATIVE AUDIT

November 15, 2013

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

**RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION**

Dear Honored Members of the California Coastal Commission:

As the State Assemblyman for the 35<sup>th</sup> District I am pleased to support the City of Morro Bay's application for the Local Coastal Program Planning Grant which supports local coastal planning efforts to update existing certified Local Coastal Programs (LCPs). I understand the City is requesting funding to update the LCP to reflect new information and changed conditions, especially in light of sea-level rise and other climate change impacts, in a manner fully consistent with the policies of the California Coastal Act.

I am encouraged that the City is seeking this funding to update the LCP which will effectively maximize public benefit of the coast, coastal dependent development, and recreation. The likelihood of success and effectiveness is great as staff will identify opportunities for support from partners and related efforts early in the planning process to work toward timely development, review, and, ultimately, implementation of the updated LCP.

Small coastal cities such as Morro Bay are vulnerable to many impacts associated with climate change, but have limited funding to support adaptation projects intended to protect the community and natural resources. This problem, coupled with the issues the City is facing due to an outdated and inconsistent LCP, indicate that Morro Bay is in great need of additional funding to support these planned adaptation efforts.

I know the City of Morro Bay is well-prepared to build upon recent and evolving efforts to address climate change impacts and I am in support of this important work in my region.

Thank you for this opportunity to express my support for the City of Morro Bay's grant application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Katcho Achadjian".

Khatchik H. "Katcho" Achadjian  
35<sup>th</sup> Assembly District



November 20, 2013

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

*RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM  
PLANNING GRANT APPLICATION*

Dear Honored Members of the California Coastal Commission:

I am writing you to express the National Estuary Program's support for the City of Morro Bay's application for a Local Coastal Planning Grant.

The Morro Bay National Estuary Program is one of 28 National Estuary Programs around the country working to safeguard and improve the health of some of our nation's most important coastal waters. Our program makes progress by fostering collaboration at a watershed-level, bringing local government, citizens, landowners, non-profits, and other government entities together to protect and restore Morro Bay.

The Morro Bay National Estuary Program was designated a state estuary in 1994 and an "estuary of national significance" by the Environmental Protection Agency in 1995 as a result of a tireless community-based effort to protect this precious resource. Protection of the bay and planning for protection of our coastal resources is vitally important to us. Every Estuary Program has a management plan that dictates the direction of its work. Our plan specifically calls for the encouragement of local entities to develop and implement Climate Action Plans, as well as educating citizens about solutions and alternatives to address climate change impacts.

We understand the City intends to apply for funding to update their certified Local Coastal Plan (LCP) which has not been updated since 1982. It is important that the City have adequate resources to assist it in planning for public access, coastal development, and coastal resource protection in the face of climate change.

The City's objectives for its LCP update are consistent with the goals of our program and our management plan, and we support the City's commitment to protect our bay and coastal resources.

Sincerely,

A handwritten signature in black ink that reads "Adrienne Harris". The signature is written in a cursive, flowing style.

Adrienne Harris  
Executive Director

November 20, 2013

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

**RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM  
PLANNING GRANT APPLICATION**

Dear Honored Members of the California Coastal Commission:

SLOCOG, the Metropolitan Planning Organization (MPO) and Regional Transportation Planning Agency (RTPA) for the San Luis Obispo county region, is pleased to support the City of Morro Bay's application for the Local Coastal Program Planning Grant which supports local coastal planning efforts to update existing certified Local Coastal Programs (LCPs).

We understand the City is requesting funding to update the LCP to reflect new information and changed conditions, especially in light of sea-level rise and other climate change impacts, in a manner fully consistent with the policies of the California Coastal Act. SLOCOG supports the City seeking this funding to update the LCP which will effectively maximize public benefit of the coast, coastal dependent development, and recreation. The likelihood of success and effectiveness is great as staff will identify opportunities for support from partners and related efforts early in the planning process to work toward timely development, review, and, ultimately, implementation of the updated LCP.

Small coastal cities such as Morro Bay are vulnerable to many impacts associated with climate change, but have limited funding to support adaptation projects intended to protect the community and natural resources. This problem, coupled with the issues the City is facing due to an outdated and inconsistent LCP, indicate that Morro Bay is in great need of additional funding to support these planned adaptation efforts.

The City of Morro Bay is prepared to build upon recent and evolving efforts to address climate change impacts and SLOCOG supports this important work in coastal San Luis Obispo region communities.

Thank you for the opportunity to express support for the City of Morro Bay's grant application.

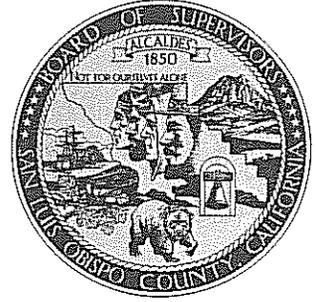
Sincerely,



Ron Decarli, Executive Director

# BOARD OF SUPERVISORS

1055 MONTEREY, ROOM D430 • SAN LUIS OBISPO, CALIFORNIA 93408-1003 • 805.781.5450



**BRUCE GIBSON**  
SUPERVISOR DISTRICT TWO

November 18, 2013

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

**RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION**

Dear Members of the California Coastal Commission:

I am pleased to support the City of Morro Bay's application for the Local Coastal Program Planning Grant, which supports local coastal planning efforts to update existing certified Local Coastal Programs (LCPs). I understand the City is requesting funding to update their LCP to reflect new information and changed conditions, especially in light of sea-level rise and other climate change impacts, in a manner fully consistent with the policies of the California Coastal Act.

I am encouraged that the City is seeking this funding, as this update of their LCP will effectively maximize public benefit of the coast, coastal dependent development, and recreation. The likelihood of success and effectiveness is great, as staff will identify opportunities for support from partners early in the planning process and work toward timely development, review, and, implementation of the updated LCP.

Small coastal cities such as Morro Bay are vulnerable to many impacts associated with climate change, but have limited funding to support adaptation projects intended to protect the community and natural resources. This problem, coupled with the issues the City is facing due to an outdated and inconsistent LCP, indicate that Morro Bay is in great need of additional funding to support these planned adaptation efforts.

I know the City of Morro Bay is well-prepared to build upon recent and evolving efforts to address climate change impacts and I am in support of this important work in my region.

Thank you for this opportunity to express my support for the City of Morro Bay's grant application.

Sincerely,

BRUCE GIBSON  
Supervisor, District Two  
San Luis Obispo County

# Morro Bay Community Quota Fund

955 Shasta Ave • Morro Bay, CA 93442 • Phone: (805) 225-2617

E-Mail: [admin@morrobaycommunityquotafund.org](mailto:admin@morrobaycommunityquotafund.org) Web: [www.morrobaycommunityquotafund.org](http://www.morrobaycommunityquotafund.org)

November 19, 2013

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

## **RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION**

Dear Honored Members of the California Coastal Commission:

The Morro Bay Community Quota Fund is pleased to support the City of Morro Bay's application for the Local Coastal Program Planning Grant to update existing certified Local Coastal Programs (LCPs). I understand the City is requesting funding to update the LCP to reflect new information and changed conditions, especially in light of sea-level rise and other climate change impacts, in a manner fully consistent with the policies of the California Coastal Act.

I am encouraged that the City is seeking this funding to update the LCP which will effectively maximize public benefit of the coast, coastal dependent development, and recreation. The likelihood of success and effectiveness is great as staff will identify opportunities for support from partners and related efforts early in the planning process to work toward timely development, review, and, ultimately, implementation of the updated LCP.

Small coastal cities such as Morro Bay are vulnerable to many impacts associated with climate change, but have limited funding to support adaptation projects intended to protect the community and natural resources. This problem, coupled with the issues the City is facing due to an outdated and inconsistent LCP, indicate that Morro Bay is in great need of additional funding to support these planned adaptation efforts.

I know the City of Morro Bay is well-prepared to build upon recent and evolving efforts to address climate change impacts and I am in support of this important work in my region.

Thank you for this opportunity to express my support for the City of Morro Bay's grant application.

Sincerely,



Rick Algert

Director of the Morro Bay Community Quota Fund

LOIS CAPPS  
24TH DISTRICT, CALIFORNIA

2231 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-0524  
(202) 225-3601  
www.capps.house.gov

COMMITTEE ON  
ENERGY AND COMMERCE



## Congress of the United States

House of Representatives November 20, 2013

DISTRICT OFFICES:

- 1411 MARSH STREET, SUITE 205  
SAN LUIS OBISPO, CA 93401  
(805) 546-8348
- 301 EAST CARRILLO STREET, SUITE A  
SANTA BARBARA, CA 93101  
(805) 730-1710
- 1101 SOUTH BROADWAY, SUITE A  
SANTA MARIA, CA 93454  
(805) 349-3832

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

**RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION**

Dear Honored Members of the California Coastal Commission:

I am pleased to support the City of Morro Bay's application for the Local Coastal Program Planning Grant which supports local coastal planning efforts to update existing certified Local Coastal Programs (LCPs). I understand the City is requesting funding to update the LCP to reflect new information and changed conditions, especially in light of sea-level rise and other climate change impacts, in a manner fully consistent with the policies of the California Coastal Act.

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Small coastal cities such as Morro Bay are vulnerable to many impacts associated with climate change, but have limited funding to support adaptation projects intended to protect the community and natural resources. This problem, coupled with the issues the City is facing due to an outdated and inconsistent LCP, indicate that Morro Bay is in great need of additional funding to support these planned adaptation efforts.

I know the City of Morro Bay is well-prepared to build upon recent and evolving efforts to address climate change impacts and I am in support of this important work in my Congressional District.

Thank you very much for your consideration of this important matter. It is without hesitation that I recommend fair consideration of this grant application consistent with all relevant rules and procedures.

Sincerely,

**LOIS CAPPS**  
Member of Congress



Air Pollution Control District  
San Luis Obispo County

November 18, 2013

California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

**RE: LETTER OF SUPPORT FOR THE CITY OF MORRO BAY LOCAL COASTAL PROGRAM  
PLANNING GRANT APPLICATION**

Dear Honored Members of the California Coastal Commission:

The San Luis Obispo County Air Pollution Control District (APCD) is pleased to support the City of Morro Bay's application for the Local Coastal Program Planning Grant that supports local coastal planning efforts to update existing certified Local Coastal Programs (LCPs). I understand the City is requesting funding to update the LCP to reflect new information and changed conditions, especially in light of sea-level rise and other climate change impacts, in a manner fully consistent with the policies of the California Coastal Act.

I am encouraged that the City is seeking this funding to update the LCP which will effectively maximize public benefit of the coast, coastal dependent development, and recreation. The likelihood of success and effectiveness is great, as staff will identify opportunities to engage partners early in the planning process to work toward timely development, review and implementation of the updated LCP.

Small coastal cities, such as Morro Bay, are vulnerable to many impacts associated with climate change, but have limited funding to support adaptation projects intended to protect the community and natural resources. This problem, coupled with the issues the City is facing due to an outdated and inconsistent LCP, indicate that Morro Bay is in great need of additional funding to support these planned adaptation efforts.

The APCD supports the City's commitment to developing a vision for the community and coastal resources of Morro Bay. We are in full support of this important work in our region and look forward to seeing this work accomplished.

Thank you for this opportunity to express my support for the City of Morro Bay's grant application.

Sincerely,

A handwritten signature in green ink, appearing to read "Aeron Arlin Genet", is written over a faint, larger version of the signature.

Aeron Arlin Genet  
Manager, Planning and Outreach Division

**ATTACHMENT E: SUMMARY OF IN-KIND LABOR RATES AND HOURS FOR CITY  
STAFF TIME**

<b>Staff Rate Assumptions</b>	<b>Hourly Rates</b>	<b>Total Project Hours</b>	<b>Total Staff Labor Cost</b>
Public Services Director	\$119.00	82	\$9,758
Planning Manager	\$77.00	331	\$25,487
Capital Projects Manager	\$68.00	16	\$1,088
Associate Civil Engineer	\$63.00	12	\$756
Associate Planner	\$53.00	141	\$7,473
<b>Total</b>		<b>582</b>	<b>\$44,562</b>

**ATTACHMENT F: LIST OF MAJOR SUPPLIES AND MATERIALS**

<b>Supply/Material</b>	<b>Cost</b>	<b>Assumptions</b>
Workshop and event boards	\$6,660	<p>Anticipated cost of \$6,000 for printing poster boards. Cost assumes at an average of \$200 per board, with 10 boards produced for each event. Boards will be developed for information generated during three work phases and will be reused throughout the project in Tasks 4–5, Task 6, and Task 7.</p> <p>Additional costs of \$600 estimated to produce collateral and supportive materials that will support 4 workshops, including nametags, fact sheets, and flyers. Based on an average cost of approximately \$150 for all collateral per workshop.</p>
Biweekly conference call charges and support	\$744	Assumes biweekly conference calls for 24 months, internal consultant conference calls, plus additional coordination calls with Coastal Commission and stakeholders for a total of approximately 50 conference calls.
Quarterly GoTo webinars with Coastal Commission	\$358	Approximate cost of 4 GoTo Meeting webinars that the City and consultant team will facilitate with the Coastal Commission.
Material reproduction	\$1,000	Reproduction costs assume \$125 in production charges for each of the 8 public or final draft documents.

**ATTACHMENT G: TRAVEL ASSUMPTIONS**

<b>Cost</b>	<b>Rate Assumption</b>	<b>Total Cost</b>	<b>Assumptions</b>
Mileage costs for consultant travel	\$0.565/ mile for 11,400 miles total	\$6,441	Assumes average mileage of approximately 814 miles round trip for consultant travel for 14 events that will require consultant travel (4 public workshops and 10 Community Advisory Committee meetings).
Hotel costs for consultant	\$150/night for 23 hotel nights	\$3,450	Assumes approximately 23 nights of hotel reservations for consultant team to support the 4 workshops and 10 Community Advisory Committee meetings.

**ATTACHMENT H: SUMMARY OF CONSULTANT LABOR RATES AND HOURS**

**RATES AND HOURS FOR PROJECT CONSULTANT**

<b>Staff Rate Assumptions</b>	<b>Hourly Rates</b>	<b>Total Project Hours</b>	<b>Total Labor Cost</b>
Project Director/Principal/Principal Engineer/Principal Biologist	\$175	112	\$19,600
Project Manager/Outreach Manager/Engineer	\$140	544	\$76,160
Senior Planner/Analyst/Engineer/Biologist	\$125	361	\$45,125
Associate Planner/Engineer/Biologist	\$95	319	\$30,305
Assistant Planner/Biologist/GIS Analyst/Technical Editor	\$85	382	\$32,470
Administrative Assistant/Technician	\$65	227	\$14,755
<b>Total</b>		<b>1,945</b>	<b>\$218,415</b>



AGENDA NO: A-13

MEETING DATE: 12/10/2013

## Staff Report

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

**FROM:** Susan Slayton, Administrative Services Director

**SUBJECT:** Appointment of Kathryn Thomas to Citizens Oversight Committee

### **RECOMMENDATION**

City Council to appoint Kathryn Thomas to fill the vacant position on the Citizens Oversight Committee that was created when Michael Durick resigned. Ms. Thomas' term will expire on January 31, 2016.

### **ALTERNATIVES**

1. Wait to appoint a replacement member until the notification of and request for applications to fill vacant committee/commission positions is completed. These appointments will be made in mid-January 2014.

### **FISCAL IMPACT**

There is no fiscal impact.

### **SUMMARY**

On September 4, 2013, staff was notified by Michael Durick that he was resigning from the Citizens Oversight Committee. Staff reviewed the remaining applications that had been received in January 2013 during a solicitation for applications to fill committee/commission vacancies, and contacted the two remaining applicants. One applicant, Kathryn Thomas, whose application is attached, responded. Staff is requesting that the City Council appoint Kathryn Thomas to the Citizens Oversight Committee to replace Michael Durick, with her term expiring on January 31, 2016. Appointing Ms. Thomas now will allow her to participate in the December 12, 2013, Citizens Oversight Committee meeting.

### **BACKGROUND**

In 2006, the City Council adopted Ordinance 519, which established the City of Morro Bay Transactions and Use Tax Ordinance (for the voter-approved Measure Q  $\frac{1}{2}\%$  sales tax). This Ordinance established Chapter 3.22 of the Municipal Code. Section 3.22.120 establishes the

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

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

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

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

Citizens Oversight Committee, to include setting the Committee Membership. Section 3.22.120 (B) states:

**Committee Membership.** The committee shall have five citizen-members appointed by the city council for six-year terms with initially three members serving three years, and three members serving six years. Appointees shall be residents of the city; however no member of the committee shall be an elected official.

Two positions were open for appointment in January 2013; four applications were received, applicants were interviewed, and two were selected. The remaining two applications, one of which was Ms. Thomas' application, remain on file.

### **DISCUSSION**

On September 4, 2013, the City Clerk received an e-mail from Michael Durick, resigning his position from the Citizens Oversight Committee. The remaining two applications from the January 2013 advertisement were reviewed, and the applicants contacted. One of the applicants, Kathryn Thomas, expressed interest. Appointing Ms. Thomas tonight will allow her to participate in the December 12, 2013 Citizens Oversight Committee meeting.

### **CONCLUSION**

Staff is requesting that the City Council review Ms. Thomas' application, and appoint her to the vacant position on the Citizens Oversight Committee.



**CITY OF MORRO BAY**  
**APPLICATION FOR APPOINTMENT**

RECEIVED  
City of Morro Bay

JAN 18 REC'D  
Finance Department

370/24

PRINT YOUR FULL NAME: THOMAS Kathryn  
 (Last) (First)

ADDRESS: [REDACTED] Morro Bay 93442

MAILING ADDRESS: [REDACTED]  
 (If different)

PHONE NO. [REDACTED] [REDACTED]  
 (Home) (Business)(cell)

E-MAIL ADDRESS: [REDACTED]

Are you a registered voting resident of the City of Morro Bay?  Yes No (circle one)

I would like to be considered for appointment to the following Commission/ Advisory Board/Committee:

- Planning Commission
- Recreation & Parks Commission
- Harbor Advisory Board
- Public Works Advisory Board
- Citizen Oversight Committee
- Tourism Business Improvement District Advisory Board

RECEIVED  
City of Morro Bay  
JAN 18 REC'D  
Finance Department

The following is a short statement of my background and interests, which I believe qualify me for consideration (attach additional page(s) as necessary):

- 8 yrs. as Chair of the Intercollegiate Athletic Authority at SDSU - the oversight committee for their multi-million dollar athletic program
  - 20 yrs. managing a private practice
  - 7 yrs. managing an environmental program between SDSU & the SD Zoo
- I have read the statement regarding the responsibilities of this Commission, Advisory Board, Committee, and should I be appointed, I will be able and willing to devote the necessary time to perform the required duties.

K Thomas, Ph.D.  
(Signature)

1/18/2013  
(Date)

All appointees to a City Commission, Advisory Board, or Committee will be required, in accordance with State law to file a "Statement of Economic Interest" which remains available for public inspection.

**Due date to apply: Friday, January 18, 2013.**

Interviews have been scheduled for  
**Tuesday, January 29, 2013 at 6:00pm** in the Veterans' Memorial Building.

Applicants should be present in order to be interviewed by the City Council.



independent obligations. Dynegy has recently applied to the state to retire the plant from power generation, and whether the plant will continue to operate or shut down is unknown.

The Outfall Lease is a tidelands lease for discharge pipes from the power plant, and does not mention the Fire Protection Agreement.

### **DISCUSSION**

In the Agreement, the City agrees to assume the lead role in fire suppression, hazardous materials and emergency response activities at the power plant. Due to unique issues relating to emergency response at the power plant, relating to “confined space” rescue and the presence of chemicals and hazardous materials, Fire Department personnel need special training and equipment. This Agreement compensates the City for costs associated with that training and equipment.

The Agreement requires Dynegy to have a Technical Representative meet the Fire Department before entry into the plant and provide information regarding the nature and location of the emergency and other related issues. The City has no responsibility to clean up chemical releases at the plant.

### **CONCLUSION**

Staff recommends that the Council approve the Fire Protection Agreement between the City of Morro Bay and Dynegy Morro Bay, LLC.

## FIRE PROTECTION AGREEMENT

This Fire Protection Agreement (“Agreement”) is entered into and effective as of this 10<sup>th</sup> day of December, 2013 between Dynegy Morro Bay, LLC, a Delaware Limited Liability Company (“DYNEGY”) and the City of Morro Bay, a municipal corporation of the State of California (“CITY”).

### RECITALS

WHEREAS, DYNEGY owns and operates its Morro Bay Power Plant, located at 1290 Embarcadero Road, in the City of Morro Bay, County of San Luis Obispo, California (the “Premises”), and;

WHEREAS, DYNEGY’s predecessor in interest, Duke Energy Morro Bay LLC, and CITY entered into an Agreement to Lease and Agreement Regarding Power Plant Modernization (Agreement to Lease”), as well as an Outfall Lease (“Outfall Lease”), both dated and effective as of November 15, 2004, and subsequently amended effective January 1, 2013; and

WHEREAS, DYNEGY trained its employees to the incipient level fire response and first responder operations level for hazardous materials releases at the Premises, and;

WHEREAS, DYNEGY has equipment and systems which have identified spaces that require entry procedures. Fires and chemical releases at the Premises can create **confined spaces** by producing hostile atmospheres in areas of a building that would not otherwise be considered **confined space**.

**WHEREAS**, emergency response at the Premises requires specialized training and equipment for “confined space” rescue.

WHEREAS, CITY is willing to provide the trained personnel and the equipment necessary to assume the lead role in fire suppression, hazardous materials and emergency response activities at Premises in return for payments by DYNEGY.

### AGREEMENT

NOW THEREFORE, DYNEGY and CITY agree to the following terms:

1. DYNEGY shall pay CITY FORTY THOUSAND DOLLARS(\$40,000) annually beginning on January 1, 2014, with payment due on or before January 5 of each year, through the end of the Agreement to Lease and/or the Outfall Lease, whichever last terminates or expires.(“Dynegy Payments”)

2. The Dynege Payments are to offset the additional operational costs incurred by CITY in providing fire suppression, hazardous material and emergency response services to DYNEGY at the Premises.
3. DYNEGY and CITY shall review this Agreement prior to its expiration. Further, upon the acceptance of DYNEGY's notice of retirement by the California Independent System Operator, the parties agree to meet and negotiate in good faith, without limiting the effectiveness or validity hereof, such revisions to this Agreement as the parties may agree are necessary and appropriate in light of such changed circumstances
4. CITY shall train and equip its personnel for the hazards unique to the Premises. Toward this end, the CITY shall appropriate necessary funds for training and equipment costs related to the services provided hereunder.
5. CITY shall respond to all fire suppression, hazardous materials and emergency response emergencies at Premises and assume the lead role in all such response actions.
6. In the event CITY is called to respond to a fire or any other emergency at Premises, DYNEGY shall provide a Technical Representative to apprise the responding CITY personnel of the exact nature of the situation. This briefing shall include the status of the electrical, chemical, and mechanical systems, as well as the status of the fixed fire suppression systems and whether or not rescue of personnel is necessary. The Technical Representative will guide CITY personnel to the location of the incident and remain available at the scene until it is determined that the emergency situation no longer exists.
7. DYNEGY personnel shall report all fires to CITY, including those that have been extinguished by DYNEGY personnel. CITY agrees to respond to the extinguished fire calls from DYNEGY without the use of sirens, if CITY determines that the situation does not warrant use of sirens.
8. DYNEGY shall notify CITY of any chemical release that requires the establishment of protective zones or in which the amount released exceeds the reportable quantity (RQ) levels defined by regulations and/or that is reasonably expected to have an impact on the environment or community.

9. In the event that an incident should require resources which exceed the capability of CITY, then other agencies will be summoned and DYNEGY shall be billed for their services.
10. CITY shall not be required to conduct clean-up operations of chemical release on Premises.
11. Without waiver of any statutory immunities, CITY shall hold harmless and indemnify DYNEGY, its officers, agents, and employees against all loss, damage and liability resulting from injury to or death of any third person(s), or injury to property of a third person(s), arising out of, or in connection with CITY's negligence or willful misconduct in the exercise of its obligations under this Agreement, except to the extent such loss, damage, expense or liability is caused by willful misconduct or negligence of DYNEGY, its officers, agents and employees. DYNEGY shall hold harmless and indemnify CITY, its officers, agents, and employees against all loss, damage and liability resulting from injury to or death of any third person(s), or injury to property of a third person(s), arising out of, or in connection with DYNEGY's negligence or willful misconduct in the exercise of its obligations under this Agreement, except to the extent such loss, damage, expense or liability is caused by willful misconduct or negligence of CITY, its officers, agents and employees. In the event a third party lawsuit is filed in connection with such loss, damage, expense or liability, each party will promptly notify the other of such lawsuit.
12. CITY shall train its personnel for, and then practice, fire suppression, hazardous material, and emergency rescue services, including confined space rescue, at Premises.
13. DYNEGY has provided CITY, and shall continue to provide CITY, with current plot plans which depict the type and locations of hazardous chemicals, ingress and egress, and on site fire suppression equipment.
14. Notices by a party shall be sent to the other party by registered or certified mail, return receipt requested, or by overnight courier, to the following addresses or such other address as directed by a party by notice to the other:

DYNEGY MORRO BAY, LLC  
P.O. Box 1737  
Morro Bay, California 93443-1737  
Attention: Steven C. Goschke, Plant Manager  
Telephone: (805) 595-4214

CITY OF MORRO BAY  
715 Harbor Street  
Morro Bay, CA 93442  
Attention: Steven Knuckles, Fire Chief  
Telephone: (805) 772-6242

15. DYNEGY shall comply with all local, state, and federal laws and regulations including those laws whether existing or new which relate to the use, handling, treatment, or disposal of hazardous substances.

16. Each of the individuals executing this Agreement represent and warrant that they have all necessary authority to do so and to bind the respective parties as provided for herein.

CITY OF MORRO BAY

DYNEGY MORRO BAY LLC

By: \_\_\_\_\_  
Jamie Irons, Mayor

By: \_\_\_\_\_  
Marty Daley,  
Vice President and General Manager

ATTEST:

\_\_\_\_\_  
Jamie Boucher, City Clerk



AGENDA NO: B-1

MEETING DATE: December 10, 2013

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** December 5, 2013  
**FROM:** Rob Livick, PE/PLS –Director of Public Services/City Engineer  
**SUBJECT:** Review of the Second Public Draft Options Report for the NEW Water Reclamation Facility (WRF)

## RECOMMENDATION

Staff recommends City Council:

1. Receive the report and presentation, take public testimony, and provide any recommendations or comments to staff and the Rickenbach team for incorporation into the final document.
2. Provide direction to staff to commence discussions with property owners on the top three sites as selected by Council.
3. Additionally, provide direction to staff regarding the continuing of discussions on a parallel path regarding a regional facility at the California Men’s Colony (CMC) site with the potential partner agencies.

## ALTERNATIVE

Continue the discussion of this item to a future meeting and provide direction to staff regarding any additional analysis that council requires.

## FISCAL IMPACT

The preliminary cost estimates for the development, design, permitting and construction of a new WRF range from \$90 to \$160 million depending on the site. These costs include a 30-percent contingency and a 30-percent allowance for engineering, environmental review, permitting and other required “soft costs”. At this point in the process this is as accurate as we can estimate costs. Once a site is selected and preliminary engineering is performed, then the cost estimates can be refined.

Based on direction at the last City Council meeting, staff has authorized \$5,265 of the \$11,726 contingency to compensate the Rickenbach team for the additional analysis outside the original scope of work.

## DISCUSSION

Project Planning has commenced for the NEW Water Reclamation Facility (WRF). The City has developed a tentative schedule for the preliminary work effort for the WRF. This planning effort

Prepared By: RL

Dept Review: RL

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

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

charts a path of site selection and other important community decisions that are needed to see the WRF project move forward with success. The Council's goal is to make these decisions by the end of 2013. The direction of Council at the initiation of this process was to determine what is in the best interests of the City of Morro Bay in the selection of a site and the treatment options for a new WRF.

The report has been reviewed by the Public Works Advisory Board at their November 4, 2013 meeting, where they took public input and provided comments to staff that were relayed to the Rickenbach team.

On November 5, 2013 a second public workshop was conducted and was attended by approximately 50 Morro Bay residents. In that meeting, Mr. Rickenbach and his team, Michael Nunley, PE and Debbie Rudd, outlined the process, the report and the goals of this preliminary planning effort. During the second half of the meeting questions and comments were taken from the audience, which will ultimately inform the process. At the end of the meeting, Ms. Rudd led the group in the Community Feedback Exercise. All of the Workshop Materials and Draft Options Report have been posted to the City's website for the availability to the public.

Then, on November 12, 2013 the Rickenbach team presented the report to the City Council at a Public hearing. At that hearing public testimony was taken and Council discussed the report and provided direction to staff and the consultant team to make certain changes and clarifications. This direction included:

1. **Refined Project Goals.** The draft project goals are modified in this report based on input from the November 12<sup>th</sup> City Council meeting. This has implications for the analysis of each site as well as cost.
2. **New Issues.** Based on public input, the report will now evaluate two new issues not fully considered in the first draft.
  - a. Neighborhood Compatibility (especially as it relates to odors) will be evaluated as one of the issues under "Engineering and Design."
  - b. The project's consistency with long-range planning concepts. This issue will be evaluated under "Logistics."
3. **Revised Weighting.** At the November 5<sup>th</sup> workshop, the City received important feedback about whether the scoring criteria accurately reflected community concerns. The second draft report recalibrates the scoring and weighting of factors based on this input. One notable change is to place a somewhat greater emphasis on the issue of cultural resources.
4. **Role of the Ocean Outfall.** Based on continuing concerns about the future use of the ocean outfall, the report will clarify its role in a new WRF, and explain the consequences if the outfall were removed.
5. **Refined Cost Assumptions.** The cost assumptions shown in Appendix D of the report have been clarified, particularly from the perspective that these are rough estimates not based on a specific design, but are useful primarily for comparative purposes from site to site.
6. **Additional Cost estimate.** The report also includes an assumption of what it would cost to do a similar project at the existing WWTP site, not because that site is under consideration

(it is not), but to allow the public and City Council to understand the comparative costs in a context that is more easily understood.

7. **The Effects of Cost Sharing with Multiple Agencies at the CMC Site.** Cost assumptions in the first draft report do not consider cost-sharing with other agencies, because this possibility cannot yet be assumed. That said, the CMC Site has multiple potential partners that the other sites do not (notably the State of California and County of San Luis Obispo; Cayucos is a potential partner at all sites). For that reason, the evaluation for the CMC site will also consider the implications of cost-sharing with multiple agencies if it were conceived as a regional facility, and how that might affect the evaluation. It should be noted that it would be unlikely that the existing users of the CMC site would share in any costs due to treatment plant expansion or pipeline and pumping costs.

The Rickenbach team took the recommendations from both Council and the public and they have been analyzed and incorporated into this report.

The report contains the following conclusions:

- A. Morro Valley locations have the best potential for locating a new WRF when all factors are considered together, with the power plant site coming in second.
- B. If costs were not a consideration, Morro Valley locations would still be ranked first, with the Chorro Valley locations ranking a close second.
- C. Public input played a key role in weighing these factors, modified by our team's engineering and planning experience, as well as the technical information already available for many of the sites.
- D. Relative to the issue of cost, the estimates used in this analysis are intended to be comparative in nature, appropriate for a siting study. Actual costs will depend on a detailed project design and work plan, as well as other issues related to financing, interest rates, phasing, and the timing and cost of regulatory agency permitting and review. None of these factors can be fully known at this time.
- E. And finally the purpose of the Options Report provides a comparative framework for each site under consideration, to allow the City Council to understand the rough order of magnitude of costs and other factors that might be expected at the various sites, which can only be refined through more detailed design work.

### **Next Steps**

Based on the Council direction, it is recommended that staff makes initial contact with the potential top site property owners to determine their willingness to negotiate a sale of the property for the NEW WRF. Additionally, staff will continue to meet and discuss the potential of a regional facility at the CMC site along with discussing with staff from the Cayucos Sanitary District regarding their District's desires in serving Cayucos with sanitary sewer. Following these initial meetings, staff will

bring back a status report to City Council in ninety days with recommendations for additional study and the status on the regional potential.

### **CONCLUSION**

The Draft Second Options Report provides an analysis for the selection of a NEW WRF project site based upon the goals that the community has expressed. The Council should take public testimony, and provide any further recommendations or comments to staff who will forward to the consultant team for incorporation into the final report. Even though the analysis of the regional facility at the CMC site ranked low in the analysis, staff recommends that Council consider continuing discussions with the County and other affected agencies to more fully explore the potential benefits of a regional facility and how that regional facility can benefit the City of Morro Bay.

### **ATTACHMENTS**

1. For the complete WRF Second Draft Options Report go to <http://www.morrobay.ca.us/DocumentCenter/View/7151>



AGENDA NO: B-2

MEETING DATE: 12/10/2013

## Staff Report

**TO:** Mayor and City Council      **DATE:** 12/03/2013

**FROM:** Andrea K. Lueker, City Manager

**SUBJECT:** Review of City Council Requested Outside Legal Services; Status and Cost

### RECOMMENDATION

Review the costs to date for outside legal services requested by City Council and provide further direction to staff.

### ALTERNATIVES

Not applicable at this time.

### FISCAL IMPACT

Outside, independent legal services incurred by the City, at the specific request of the Council, for the period of January 1, 2013 through October 31, 2013 total \$14,414.

### SUMMARY

The City has engaged the services of two outside independent legal professionals during calendar year 2013. The City Council, at their October 22, 2013 City Council meeting, directed staff to bring back a review of these services as a public hearing item.

### BACKGROUND/DISCUSSION

In April 2013, the City Council directed staff in Closed Session to seek an outside independent legal opinion regarding personnel matters. The City contracted with Liebert Cassidy Whitmore for the legal opinion, the contents which remain attorney/client privilege, at a cost of \$3,530.

In October 2013, the City Council contracted with Steve Simas to perform outside independent legal services in relation to personnel matters regarding the City Attorney and City Manager. Mr. Simas has invoiced and been paid by the City \$10,884, which includes invoices through October 31, 2013. His contract, as amended, authorizes up to \$17,500. As of the time of this staff report, no further invoices were available.

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



AGENDA NO: D-1

MEETING DATE: December 10, 2013

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 3, 2013

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Harbor Department Rules and Regulations; Proposed Change to Slip Regulations for Fishermen Owning Two Qualified Commercial Fishing Vessels

## **RECOMMENDATION**

Accept the Harbor Advisory Board (HAB) recommendation by adopting Resolution 60-13 to allow commercial fishermen in City slips to keep two different vessels owned by that commercial fisherman in their City-assigned slip, assuming adherence to the parameters as outlined in the attached draft Harbor Department Rules and Regulations to allow said use.

## **ALTERNATIVES**

1. Adopt Resolution 60-13 that incorporates changes to the Harbor Department Rules and Regulations changes as presented (staff recommendation).
2. Adopt modifications to Resolution 60-13 and the proposed changes to the Harbor Department Rules and Regulations as presented.
3. Do not approve Resolution 60-13 and ensuing changes to the Harbor Department Rules and Regulations as presented.

## **FISCAL IMPACT**

Minor negative fiscal impact expected (less than \$3,000-\$5,000 per year) due to limited degree of participation anticipated.

## **SUMMARY**

Current Morro Bay Harbor Department Rules and Regulations provide that when a commercial fisherman is vacant from their City slip, the City can rent the unoccupied slip on a temporary basis. Some Morro Bay fishermen now have two fishing vessels, and are requesting that the Rules and Regulations be changed to allow them to use their slip for either of their two vessels. The HAB heard this issue at their February 7 and October 3, 2013 meetings, and recommended that it be allowed. A copy of those HAB staff reports are included with this staff report.

## **BACKGROUND**

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

In recent years, some Morro Bay commercial fishermen occupying City slips have begun operating two fishing vessels. Currently, when a commercial fisherman in a City slip is vacant from their slip for any period of time, the City reserves the right to sublease said slip on a transient basis and to collect the revenues. Harbor Department staff is responsible for managing the subletting, and the fisherman's vacant slip may or may not go to his second vessel if he is seeking a slip for it as they are managed on a waiting list basis.

The HAB heard this item at their February 7, 2013 meeting, and made the following motion that is recorded in the meeting minutes:

*Mr. Eckles moved that City Council eliminate the single vessel restriction for City slip rentals, and allow owners of two qualified commercial fishing vessels the ability to keep either vessel in their slip. The Motion was seconded by Mr. McClish and carried unanimously.*

Proposed language changes to the Harbor Department Rules and Regulations were brought back to the HAB at their October 3, 2013 meeting for consideration. The language considered was:

*A commercial fisherman with a qualified commercial fishing vessel, as defined, occupying a City slip may, at the fisherman's discretion, occupy said slip with a second qualified commercial fishing vessel owned by the fisherman in place of the first vessel provided that said second vessel is of an appropriate size for said slip, and that both vessels remain qualified commercial fishing vessels as defined. This allowance will in no way be used by said fisherman for the purposes of transfer of the slip to a second owner or owners of either vessel in order to bypass the commercial slip waiting list by the second owner or owners.*

At that October 3, 2013 meeting, the HAB made the following motion that is recorded in the meeting minutes:

*Mr. McClish moved that the Harbor Advisory Board recommend to the city Council to approve changes to the Harbor Rules and Regulations to allow commercial fishermen with a second qualified vessel to keep either vessel in their slip without having to sublease or pay transient fees for the second vessel. The Motion was seconded by Mr. Phillips and carried unanimously.*

## **DISCUSSION**

Attached are the two pertinent pages of the Harbor Department Rules and Regulations that address City slips, with the staff-proposed changes outlined in track-changed underlining. While the pertinent sections of the Morro Bay Municipal Code addressing City slips is also attached for reference, upon further review staff believes that no changes would be necessary to the Municipal Code as the Council-approved Rules and Regulations are the living "operating" document that guides use of City facilities.

During the February 7, 2013 HAB meeting discussion on this item, board and public concern was

that the allowance be limited to only two (2) vessels per fisherman, and that the Rules and Regulations change to allow multiple vessel slip use be crafted so that the Commercial Slip Waiting List wouldn't be "bypassed" or otherwise circumvented or subverted by a second owner of either vessel being able to come in and take over the slip in question. Per the HAB recommendation, staff has drafted the proposed changes to take this issue into account.

**CONCLUSION**

Staff is recommending approval of Resolution 60-13 that would change the Harbor Department Rules and Regulations to allow commercial fishermen owning two qualified commercial fishing vessels to keep either vessel in their slip, at their option, provided adherence to certain parameters as outlined. The HAB recommended approval of such an allowance at their February 7 and October 3, 2013 meetings.

**RESOLUTION NO. 60-13**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
APPROVING CHANGES TO THE HARBOR DEPARTMENT  
RULES AND REGULATIONS TO ALLOW  
COMMERCIAL FISHERMEN OWNING TWO QUALIFIED  
COMMERCIAL FISHING VESSELS TO KEEP  
EITHER VESSEL IN THEIR ASSIGNED SLIP**

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

**WHEREAS**, the City of Morro Bay supports commercial fishing and fishermen, and commercial fishing activities and facilities; and

**WHEREAS**, in recent years some commercial fishermen have come to own and operate two commercial fishing vessels in order to remain viably involved in the fisheries; and

**WHEREAS**, current Harbor Department Rules and Regulations make no allowance for commercial fishermen owning two commercial fishing vessels to keep either of their two vessels in their assigned slip at their option and at the regular commercial fishing slip rates; and

**WHEREAS**, the Morro Bay Harbor Advisory Board by unanimous vote at their February 7, 2013 meeting and again at their October 3, 2013 meeting recommended approval of commercial fishermen owning two qualified commercial fishing vessels to be able to use their assigned slip for either vessel.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the following be added to the Harbor Department Rules and Regulations Section 2 regarding use of City slips by commercial fishermen owning two commercial fishing vessels:

*A commercial fisherman with a qualified commercial fishing vessel, as defined, occupying a City slip may, at the fisherman's discretion, occupy said slip with a second qualified commercial fishing vessel owned by the fisherman in place of the first vessel provided that said second vessel is of an appropriate size for said slip, and that both vessels remain qualified commercial fishing vessels as defined. This allowance will in no way be used by said fisherman for the purposes of transfer of the slip to a second owner or owners of either vessel in order to bypass the commercial slip waiting list by the second owner or owners.*

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 10th day of December, 2013 on the following vote:

AYES:

NOES:

ABSENT:

---

Jamie L. Irons, Mayor

ATTEST:

---

Jamie Boucher, City Clerk

**EXHIBIT "A"**

**CITY OF MORRO BAY - HARBOR DEPARTMENT  
RULES AND REGULATIONS  
FOR VESSELS USING CITY PIERS, DOCKS AND OFFSHORE MOORINGS**

**INTRODUCTION**

The City of Morro Bay directly operates 2 piers, approximately 50 slips and 70 individual moorings. The City also provides a floating dock and anchorage area for transient vessels. City-managed individual mooring sites are in the A2, A1-1 and A1-2 mooring areas as shown in the attached map. The City leases out the A1-3 and A1-4 mooring areas to the Morro Bay Yacht Club and Morro Bay Marina respectively which manage individual mooring assignments in those areas. Most Embarcadero slips and the State Park Marina slips are privately operated with rules and regulations set by the operator. Following are rules and regulations for City-managed facilities and general operation of the Harbor within City limits. The Harbor Department shall mean the Harbor Director, or any designated employee of the City of Morro Bay Harbor Department.

**1. MORRO BAY HARBOR DEPARTMENT - GENERAL REGULATIONS**

No person shall anchor, moor or secure a vessel or any object within the City of Morro Bay except in designated areas and locations set by the Morro Bay Harbor Department and the Morro Bay Municipal Code. Any vessel or object moored, anchored or secured in violation of this section may be declared a hazard pursuant to California Harbor and Navigations Code Section 523 and shall be relocated to a safe anchorage or berthing location by the Harbor Patrol. The owner will be charged for all costs associated with such relocation and may be subject to impoundment at the fee shown in the Master Fee Schedule. No vessel may exceed 5 MPH speed limit within the Morro Bay City limits with the exception of governmental agencies in the performance of duties. Discharge of sewage is strictly prohibited. No person may liveaboard a non-transient vessel in excess of 4 days without first obtaining a permit as provided for in Morro Bay Municipal Code, Section 15.24.

To use or occupy City docks, City moorings, City Piers, the A1-5 anchorage area or City floating dock a vessel must be registered with the Harbor Department including submission of a signed RENTAL AGREEMENT or transient berthing agreement card.

**2. CITY SLIPS**

**A: General**

City slips shall be assigned to commercial fishing vessels as defined in Morro Bay Municipal Code 15.04.150 and Resolution 23-91 of the City of Morro Bay. Rental agreements for use of City slips are not transferable. If a vessel is sold or ceases to qualify for a slip, the agreement is terminated. No city slip agreement holder may allow the use of any city slip by another vessel without the prior permission of the Harbor office. The City may rent any unoccupied slip on a temporary basis.

A commercial fisherman with a qualified commercial fishing vessel, as defined, occupying a City slip may, at the fisherman's discretion, occupy said slip with a second qualified commercial fishing vessel owned by the fisherman in place of the first vessel provided that said second vessel is of an appropriate size for said slip, and that both vessels remain qualified commercial fishing vessels as defined. This allowance will in no way be used by said fisherman for the purposes of transfer of the slip to a second owner or owners of either vessel in order to bypass the commercial slip waiting list by

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the second owner or owners.

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Berthing space behind head floats on City slips will be designated as “head float berth” in the City’s Master Fee Schedule and may be assigned to qualified commercial fishing vessels which will be charged at the monthly commercial slip rate. Vessels other than skiffs or qualified commercial fishing vessels desiring to use the “head float berth” will be charged as set forth in the City Master Fee Schedule. This “head float berth rate” may be adjusted annually by the City Council. Head Float Berth spaces will be assigned on a first come, first serve basis with prior approval of the Harbor Department.

#### **B: Waiting List Procedures And Assignment Of Vacant Slips**

The City has established a Commercial Slip Waiting List with a refundable fee as set forth in the City Master Fee Schedule and a Recreational Slip Waiting List with a refundable fee as set forth in the City Master Fee Schedule. When a slip vacancy occurs, the slip will be assigned to the next eligible vessel on the commercial slip waiting list. It is the responsibility of all waiting listees to keep the Harbor Office informed of current address and contact numbers. If no response is received after two attempts to contact waiting listee at the address and/or phone number on record with the Harbor Office, then the waiting listee will be passed over until such time as they recontact the Harbor Department.

A vessel and the vessel's owner must meet the definition for commercial fishing vessels to be placed on the commercial slip waiting list and must qualify for the year in which they are offered a permanent slip. A vessel owner may substitute a different vessel and maintain the same position on the list up to one time in any three-year period. Anyone on the commercial slip waiting list for more than 5 years will have to re-qualify as a commercial vessel to remain on the list. Failure to re-qualify the vessel will result in removal from the list and a refund of the deposit.

The recreational slip waiting list would be used in the event the City develops new slips for recreational boaters.

#### **C: Temporary Cancellation Of City Slips And Slip Subleasing**

Any City slip agreement holder may, by giving City notice at the Harbor Office of a pending absence and vacation of the slip in excess of 30 days, have their slip fees reduced to 25% of the regular monthly fees listed in the Master Fee Schedule. If the slip holder returns to the slip in a period less than the 30 days and another vessel is occupying the slip under a sublease, the slip holder will have to dock at the T-Piers as space is available. Vessels on the Commercial Slip Waiting List will have priority for subleases. The City will maintain a slip sublease waiting list and will make the vacated slip available to the next available qualified vessel on the slip sublease waiting list if there is no vessel on the Commercial Slip Waiting List which desires a sublease. If a vessel or person on the sublease waiting list declines a slip sublease assignment or if the City is unable to contact the person after two attempts; then that person's name shall be removed from the waiting list. The City may assign any vessel to a vacated slip on a daily basis at the daily transient fee but no subleases will be allowed for a period less than one month. No vessel will be allowed to use any vacated slip either on a transient daily fee or monthly sublease basis without paying in advance. As long as there are vessels on the sublease waiting list, there will be a 3-month maximum for any one vessel to remain in a sublease slip. If there are no suitable vessels on the sublease waiting list

or commercial waiting list, a vessel may remain in a sublease slip in excess of 3 months. If a vessel on temporary cancellation does not occupy the assigned slip for a period of at least 3 months in any 24-month period then the City may terminate the berthing agreement and assign the slip to the next qualified vessel on the commercial slip waiting list.

### **3. OFFSHORE MOORINGS**

#### **A: Moorings - General**

Moorings are allowed only in designated locations within the outlined mooring zones or as approved by the Harbor Director and allowed by the Morro Bay Municipal Code. Some mooring locations have tackle and gear owned and installed by the City; most mooring locations have tackle and gear owned and installed by the private party. Each mooring is for one vessel and its associated tender. Floating docks or arrangements other than mooring tackle and gear as outlined and approved by the Harbor Department are prohibited.

Moorings sites A2-0-21A and A1-2-7A were assigned when previous unpermitted floating docks were removed off these moorings. The Harbor Department at its sole discretion shall set maximum vessel size limits for these moorings. Mooring sites A2-0-21A and A1-2-7A are owned by Jim Entwisle and Associated Pacific Constructors respectively and may not be sold, transferred or assigned to new parties. Should Jim Entwisle or Associated Pacific Constructors no longer desire to use mooring sites A2-0-21A or A1 - 2-7A then these moorings shall be removed.

Assigned mooring agreement holders must at all times keep the Harbor Department notified of the vessel which is currently using the mooring site.

If an offshore mooring agreement is terminated for non-payment of rent or failure to inspect mooring gear, the City may take possession of the location and any personal property as outlined in Chapter 15 of the Morro Bay Municipal Code. In such case the Harbor Department may either take the mooring location out of service or install City owned mooring tackle and gear on the location.

#### **B: Moorings - Tackle And Gear Privately Owned**

Moorings locations where a private party owns the mooring tackle and gear shall be held under a monthly rental agreement. Said agreement may be assigned to another party, subject to approval of the City of Morro Bay, by making written request to the Harbor Department. The City reserves the right of approval of any assignment and may not approve such assignment if the mooring agreement holder or assignee is in violation of these rules and regulations or has a past due account with the City or if the proposed use of the mooring will violate these rules and regulations or the Morro Bay Municipal Code or safe boating practices as determined by the Harbor Director. The rental agreement shall have a month-to-month term and fees shall be set forth in the Master Fee Schedule under Offshore Moorings.

#### **C: Moorings - Tackle And Gear City Owned**

The City will rent City owned moorings on a daily or monthly agreement at fees set forth in the Master Fee Schedule under City Owned Moorings. City owned mooring agreements are not assignable or transferable or to be subleased.

The City may set up a waiting list for City moorings with no fee or deposit required. It is the responsibility of the person on the waiting list to provide the City with a current mailing address and phone number at all times. If a phone number is disconnected and/or the mail comes back as undeliverable, the person shall be removed from the waiting list. If a person is offered a mooring and refuses it, they shall be removed from the waiting list.

**D: Mooring Tackle And Gear Maintenance**

The offshore mooring holder shall maintain the tackle and gear to the specifications set by the Harbor Department including biennial inspections meeting the requirements set by the Chief Harbor Patrol Officer. The City will maintain and inspect City owned moorings. Moorings leased to the Morro Bay Yacht Club and Morro Bay Marina will be maintained and inspected by those lessees to meet the specifications set by the Harbor Department.

**4. T-PIERS, FLOATING DOCK OR ANCHORAGE AREA**

The T-Piers, floating dock or anchorage area shall be available to registered transient vessels on a first come first serve daily basis at fees established in the Master Fee Schedule, except that no vessel may use the anchorage area or floating dock for more than 30 days in any six month period. To maintain safe and efficient Harbor operations, the Harbor Department may relocate vessels or designate specific sites for certain vessels at these facilities at any time.

**5. HARBOR DEPARTMENT RESPONSIBILITY TO PROTECT SAFE AND EFFICIENT OPERATION OF CITY-MANAGED FACILITIES**

When a vessel enters a mooring or docking facility or anchorage area in the waters of the City of Morro Bay, it immediately comes under the jurisdiction of the City and may be moored or docked or anchored at the direction of the Harbor Department. The Harbor Department may refuse use of City-managed facilities to any vessel or vessel operator who represents, in the opinion of the Harbor Department, a potential to pollute or that potentially threatens the safety and security of City facilities.

When a vessel or vessel operator, who has been denied use of City facilities, continues to use those facilities without permission, that vessel or vessel operator shall be subject to impoundment under Morro Bay Municipal Code 15.56.010 and/or fines for violation of Section 525 of the Harbor and Navigations Code.

Any vessel using City-managed facilities shall operate under its own power and be seaworthy and maintained in good and safe condition as determined by the Harbor Department. Any vessel that requires Harbor Patrol emergency assistance to pump out, take under tow or otherwise care for the vessel more than once in any 12-month period will be subject to termination of its use of City facilities and/or its berthing agreement.

All vessels at City-managed facilities including piers, moorings, docks and wharves must be operable and seaworthy.

**Operable** means capable of maneuvering under a vessel's own power to the Harbor entrance or to an inspection site designated by the Harbor Director and back to its berthing location.

**Seaworthy** shall mean the vessel's hull, keel decking, cabin, and mast are structurally sound and generally free from structural rusting, delamination, or dry rot.

If a vessel at any City-managed facility is determined to potentially be not seaworthy or inoperable, at the sole determination of the Harbor Department, then the Harbor Department shall provide the owner of the vessel a 30-day written notice. The notice will either require the owner to prove the vessel is operable as described above, or it may require the owner to prove the vessel is seaworthy by obtaining the opinion of a qualified independent marine surveyor as to the seaworthiness of the vessel at the owner's expense.

If the vessel owner fails to successfully respond to the notice within the 30-day period, the vessel owner will be granted an additional 120 days to make repairs for seaworthiness or to prove the vessel is operable as defined above.

If after this period of time the vessel cannot successfully complete the required test, the mooring or slip agreement shall be terminated or the vessel will be denied further use of City-managed facilities and the vessel may be subject to citation and impoundment as outlined herein or in Morro Bay Municipal Code, Section 15.56.

#### **6. FEES**

Fees for use of City-managed facilities shall be set in the City's Master Fee Schedule. All fees are due and must be paid in advance. The Harbor Department may allow billings for qualified and registered vessels with current account status at the discretion of the Harbor Department. Transient fees must be paid in advance provided that the Harbor Department may allow 48 hours after arrival for any vessel to make payment or acceptable arrangements for payment. Transient Vessels not complying with this section within 48 hours of arrival shall be subject to impoundment as specified in Chapter 15, Section 15.56 of the Morro Bay Municipal Code.

The City will refund upon request any prepaid unused transient fees in excess of \$20. Unused prepaid transient fees of less than \$20 may be held as a credit to payee's account. City slips and moorings will be billed on a monthly basis in advance, will be delinquent and subject to a late payment penalty if not paid by the 10th day of the month, whether the tenant receives a bill or not. After a City slip or offshore mooring assignment is made and until the mooring or slip agreement is cancelled or assigned with prior approval of the Harbor Department, the agreement holder shall be responsible for payment of all fees whether the agreement holder occupies the slip or mooring or not. All fees will be adjusted annually as set forth in the Master Fee Schedule. Slip fees shall include electricity services but T-Pier fees shall not and the harbor patrol will limit electric service on the piers to those vessels, which pay the daily use fees. The established electric use fee will be for one vessel only and must be paid prior to use.

The Harbor Department may terminate any vessel's use of City-managed facilities and/or their berthing rental agreement for violation of these requirements or of any other section hereof.

#### **7. DAMAGE TO CITY PROPERTY**

Any vessel that causes damage to City property will be responsible for repaying the cost of repair to such damage as determined by the Harbor Department and submitted in a written statement itemizing costs.

#### **8. EMERGENCY MEASURES, CITY HELD HARMLESS**

In the event of severe storm or tidal wave, the vessel owner, operator and/or agreement holder will provide preparation and damage prevention protection for their property. The vessel owner or their agent is solely responsible to take all emergency measures possible, and the City does not assume any responsibility for said protection and or damages to the vessel from storm or tidal wave action. The City assumes no responsibility for the safety of any vessel using City-managed facilities, and will not be liable for fires, theft, loss or damage to said vessel, its equipment, or any property in or on said vessel.

Tenant expressly and by their use of City-managed facilities agrees to hold City and its officers and employees harmless from any claim tenant or any of tenant's crew, guests or agents have against City for damage to the vessel or other property or for personal injury arising from tenant's use of City property or facilities.

#### **9. STORAGE AND SECURING OF VESSELS**

Tenders and skiffs will be stored on board larger vessels when possible and are not allowed at City slips and docks except as designated by the Harbor Department personnel. The water space between the shore and City docks shall be used primarily for the storage of tenders, skiffs or dinghies used to serve vessels occupying moorings in a non-commercial mooring zone. Each City mooring holder may berth one tender or skiff (as defined by the Harbor Department) in this manner at no charge. Other users may store tenders skiffs or dinghies on City docks at designated locations with the prior approval of the Harbor Department at a fee of \$1.00 per day. No dock boxes, steps or any other installations may be made to City slips, moorings or other facilities without prior permission from the City. No rafting or storage of more than one vessel on any slip, mooring or anchorage is allowed without the permission of the Harbor Department. Temporary storage of crab or fish receivers may be allowed with the prior written permission of the City. It is the responsibility of each vessel owner or operator to safely secure that vessel to its berthing. Vessels shall be secured in their berths, moorings or anchorage in a manner acceptable to the City or the Harbor Department personnel may adequately secure the vessel and assess a service fee.

#### **10. FISH UNLOADING OR SALES**

Fish may be unloaded off City piers and slips only by the owner or operator of the commercial fishing vessel which caught the fish. Operations including commercial truck loading by fish processors or fish buyers are prohibited from City piers and docks, including the boat launch ramp. Commercial unloading of any cargo or materials (including kelp) requiring special heavy vehicles (such as crane, boom or stake bed trucks) is prohibited without the prior permission of the Harbor Department. Permission by the Harbor Department may be contingent on provision of an insurance certificate and payment of a fee.

Commercial fishermen may sell their catch only from their vessels at city slips and docks provided they are in conformance with these rules and regulations, State and Federal law, providing that such sales shall not negatively impact the safe or efficient operation of the harbor, at the discretion of the Harbor Department. Signage shall be minimal and fish sold from vessels must be fish that was caught by the vessel owner.

#### **11. VIOLATIONS OF THE MORRO BAY MUNICIPAL CODE OR OF THE RULES AND REGULATIONS**

Violations of Chapter 15 of the Morro Bay Municipal Code, the Harbor and Navigations Code or these Rules and Regulations are punishable by fines as follows:

1. Violation of MBMC 15.12.010, prohibiting operation of a vessel in excesses of 5 MPH, or in a manner which causes damaging wake within Morro Bay Harbor. \$100 first offense, \$200 second offense and each offense thereafter.
2. Violation of MBMC 15.24.010, prohibiting discharge of waste or refuse from vessels and prohibiting allowing vessels materials waste or refuse to remain on shorelines within City limits. \$200 first offense, \$500 second offense and each offense thereafter.
3. Violation of MBMC,15.32.010, establishing rules and regulations for City wharves, piers and docks by resolution of the City Council. Violation of Harbor Rules and Regulations: first offense \$100 second offense and each offense thereafter \$200.
4. Violation of MBMC 15.40.030, requiring a permit for occupying or owning a liveaboard vessel in Morro Bay Harbor. First offense \$100, second offense and each offense thereafter \$200.
5. Violation of Harbor and Navigations Code Section 525, prohibiting abandoning a vessel without the facility owner's permission: \$500 first offense, \$1500 second offense and each offense thereafter.

For any violation of the Morro Bay Municipal Code or these Rules and Regulations for which a citation is not issued, or for which a vessel is not impounded, the City may provide written notice to tenant to correct such violation. Failure to comply with such written notice may subject the tenant or violator to suspension of future use of City-managed facilities and or termination or cancellation of a mooring or berthing agreement. For example: use of sub standard electrical cords or equipment after one warning may result, at a minimum, in suspension from use of City-managed facilities for 30 days.

## **12. STORAGE AND ELECTRICAL SERVICE**

No storage of supplies, materials, accessories, fishing gear or debris will be allowed on piers or slips. No charcoal fires or open fires of any kind will be allowed on any City-managed facility. Electrical power cords must meet the standards of NFPA and the National Electric Code as determined by the Harbor Department. The Harbor Department may make exceptions during temporary supervised projects. No doubling off a unit is allowed.

## **13. OPERATIONS FROM CITY FACILITIES**

No sport fishing, tour boat, charter boat or rental business operation shall be conducted from any City slip, pier, street end dock, mooring, anchorage or other City facility or beach except as specifically allowed under a lease or license agreement. Occasional charters for environmental research or commercial fishing research related purposes by qualified commercial fishing vessels in an assigned City slip may be allowed only by prior approval of the Harbor Department and at the Harbor Department's sole discretion.

## **14. SOUTH T-PIER HOIST**

A. No fish, shellfish or seafood products are to be unloaded with the hoist except in the following cases:

1. All other commercial fish unloading facilities in the Morro Bay area are closed, overloaded, or unable to off-load the boat of the requesting party.

2. That the unloading by one of the commercial unloaders, in the Morro Bay area, would be untimely and cause extreme hardship or loss to the requesting party.

B. A key deposit of \$20 or a valid driver's license may be required.

C. A fee set by the Master Fee Schedule shall be by the hour for any part of an hour with a one-hour minimum.

D. No overweight use of the hoist is allowed and the Harbor Department may refuse use of the hoist to any party for any reason to insure proper safe and efficient use of Harbor facilities.

## **15. TIDELANDS PARK SIDE TIE DOCK, STREET END DOCKS AND BOAT LAUNCH RAMP**

The Launch Ramp boarding floats are for temporary tie-up while launching and retrieving a vessel only. The Tidelands Park side tie dock shall be a 3 hour maximum tie up in any 24 hour period facility and may not be used for tie up from 10:00 p.m. through 4:00 a.m.. Vessels which exceed the three hour tie up limit in any 24 hour period, or are tied up to the Tidelands Park side tie dock between the hours of 10:00 p.m. through 4:00 a.m., shall be in violation of these Rules and Regulations and subject to citation and fines as outlined in Section 11 hereof. Tenders and skiffs assigned the inside portion of the Tidelands Park side tie dock under Section 9 hereof shall be exempt from the time limits above.

In an emergency or when all other available facilities are occupied, the City may, at the sole discretion of the Harbor Department, waive the 3-hour time limit on the Tidelands Park side tie dock. In that case, the Harbor Department shall issue a special permit at fees established in the City Master Fee Schedule for a period not to exceed 7 continuous days and said permit shall be displayed in open view on the permitted vessel.

No vehicle shall park or use any parking space in the boat Launch Ramp in excess of 72 hours. The Harbor Patrol shall monitor and enforce rules and regulation for the boat Launch Ramp parking lot to ensure that it is available for boaters. No storage or haul out is allowed in the Launch Ramp parking lot. Repairs and mechanical work are not allowed in the Launch Ramp parking lot except those minor immediately necessary jobs which will not result in any discharge or disposal of contaminants, as approved by the Harbor Patrol. Double stalls at the boat Launch Ramp are for trailers and towing vehicles only. Single vehicles without trailers attached using the double stalls shall be in violation of these Rules and Regulations. Double stalls shall be painted yellow. Parking time limits and regulations within the parking lot shall be appropriately signed and designated.

Use of floating docks at the end of Morro Bay Blvd., Harbor St. and Anchor St. and the Launch Ramp shall be limited to transient tie-ups by recreational boats. No overnight tie-ups will be permitted. Maximum duration of tie-ups at these docks shall be for a period not to exceed 3 hours per day. Shore fishing and angling shall not be permitted from the viewing platforms or the floating dock at the ends of Harbor St., Morro Bay Blvd., Marina St. and Anchor St.

The launch ramp docks are for temporary tie-up while launching and retrieving a vessel only. No vehicle shall park or use any parking space in the boat launch ramp in excess of 72 hours. The Harbor Patrol shall monitor and enforce rules and regulations in the boat launch ramp parking lot to ensure it is available for boaters. No storage or haul out is allowed.

## **16. PRIOR CITY RESOLUTIONS**

### **A. Incorporation of Prior Resolutions:**

City of Morro Bay Resolutions #112-89 and 23-91 are incorporated into these rules and regulations by reference.

### **B. Rescinding of Prior City Resolutions:**

Adoption of these rules and regulations shall serve to rescind City of Morro Bay Resolutions # 115-67, #30-74, #1-75, #66-78, #85-80, #86-80, #09-81, #27-82, #72-82, #123-82 #124-82, #19-83, #58-83, #59-83, #60-83, #95-83, #122-83, #8-84, #125-84, #90-85, #61-86, #85-87, #11-89, #76-89, #104-92, #83-97, #115-98.



AGENDA NO: D-1

MEETING DATE: February 7, 2013

## Staff Report

**TO:** Harbor Advisory Board **DATE:** January 30, 2013

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Harbor Department Rules and Regulations;  
Discussion of Slip Regulations for Fishermen Owning Two Boats

### RECOMMENDATION

That the Harbor Advisory Board review the issue and make a recommendation, if any, to the City Council for consideration.

### SUMMARY

Current Morro Bay Harbor Rules and Regulations provide that when a commercial fisherman is vacant from their City slip, the City can rent the unoccupied slip on a temporary basis. Some Morro Bay fishermen now have two fishing boats, and are requesting that the Rules and Regulations be changed to allow them to use their slip for either of their two boats. Currently, the Rules and Regulations would consider the second boat a transient sublease at the higher transient slip rate.

### BACKGROUND

In recent years, some Morro Bay commercial fishermen occupying City slips have begun operating two fishing boats. Currently, when a commercial fisherman in a City slip is vacant from their slip for any period of time, the City reserves the right to sublease said slip on a transient basis and to collect the revenues. Harbor Department staff is responsible for managing the subletting, and the fisherman's vacant slip may or may not go to his second boat if he is seeking a slip for it as they are managed on a waiting list basis.

At the December Harbor Advisory Board meeting, two commercial fishermen in City slips requested that the City consider allowing owners of two commercial fishing boats the ability to put either of their boats in their slip, depending on which one they were currently fishing in the area. This is assuming that both are "qualified" fishing boats as set forth in the Morro Bay Municipal Code. The pertinent Harbor Department Rules and Regulations and Morro Bay Municipal Code sections are attached for reference.

Prepared By: EE

Dept. Review: EE

### **DISCUSSION**

Current Morro Bay Municipal Code, Harbor Department Rules and Regulations, and the Harbor Department Rental Agreement provide that a single commercial fishing boat can qualify for and occupy a City slip. In order to allow for fishermen with two boats to use their slip for either boat at the fisherman's discretion, several changes would have to be made to the Municipal Code, Rules and Regulations, and Rental Agreement. This would require City Council approval as well as City Attorney review.

There are currently three Morro Bay commercial fishermen owning two boats that have opted to qualify and occupy each boat in individual City slips.

### **FISCAL IMPACT**

The qualified commercial slip rate is half that of the transient slip rate. Some negative fiscal impact would occur if two-boat slip owner use were allowed, since historically the second boat of any two-boat slip owner is charged the higher transient slip rate for the second, non slip-assigned boat. Although it is unknown what the exact impact would be, it would likely be minimal provided it was not a large number of slip holders with two boats participating.

### **CONCLUSION**

Several Morro Bay commercial fishermen have expressed the desire to be able to put either of their commercial fishing boats in their City slip at their own discretion, provided both boats are "qualified" boats as defined. Enactment of this allowance will have minimal fiscal or operational impacts. In fact, it may result in a faster turnover on the slip waiting list. However, Municipal Code, Rules and Regulations, and Rental Agreement changes will have to be made in order to implement such a program, and will ultimately require City Council approval.

**CITY OF MORRO BAY - HARBOR DEPARTMENT  
RULES AND REGULATIONS  
FOR VESSELS USING CITY PIERS, DOCKS AND OFFSHORE MOORINGS**

**INTRODUCTION**

The City of Morro Bay directly operates 2 piers, approximately 50 slips and 70 individual moorings. The City also provides a floating dock and anchorage area for transient vessels. City-managed individual mooring sites are in the A2, A1-1 and A1-2 mooring areas as shown in the attached map. The City leases out the A1-3 and A1-4 mooring areas to the Morro Bay Yacht Club and Morro Bay Marina respectively which manage individual mooring assignments in those areas. Most Embarcadero slips and the State Park Marina slips are privately operated with rules and regulations set by the operator. Following are rules and regulations for City managed facilities and general operation of the Harbor within City limits. The Harbor Department shall mean the Harbor Director, or any designated employee of the City of Morro Bay Harbor Department.

**1. MORRO BAY HARBOR DEPARTMENT - GENERAL REGULATIONS**

No person shall anchor, moor or secure a vessel or any object within the City of Morro Bay except in designated areas and locations set by the Morro Bay Harbor Department and the Morro Bay Municipal Code. Any vessel or object moored, anchored or secured in violation of this section may be declared a hazard pursuant to California Harbor and Navigations Code Section 523 and shall be relocated to a safe anchorage or berthing location by the Harbor Patrol. The owner will be charged for all costs associated with such relocation and may be subject to impoundment at the fee shown in the Master Fee Schedule. No vessel may exceed 5 MPH speed limit within the Morro Bay City limits with the exception of governmental agencies in the performance of duties. Discharge of sewage is strictly prohibited. No person may liveaboard a non-transient vessel in excess of 4 days without first obtaining a permit as provided for in Morro Bay Municipal Code, Section 15.24.

To use or occupy City docks, City moorings, City Piers, the A1-5 anchorage area or City floating dock a vessel must be registered with the Harbor Department including submission of a signed RENTAL AGREEMENT or transient berthing agreement card.

**2. CITY SLIPS**

**A: General**

City slips shall be assigned to commercial fishing vessels as defined in Morro Bay Municipal Code 15.04.150 and Resolution 23-91 of the City of Morro Bay. Rental agreements for use of City slips are not transferable. If a vessel is sold or ceases to qualify for a slip, the agreement is terminated. No city slip agreement holder may allow the use of any city slip by another vessel without the prior permission of the Harbor office. The City may rent any unoccupied slip on a temporary basis.

Berthing space behind head floats on City slips will be designated as "head float berth" in the City's Master Fee Schedule and may be assigned to qualified commercial fishing vessels which will be charged at the monthly commercial slip rate. Vessels other than skiffs or qualified commercial fishing vessels desiring to use the "head float berth" will be charged as set forth in the City Master Fee Schedule. This "head float berth rate" may be adjusted annually by the City Council. Head Float Berth spaces will be assigned on a first come, first serve basis with prior approval of the Harbor Department.

### **B: Waiting List Procedures And Assignment Of Vacant Slips**

The City has established a Commercial Slip Waiting List with a refundable fee as set forth in the City Master Fee Schedule and a Recreational Slip Waiting List with a refundable fee as set forth in the City Master Fee Schedule. When a slip vacancy occurs, the slip will be assigned to the next eligible vessel on the commercial slip waiting list. It is the responsibility of all waiting listees to keep the Harbor Office informed of current address and contact numbers. If no response is received after two attempts to contact waiting listee at the address and/or phone number on record with the Harbor Office, then the waiting listee will be passed over until such time as they recontact the Harbor Department.

A vessel and the vessel's owner must meet the definition for commercial fishing vessels to be placed on the commercial slip waiting list and must qualify for the year in which they are offered a permanent slip. A vessel owner may substitute a different vessel and maintain the same position on the list up to one time in any three-year period. Anyone on the commercial slip waiting list for more than 5 years will have to re-qualify as a commercial vessel to remain on the list. Failure to re-qualify the vessel will result in removal from the list and a refund of the deposit.

The recreational slip waiting list would be used in the event the City develops new slips for recreational boaters.

### **C: Temporary Cancellation Of City Slips And Slip Subleasing**

Any City slip agreement holder may, by giving City notice at the Harbor Office of a pending absence and vacation of the slip in excess of 30 days, have their slip fees reduced to 25% of the regular monthly fees listed in the Master Fee Schedule. If the slip holder returns to the slip in a period less than the 30 days and another vessel is occupying the slip under a sublease, the slip holder will have to dock at the T-Piers as space is available. Vessels on the Commercial Slip Waiting List will have priority for subleases. The City will maintain a slip sublease waiting list and will make the vacated slip available to the next available qualified vessel on the slip sublease waiting list if there is no vessel on the Commercial Slip Waiting List which desires a sublease. If a vessel or person on the sublease waiting list declines a slip sublease assignment or if the City is unable to contact the person after two attempts; then that person's name shall be removed from the waiting list. The City may assign any vessel to a vacated slip on a daily basis at the daily transient fee but no subleases will be allowed for a period less than one month. No vessel will be allowed to use any vacated slip either on a transient daily fee or monthly sublease basis without paying in advance. As long as there are vessels on the sublease waiting list, there will be a 3-month maximum for any one vessel to remain in a sublease slip. If there are no suitable vessels on the sublease waiting list or commercial waiting list, a vessel may remain in a sublease slip in excess of 3 months. If a vessel on temporary cancellation does not occupy the assigned slip for a period of at least 3 months in any 24-month period then the City may terminate the berthing agreement and assign the slip to the next qualified vessel on the commercial slip waiting list.

## **3. OFFSHORE MOORINGS**

### **A: Moorings - General**

Moorings are allowed only in designated locations within the outlined mooring zones or as approved by the Harbor Director and allowed by the Morro Bay Municipal Code.

## MORRO BAY MUNICIPAL CODE

### 15.04.150 - Vessels of a commercial nature.

"Vessels of a commercial nature" means vessels for which the state of California, Department of Fish and Game has issued a current commercial fishing license, and whose owner or operator holds a current commercial fishing license, and which, within the current calendar year, has been actively used for commercial fishing activities. Such use shall be evidenced by proof that the vessel has grossed a minimum of one thousand dollars for each net ton capacity of the vessel, with a minimum of five thousand dollars or that the vessel has fished at least ninety days in the calendar year. Gross earnings or fish sales shall be evidenced by state of California, Department of Fish and Game commercial fish receipts or by the official commercial fish receipts of other west coast states. Proof of ninety days fishing shall be established as provided for in Resolution 90-85 or as may be amended by the city council, except that use of float plans for qualification purposes is eliminated.

### 15.32.010 - Policy.

It is the policy of the city to rent or lease all city facilities at docks, wharves or piers primarily to those vessels of a commercial nature, i.e., commercial fishing boats, commercial abalone boats, etc. Rules and regulations governing the use of city-owned docks, wharves and piers shall be established by resolution of the city council.

### 15.32.020 - Dockage waiting list.

An official dockage waiting list shall be established and maintained at the city harbor office consistent with the following rules:

- A. Any vessel of a commercial nature as defined in Section 15.04.150 shall be placed on the dockage waiting list by submitting an application for dock space accompanied by a refundable deposit in accordance with the Master Fee Schedule. This deposit shall apply toward a portion of the first six months' rent for the dock space.
- B. No vessel shall occupy a slip when said vessel's length is more than twenty percent less than the length of the slip unless no other vessels meeting the requirements of this paragraph remain on the waiting list. The harbor director shall have the authority to reassign slip locations to maximize boat-to-slip-length ratio.
- C. This section shall apply to all lessees and sublessees of Tidelands Grant Water Lease Sites.



AGENDA NO: C-1

MEETING DATE: October 3, 2013

## Staff Report

**TO:** Harbor Advisory Board **DATE:** September 25, 2013

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Harbor Department Rules and Regulations: Change of Slip Regulations to Allow Qualified Commercial Fishermen to Keep Up to Two Different Vessels in Their Slip

### RECOMMENDATION

That the Harbor Advisory Board (HAB) review the proposed language change and make a recommendation of approval to the City Council.

### FISCAL IMPACT

Minimal negative fiscal impact expected if proposed changes are adopted due to loss of some transient slip fees from the few fishermen that will take advantage of the allowance.

### BACKGROUND

At the December 2012 Harbor Advisory Board meeting, several commercial fishermen in City slips requested that the HAB consider their proposal in a future agenda item to change the Harbor Department Rules and Regulations to allow qualified fishermen with more than one fishing vessel to be allowed to keep any of their vessels in their slip. Currently, if such a fisherman were to put his second or other vessel in a City slip, even his own slip, it would be subject to the City's slip subleasing policy and higher transient slip rates. The HAB agreed to considering it at a future meeting.

At the February 7, 2013 Harbor Advisory Board meeting, staff presented the item, a copy of that staff report is included with this staff report. At the February 7, 2013 meeting the HAB voted unanimously to approve recommendation of a rules change for the allowance of fishermen with multiple vessels to keep up to two different vessels in their slip, provided both vessels met the commercial fishing vessel qualification criteria.

**DISCUSSION**

In order to effect a Rules and Regulations change that would accommodate commercial fishermen owning two vessels to keep either vessel in their slip at the fisherman's discretion, staff is recommending that the following language be added to Section 2 Paragraph A of the Harbor Department Rules and Regulations:

*A commercial fisherman with a qualified commercial fishing vessel, as defined, occupying a City slip may, at the fisherman's discretion, occupy said slip with a second qualified commercial fishing vessel owned by the fisherman in place of the first vessel provided that said second vessel is of an appropriate size for said slip, and that both vessels remain qualified commercial fishing vessels as defined. This allowance will in no way be used by said fisherman for the purposes of transfer of the slip to a second owner or owners of either vessel in order to bypass the commercial slip waiting list by the second owner or owners.*

Page one of the Rules and Regulations is attached for reference. Should the HAB approve of the preceding language, or a modification of it, staff will bring it forward to the City Council for consideration.

**CONCLUSION**

Staff is recommending that the HAB approve for City Council consideration a change to the Harbor Department Rules and Regulations that would allow for commercial fishermen with more than one qualified vessel to keep either vessel in their slip without having to sublease or pay transient fees for their second vessel.

Prepared By: EE

Dept. Review: EE



AGENDA NO: D-2

MEETING DATE: December 10, 2013

# Staff Report

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

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** **Proposed Amendment to the Harbor Advisory Board By-Laws Allowing the Designated Morro Bay Commercial Fisherman's Organization Seat to Have Additional Alternate Members Appointed in Order to Ensure the Organization's Attendance and Participation**

## **RECOMMENDATION**

Accept the Harbor Advisory Board (HAB) recommendation by adopting Resolution 61-13 to provide a HAB By-Laws amendment that would allow the Morro Bay Commercial Fisherman's Organization's (MBCFO) designated HAB seat to have a Primary and two Alternate members.

## **ALTERNATIVES**

1. Adopt Resolution 61-13 that incorporates the proposed amendment to the HAB By-Laws (staff recommendation).
2. Adopt modifications to Resolution 61-13 and the proposed amendment to the HAB By-Laws.
3. Do not approve Resolution 61-13 and proposed amendment to the HAB By-Laws.

## **FISCAL IMPACT**

There will be no fiscal impact.

## **SUMMARY**

The MBCFO-designated HAB seat is currently vacant and the City has historically experienced difficulty in keeping this seat filled. The MBCFO is supportive of allowing alternates to the primary MBCFO HAB seat, as is the HAB by unanimous vote. Staff is recommending an amendment to the HAB By-Laws that would allow for alternate MBCFO members to represent them.

## **BACKGROUND**

The Harbor Advisory Board By-Laws stipulate that the City Council will attempt to select HAB members from specific representative categories, one of which is the MBCFO. Currently the MBCFO-designated seat is empty. This seat is historically difficult to fill given the nature of the commercial fishing industry and the inability of many fishermen to be able to meet the attendance

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

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

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

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

criteria as set forth in the By-Laws. There has been consensus from City Council and HAB that the MBCFO seat is a vital one and that it would be desirable to look into the possibility of filling that seat with a primary Advisory Board member along with the possibility of selecting an alternate(s).

The current MBCFO President, Tom Hafer, and other fishermen were queried and they fully supported the concept. In addition, the HAB heard this item at their October 3, 2013 meeting and made the following motion that is recorded in the meeting minutes:

*Mr. McClish moved that the Harbor Advisory Board recommend to City Council to approve changes to the Harbor Advisory Board By-Laws that would allow for two alternates to the Morro Bay Commercial Fisherman's Organization (MBCFO) designated seat in order to facilitate full and complete participation of the MBCFO in Harbor Advisory Board proceedings. The Motion was seconded by Ms. Meissen and carried unanimously.*

The staff report from that meeting is included with this staff report.

### **DISCUSSION**

In order to facilitate MBCFO's participation in HAB business and proceedings, the HAB and staff are recommending that the HAB By-Laws be amended to accommodate up to two (2) alternates to the primary MBCFO seat. A copy of the pertinent pages of the current HAB By-Laws in track-changes mode is included with this staff report. Approval of both the primary and alternate members would be done via the normal annual application and City Council interview/approval process.

Should this By-Laws amendment be approved it is expected that MBCFO representative applications for approval by Council will be presented to the City over the course of the next month in time for consideration in January, 2014. Likely applicants from the MBCFO have attended recent HAB meetings as audience members over the past several months in order to remain "in the loop" with regard to current HAB proceedings.

### **CONCLUSION**

Staff is recommending approval of Resolution 61-13 that would allow for up to two (2) alternate members to a Primary MBCFO member on the HAB by way of a HAB By-Laws amendment.

**RESOLUTION NO. 61-13**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING THE CITY OF MORRO BAY ADVISORY BOARDS  
HANDBOOK AND BY-LAWS TO ALLOW  
HARBOR ADVISORY BOARD-DESIGNATED  
MORRO BAY COMMERCIAL FISHERMAN'S ORGANIZATION  
SEAT TO HAVE PRIMARY AND ALTERNATE MEMBERS**

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

**WHEREAS**, the Advisory Boards Handbook and By-Laws for the City of Morro Bay is a composite of the City Council actions, policies, references, and information regarding the City Advisory Boards; and

**WHEREAS**, the current By-Laws for the Harbor Advisory Board has one seat designated to be filled by a representative of the Morro Bay Commercial Fisherman's Organization; and

**WHEREAS**, the Morro Bay Commercial Fisherman's Organization participation in and input to the Harbor Advisory Board is considered vital; and

**WHEREAS**, due to the nature of their business, commercial fisherman have historically had difficulty in meeting the attendance requirements of the City's Advisory Board policy; and

**WHEREAS**, the City Council desires to amend the Advisory Boards Handbook and By-Laws for the City of Morro Bay Harbor Advisory Board as set forth in Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Morro Bay does hereby amend the By-Laws of the Harbor Advisory Board to reflect those that are set forth in Exhibit A and dated December 10, 2013 Advisory Boards Handbook.

**PASSED AND ADOPTED** by the City Council, City of Morro Bay at a regular meeting thereof held on the 10th day of December, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Jamie L. Irons, Mayor

ATTEST:

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Jamie Boucher, City Clerk

EXHIBIT A

CITY OF MORRO BAY

ADVISORY BOARDS

HANDBOOK

AND

BY-LAWS

Date: ~~February 1~~December 10, 2013

Approved by Resolution ~~1361~~1361-13

# **CITY OF MORRO BAY HARBOR ADVISORY BOARD BY-LAWS**

## **PURPOSE AND AUTHORITY**

The Harbor Advisory Board is established to review, advise and recommend to the City Council on items pertaining to the City Harbor. These include, but are not limited to:

- A. Use, control, promotion and operation of vessels and watercraft within the harbor, docks, piers, slips, utilities and publicly-owned facilities as a part of the City's Harbor, and water commerce, navigation, or fishery in the Harbor.
- B. Review and recommend rules and regulations pertaining to any of the matters listed in subsection A of this section.
- C. Review and recommend rates, tolls, fees, rents, charges or other payments to be made for use or operation of the Harbor.
- D. The Board shall make reports and recommendations to the various city boards, commissions or the City Council on matters relating to activities within the harbor. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

## **APPOINTMENT**

The Harbor Advisory Board shall be comprised of seven (7) voting members, four of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Committee members shall serve at the pleasure of the City Council. The City Council will attempt to select members from the following categories:

- Morro Bay Commercial Fishermen's Association
- Waterfront Leaseholders
- Marine Oriented Business
- Recreational Boating
- Representative of South Bay/Los Osos
- Two Members at Large

However, the City Council and Harbor Advisory Board recognize the importance of the Morro Bay Commercial Fisherman's Organization (MBCFO) seat, and acknowledge that it is often difficult for commercial fishermen serving on the HAB to meet the attendance requirements due to the nature of their business. As such, up to two (2) Alternate MBCFO members to the Primary member may be appointed by the City Council in the same manner and fashion as regular appointments in order to stand-in for the Primary member in the event of the Primary member's absence.

## **TERMS OF OFFICE**

Members shall serve, without compensation, for a period of four (4) years commencing February 1<sup>st</sup>. in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

## **QUALIFICATIONS**

Four of the seven members must be a resident and registered voter of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

## **ABSENCE FROM MEETINGS**

Absence of a Board Member from three (3) consecutive meetings or four (4) meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

## **ORGANIZATION**

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Committee.

## **PROCEDURE**

Regular meetings shall be held monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

All advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Board" or "Commission", the term "Mayor" shall mean "Chairperson and the term "Councilmember" shall mean "Board" or "Commission. In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Committee shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Advisory Group, its members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

## **QUORUM**

A majority of voting members shall constitute a quorum.

## **CITY STAFF**

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Committee business and shall attend the Committee meetings.

## **BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.



AGENDA NO: D-1

MEETING DATE: October 3, 2013

## Staff Report

**TO:** Harbor Advisory Board **DATE:** September 25, 2013

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Proposed Change of Harbor Advisory Board By-Laws to Allow for Designated Morro Bay Commercial Fisherman's Association Seat to Have an Alternate Member or Members in Order to Ensure Association Attendance and Participation

### RECOMMENDATION

That the Harbor Advisory Board (HAB) review the proposed language change to the HAB By-Laws and make a recommendation of approval to the City Council.

### FISCAL IMPACT

None.

### BACKGROUND

The Harbor Advisory Board By-Laws stipulate that the City Council will attempt to select HAB members from certain representative categories, one of which is the Morro Bay Commercial Fisherman's Organization (MBCFO). However, both HAB and City Council consensus and direction has been that the MBCFO seat is a very important one and that it will be filled by an MBCFO representative. However, this seat is historically difficult to fill given the nature of commercial fishing and the inability of many fishermen to be able to meet the attendance criteria set-out in the By-Laws. Currently the MBCFO seat is vacant, largely due to this fact.

At the September 5, 2013 HAB meeting, current MBCFO President Tom Hafer spoke in public comment that he was willing to serve, but that the attendance requirements would be difficult for him to meet and that the organization would like to be allowed to name an alternate or alternates to the primary MBCFO HAB seat member. The HAB expressed its consensus to such an allowance and asked that it be brought forward as a Future Agenda item.

**DISCUSSION**

In order to accommodate an alternate or alternates for the MBCFO seat, it is recommended that the following language be added to the HAB By-Laws immediately under the list of member categories in the By-Laws as such:

*However, the City Council and Harbor Advisory Board recognize the importance of the Morro Bay Commercial Fisherman's Association (MBCFO) seat, and acknowledge that it is often difficult for commercial fishermen serving on the HAB to meet the attendance requirements due to the nature of their business. As such, up to two (2) Alternate MBCFO members to the Primary member may be appointed by the City Council in the same manner and fashion as regular appointments in order to stand-in for the Primary member in the event of the Primary member's absence.*

A copy of the HAB By-Laws are attached. Should the HAB approve of the preceding language, or a modification of it, staff will bring it forward to the City Council for consideration.

**CONCLUSION**

Staff is recommending that the HAB approve for City Council consideration a change to the HAB By-Laws that would allow for alternates to the MBCFO-designated seat in order to facilitate full and complete participation of the MBCFO in HAB proceedings.

Prepared By: EE

Dept. Review: EE