

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING – APRIL 27, 2009

**CLOSED SESSION – APRIL 27, 2009
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY

TRANSACTIONS: Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Negotiating Parties: City Tidelands Trust Leaseholders and the City of Morro Bay.
Negotiations: Lease Terms and Conditions.

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

**PUBLIC SESSION – APRIL 27, 2009
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

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

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

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

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

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

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE JOINT CITY COUNCIL-PLANNING COMMISSION MEETING ON MARCH 30, 2009, AND THE REGULAR CITY COUNCIL MEETING ON APRIL 13, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 QUARTERLY FINANCIAL REPORT AS OF MARCH 31, 2009; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Accept the Status Report as presented.

A-3 RESOLUTION NO. 17-09 AUTHORIZING PAYING AND REPORTING OF THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS FOR SEIU MISCELLANEOUS EMPLOYEES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 17-09.

A-4 RESOLUTION NO. 18-09 AUTHORIZING PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS FOR THE MORRO BAY FIRE FIGHTERS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 18-09.

A-5 CONSIDERATION FOR APPROVAL TO RELEASE A REQUEST FOR PROPOSALS TO LEASE LEASE SITE 96/96W AT 945 EMBARCADERO – WHALE’S TAIL RESTAURANT; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Authorize staff to prepare and release a Request for Proposals to lease the Tidelands Property known as Lease Site 96/96W located at 945 Embarcadero.

A-6 RESOLUTION TO AUTHORIZE GRANT APPLICATION (PRINCIPLE FORGIVENESS LOAN) TO THE STATE WATER RESOURCES QUALITY CONTROL BOARD CLEAN WATER STATE REVOLVING FUND FOR PHASE I CONSTRUCTION OF A LOW IMPACT DEVELOPMENT BOAT REPAIR YARD; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 19-09.

A-7 ADOPTION OF ORDINANCE NO. 546 ESTABLISHING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID), FIXING THE BOUNDARIES THEREOF, AND PROVIDING FOR THE LEVY OF A BUSINESS ASSESSMENT TO BE PAID BY THE HOTEL BUSINESSES IN SUCH DISTRICT; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance No. 546.

A-8 ADOPTION OF ORDINANCE NO. 547 PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance No. 547.

A-9 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

RECOMMENDATION: Review and accept the information.

A-10 FUNDRAISER FOLLIES ALLOCATIONS FOR 2009/10

RECOMMENDATION: Approve allocation schedule and direct staff to notify event organizers regarding funds available for 2009/10 events.

A-11 PROCLAMATION DECLARING MAY 2009 AS "BIKE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 548 REPEALING, AMENDING, AND REENACTING TITLE 10 (VEHICLES AND TRAFFIC) OF THE MORRO BAY MUNICIPAL CODE; (CITY ATTORNEY)

RECOMMENDATION: Approve first reading and introduction of Ordinance No. 548.

B-2 REPORT ON HARBOR FEES INCLUDING MOORING FEES AND BOAT LAUNCH PARKING FEES AT TIDELANDS PARK; (HARBOR)

RECOMMENDATION: Review Harbor fees in comparison to other harbors, and provide direction for preparing the annual Harbor Department Master Fee Schedule adjustments in June 2009.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 REVIEW AND DISCUSSION ON BUDGET PROCESS AND TERMS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Discuss and direct staff accordingly.

D-2 RESOLUTION NO. 20-09 ADOPTING THE BY-LAWS FOR THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID) ADVISORY BOARD; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 20-09.

D-3 CONSIDERATION OF THE AD-HOC FIRE SERVICE COMMITTEE APPOINTMENTS AND GUIDELINES; AND, THE DEVELOPMENT OF AN AMADOR AGREEMENT FOR FORMAL CONSIDERATION BY CAL FIRE; (FIRE)

RECOMMENDATION: Discuss and direct staff accordingly.

D-4 RECOMMENDATION TO PARTICIPATE IN A FEASIBILITY STUDY FOR JOINT DISPATCH SERVICES; (ADMINISTRATION)

RECOMMENDATION: Agree to participate in the Joint Dispatch Services Study to look at the concept of regionalization of dispatch services.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

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

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

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

CITY OF MORRO BAY
JOINT CITY COUNCIL - PLANNING COMMISSION
SYNOPSIS MINUTES

(Complete audio- and videotapes of this meeting are available from the City upon request)

Veteran's Memorial Building
Regular Meeting, 6:00 p.m.

209 Surf Street, Morro Bay
Monday, March 30, 2009

Janice Peters, Mayor
Betty Winholtz, Vice-Mayor
Carla Borchard, Council Member
Rick Grantham, Council Member
Noah Smukler, Council Member

Nancy Johnson, Chair
Bill Woodson, Vice-Chair
John Diodati, Commissioner
Michael Lucas, Commissioner
Gerald Luhr, Commissioner

Bruce Ambo, Secretary

I. CALL MEETING TO ORDER

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

II. PLEDGE OF ALLEGIANCE

John Diodati led the Pledge of Allegiance.

III. ROLL CALL

Mayor Peters asked that the record show all City Council members were present.

Chair Johnson asked that the record show all Planning Commissioners were present.

Staff: Andrea Lueker, Kathleen Wold, Aileen Nygaard, Bruce Ambo, Christine Rogers.

IV. DUTIES AND RESPONSIBILITIES

Pursuant to the Municipal Code Section 2.28.120 D., the Planning Commission shall meet with City Council twice each year to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter required joint deliberation.

V. PUBLIC COMMENT PERIOD ó Members of the audience wishing to address the Council on City business matters may do so at this time.

David Weisman spoke in favor of the "Alliance for Nuclear Responsibility", thanked the City Council for their support. Billed passed last week with no opposition.

John Barta spoke in opposition to Floor-to-Area Ratio (FAR). Stated it is essentially a defacto down zoning which changes the value of a property. Existing homeowners experience an immediate detriment. Benefit affects only some future homes, perhaps 10 per year.

Dorothy Cutter spoke in favor of FAR. Citizens ordinance is quite comprehensive. Urges public hearings to begin now rather than deferring to a later date.

Jane Heath spoke in favor of FAR. Urged the Planning Commission and City Council to direct staff to proceed with work on the FAR ordinance. Stated current zoning focuses only on setback and footprint and therefore inadvertently encourages those who wish to maximize square feet to build boxes.

Bill Black spoke in opposition to FAR. Acknowledged his house is "square" house. Stated he is nearing a three-year term on roof solar panels installed on his home, which provide power rather than simply consuming it. Heating system has not been utilized all year. The house was built to superior standards than those required by the City, with no variances, built to code and experiences positive fiscal impacts. Feels lot coverage safeguards are already in place.

VI. JOINT MEETING DISCUSSION ITEMS

1) Need for lobbying efforts with Coastal Commission on the General Plan.

Mayor Peters made a brief summary of history. We're sending letters on a monthly basis and told that may be irritating staff and could have a negative effect.

The following discussion occurred:

- a) Coastal Commission will be holding its meeting in San Luis Obispo in July providing an opportunity to express our concerns and engage Mr. Douglas and others.
- b) Delay may be hurting the City as new LCP and Zoning Code would resolve a number of issues.
- c) Suggestion that we initiated discuss with Katcho Achadjian first. Approaching staff has not been effective. He is our representative and may have suggestion. Email each Commissioner re: issues and length of review period. Felt we should go beyond staff.
- d) State budget may be an issue; delay may not be by choice.
- e) Would the two bodies like to identify a member or two to take the lead on the issue?
- f) Coastal Commission application status was reviewed. Application has been deemed complete. CCC wished to see Stormwater Master Plan and Municipal Code. The City felt these were not pertinent to the update however provided them with the record of all decisions. CCC has committed to providing the document for review.

MOTION: Mayor Peters moved the City Council and Planning Commission direct staff to send a letter to the California Coastal Commission staff reiterating the City's position that the application is complete, and encourage them to complete their review; a copy of this letter to be sent to Katcho Achadjian; and, that City representatives attend the local California Coastal Commission meeting. The motion was seconded by Councilmember Grantham and carried unanimously. (10-0)

2) Newspaper Racks

Mayor Peters reviewed recommendation for purchase of a consolidation bin to be funded by Harbor Fund or to copy Carmel or other court upheld ordinance about racks.

The following discussion occurred:

- a) Harbor Commission had previously directed Rick Algert to complete the evaluation, and the City Council had directed City Attorney to create an ordinance to accomplish that. Has not yet been completed.
- b) Paso Robles had an ordinance, was sued and lost the case. Need to find an ordinance that has been upheld, as this is new legal ground.
- c) Suggestion that Carmel's ordinance be reviewed.
- d) Morro Bay beautiful is on the cusp of ordering a consolidation bin if directed to do so. Estimated cost believed to be approximately \$3,000 per bin.
- e) Ordinance should be Citywide. Bins are overly expensive.

MOTION: Mayor Peters moved the City Council and Planning Commission direct staff to investigate the purchase of a consolidation bin; and, research Carmel's ordinance for suitability. The motion was seconded by Councilmember Grantham and carried unanimously. (10-0)

3) Downtown Visioning

Mayor Peters gave an overview of consensus to proceed, it is part of the redevelopment process, should community meeting begin, etc.?

The following discussion occurred:

- a) Inquiry as to timeline of the RDA process and confirmation that it included the Power Plant.
- b) Confirmations that rough draft of Feasibility Study anticipated in May. The purpose is to determine whether economic and physical blight actually exist per State definitions. Based upon the findings the Council will review whether to proceed. If the City proceeds with formation, development of the plan would include visioning. Feels approximately 70% of the community is inclusive, though area may be reduced based on findings. Business District is included.
- c) Without design guidelines, downtown will not prosper. Desire to see improved linkages between the Downtown and the Embarcadero areas expressed.

- d) Critical importance to have multiple thriving commercial areas. Concerned with efficient use of time. Immediately apparent the City is not as walk able as we would like it to be. Should be coherent rather than piece meal. Balance of efficiency and speed on the issue.
- e) With Business Improvement District and Hotel Owners Association publicizing Morro Bay it is important this be addressed. Bulb-outs improve pedestrian access, do not affect parking, look good and make our City safer.
- f) Redevelopment of downtown must occur while we still have these businesses here. North Morro Bay shopping malls are in serious shape. Recent new developments all look good. Need to get started so that when redevelopment funds become available we are ready to move on it.
- g) Thriving businesses are critical and walk ability is important. Downtown and Embarcadero in some spots looks dark, boring and dead. Carmel example reviewed related to path of light to the Embarcadero.
- h) Often the issue is not the existing business owners but absentee landowners. There is a significant amount of work to be done. May want to get started now rather than waiting for the RDA.
- i) Question asked whether any effort has been made to coalesce the previous visioning results. If we start the process can we do it in a way that will be coherent with the RDA planning rather than duplicating our efforts? Are there specific activities that could begin now?
- j) Discussed the structured format and framework of the RDA planning process and how it will benefit the end result and efficiencies. When we get the General Plan returns from the CCC and are approved, it will be productive to start with a visioning process because it has been so long. That would also be an excellent time to start the Downtown Visioning process.
- k) If specific components can be broken out and progress made, it was suggested that occur.
- l) Along with General Plan, Zoning Code must also be addressed related to parking and fees. The issue comes back down to a partnership of City, Landowners and Business Owners. There are many components that must be pulled together.
- m) Confirmed Redevelopment Area Survey will be opened up to public hearings June or July. If a decision is made to move forward, the formation process and visioning could occur within the year.
- n) Suggestion made that all the previous visioning efforts are reviewed to create a foundation for future discussions.
- o) Revenue source would also be tied to the process as part of the RDA process. Those resources could be utilized to conduct the visioning process.
- p) Suggested a Planning Commission subcommittee be formed to create a baseline of existing visioning studies.
- q) Discussion of potential immediate products occurred, determined this discussion would be more suited after redevelopment funds are in hand.

Agreed by consensus to direct Planning Commission to convene a subcommittee to prepare an outline/compilation of available visioning documents and prepare a presentation to Council.

5) Lot Splitting

Mayor Peters was unable to ascertain how this issue was raised.

The following discussion occurred:

- a) Tract 41 now has many safeguards incorporated to address lot splitting. Inquiry as to whether other projects also have those safeguards?
- b) Review process is important. Need to look at lots in town that can accommodate low-income housing. Each case needs to be looked at individually.
- c) Need to be careful not to confuse lot splitting with density. Need to address single-family homes in multi-family areas. Need to honor existing zoning and not downzone other areas.
- d) Linker process handled appropriately. Change may not be necessary. Taking a universal brush is inappropriate. The process worked. There was an opportunity for discretion and it was exercised. Compatibility issues must be addressed. Though there are places where it is appropriate, R-1 protection is critical.
- e) R1 zone may not be an issue, as the new ordinance does not allow many lot splits. Cannot confuse lot splits with maximum density usage. That is where we can get affordable housing units in. Ordinances are in place, discretion may be exercised, and court actions allow for a safeguard.
- f) Blanket coverage may take away opportunities for affordable housing.

Agreed by consensus that no change is necessary and lot splits request will continue to be evaluated on a case-by-case basis.

- 7) Environmental incentives to promote green building in the application and approval process.

The following discussion occurred:

- a) Recent Solu project walked away with one good faith condition. Would like to see the momentum carried forward from that project. City of Monterey has a great ordinance with expedited permitting project, 25% time reduction, next day inspections, FAR exemptions, and setback flexibility, etc. Projects can be incentivize with minimal cost.

- b) City of Davis also has a fine subdivision plan that promotes green building. Initial layout of subdivision and sites is important. Need to start at the subdivision level and incorporate siting concepts into our codes. Anything we can do to cut the timeline, give density bonuses, certify green construction and design processes.
- c) Budgeting to pay for those incentives has not been identified. Potential for fees increases to poor projects and provide incentives for those who do good projects. Would like to see projects like the Soluø rewarded.
- d) Inquired as what extent green building can be addressed within the Housing Element. Confirmation given the sustainability and energy conservation will be a part of that process.
- e) Noted monetary incentives are nice, but there are non-monetary things we can do. The Solu project took a very long time to go through the process. Feels planning review should be expedited, including remodels.
- f) Need to look at developing time and inspection fees if applicable and identify what makes a project green, LEED Certification, renewable energy, etc. Support green building but do not mandate it.
- g) Include remodel of single-family homes.
- h) Incentives proposal will be presented to the City Council April 13th. A memo was circulated with information regarding the various certification processes.
- i) There is a need to continue with education and outreach. City projects provide a great example.
- j) Important that we follow the code. Ask what is required and not beyond that.
- k) Staff has been working on a "Strategic Plan for Managing the Greening Process" and will return within a month to review.
- l) AB 811 was reviewed. Community may establish a special district, which allows Homeowners to utilize a special assessment to weatherize and install renewable energy systems. Would like to see this included in the discussions.
- m) Incentives should include business that incorporates sustainability principles and policies.

Agreed by consensus to direct staff to return in approximately one month with a presentation pertaining to a comprehensive greening strategy. Fee incentive discussions to occur at the April 13th City Council meeting.

8) Extent of Architectural Review by Planning Commission

Mayor Peters stated the Planning Commission should be enforcing code and ordinances. There have been many comments from the public regarding imposing specific design requirements.

The following discussion occurred:

- a) Receiving subjective comments that the comments go beyond the rules. Commission should not be making new policies and nor retroactive ones. Architectural projections would be appropriate for comments, but subjective architectural review is not appropriate.
- b) Avoiding subjectivity is beneficial as well as not dictating style and taste to planners and developers.
- c) If Commissioners are seeing an issue that needs to be addressed consistently, it should be brought to the Council's attention.
- d) Ensure comments regarding architecture are advisory and not directives.
- e) Suggestion that Staff provide additional direction re: discussions, which exceed the purview.
- f) Problems are sometimes identified and inquiries made regarding the consideration given to functioning aspects of the projects that could make them better projects i.e., noise elements, views from adjacent properties, etc.
- g) There are situations where it is necessary to review architectural requirements in specific overlay zones.
- h) Conditioning certain materials or schemes may impact the financial feasibility and/or burden the builder with additional costs.

Agreed by consensus that the Planning Commission is not an architectural review board, and while suggestions may be made, architectural review is limited to policy, code and ordinance compliance.

9) Floor Area Ratio (FAR)

Mayor Peters asked Mr. Ambo if staff could put a paragraph in each project staff report analyzing the FAR impacts were the code in place. The zoning code pending approval does address most of these issues.

The following discussion occurred:

- a) Some of the comments regarding it being a taking of property value are unfounded. Cities implementing FAR are good cities. Does not see the property value impacts reflected in the empirical data.
- b) FAR may not be the proper tool. When a house is deemed legal non-conforming it may be devalued in the market place. Nonconforming structures may not be able to get insurance or mortgage financing. There is a mechanism in place for review of larger homes with appeal to City Council.
- c) FAR may not protect the community the way the community advocates think that it will. Still allows projects to maximize the house based upon the way it appears from the front. Would recommend the form-based approach. The identified envelope was not intended to be the actual footprint, but a maximum.

- d) FAR will not resolve the problem of bulk, size or scale compatibility. If we ask staff to provide FAR information, it must be accompanied with conditions on how FAR would be implemented. The average size of new homes has doubled over the last 30 years.
- e) FAR may work to some degree, but in some cases does not work at all, specifically remodels. Some question whether the vocal group is the majority of Morro Bay. Need to look at our current review process and the safeguards already in place.
- f) Concerns regarding how will FAR affect our property taxes and City revenue. The smaller homes have lower property taxes. Over a period of time, there could be large impact. FAR may be too restrictive and is not family friendly in regard to remodels. Elderly persons needing to bring in a caregiver can have difficulties. What happens to non-confirming units? Are they to be grandfathered in?
- g) How we can add a paragraph to a staff report regarding how FAR will be impacted when we do not have a FAR standard? Clarification followed that the number proposed was that recommended by the ad hoc citizens group.
- h) Legal non-conforming houses have that designation for different reasons. General application to legal non-conforming units is not appropriate. The 2500 square foot limit was a stopgap measure. Need to move on to the real ordinance.
- i) There are two very vocal groups; this is an issue that needs to be addressed. The current rate of development gives us the time and opportunity to adopt an ordinance and evaluate impacts. Poor projects also affect property values. Incentives and grandfathering in are avenues to allow for such projects to overcome those obstacles. We should take what has been developed by the citizens as a good baseline, with recommendations from staff and the Planning Commission, and provide direction to make the appropriate adjustments and move forward.
- j) FAR may be too restrictive. May work in a beach tract, but in other areas of town properties may not hold their value. Guidelines we have may need changes. Planning Commission has done well.
- k) There is a particular property in the City that fits the allowed footprint but has a huge high ceiling, which makes it a massive structure from the street. FAR does not address that. It will not solve the problem of out of scale buildings in neighborhoods. Updated General Plan and Zoning Code will address many of these issues. Proposes a six-month trial period with staff reports addressing FAR. This will allow us to review whether this would be a beneficial change or a detrimental change.
- l) The idea that FAR is too restrictive or does or doesn't work cannot be evaluated until there is a plan in place. FAR must be accompanied with other measures.
- m) Each property already has a FAR. There are lot size, setbacks and height limitations. We do not have problems with second stories. We have the discretion to look at properties over 2,500 feet however we have no teeth. A smaller house can be a better house. Quality will always sell.

- n) Suggestion that FAR be implemented along with incentives. Additional square feet if they articulate, bonus if they incorporate some green or solar component, or other incentive the City or community deems desirable.
- o) Previous analysis did gauge it to the averages. A prototype was prepared to demonstrate that it does not get at compatibility. That is a labor-intensive piece of the analysis. Reflecting on a number does not address compatibility.
- p) There is a strong voice of people that don't think it's the answer. Coming to the Planning Commission to address non-conformance is very expensive. The closest we get is the Beach Tract. There are restrictions there that have worked for years. Why can't we look at how those restrictions are working and apply those as needed to other parts of town? It needs to be evaluated by neighborhood.
- q) Two issues need to be addressed. The duplication of plans, and homes that are out of scale. Duplication can be addressed by creating an exemption of use. Would like to see staff put some of these myths to bed. Many of these issues could be addressed by a minor staff analysis based upon case studies of cities that have implemented FAR successfully. Those cities that have implemented FAR are vibrant communities. Housing and the health of our economy are tied.

Mayor Peters brought the issue back to the City Council, reiterating proposal that staff add a paragraph to each project to address the impacts if FAR were implemented.

The following discussion occurred:

- a) FAR does not address compatibility. The FAR area analysis has already been completed. It will provide only a number, no basis for comparison or relationship with existing home sizes. Previous analysis looked at three different neighborhoods, which was very labor intensive to complete.
- b) The question was asked whether neighborhood analysis could also be included in the staff report. It was clarified only three neighborhoods were analyzed and that it was a very labor-intensive endeavor.
- c) Need to address the difference between compatibility and FAR. The current proposal will provide data.
- d) Suggestion that we review the work that has been completed, make the appropriate adjustments and come back with a proposal. Let's start looking at the questions and concerns and move forward with something that is effective in addressing them.
- e) Per the last direction received from Council, the areas of concern were analyzed (best recollection included the Island streets, Tree streets, Center of the town, and perhaps the Hillcrest neighborhood). Recommendations were developed. The cost of doing developing one option for code inclusion was \$25,000.

MOTION: Mayor Peters moved the City Council direct staff for all future projects for Planning Commission review, each staff report for the next 6 months to include a paragraph to address what FAR would be. The motion was seconded by Councilmember Winholtz and carried with Councilmember Borchard voting no. (4-1)

VII. ADJOURN JOINT CITY COUNCIL/PLANNING COMMISSION MEETING

The meeting was adjourned at 8:00 pm.

VIII. ESTABLISH QUORUM AND CALL TO ORDER SPECIAL CITY COUNCIL MEETING

IX. PUBLIC HEARING

Claire Grantham encouraged approval of grant application for additional police officer.

Brian Mallard, Peace Officer encouraged approval of application for new officer. Backup call time from Los Osos is 5 minutes. Recent armed robbery at Heritage Oaks Bank was also a single officer incident.

Resident encouraged acceptance of grant application.

X. NEW BUSINESS

1. Authorization to apply for the Cops Hiring Recovery Program (CHRP) Grant.

Police Chief John DeRohan presented the staff report. Grant will begin to reach the goal of returning to Pre-2005 staffing levels. Past years have not provided grant opportunities. There is a good opportunity that we may lose one of our officers to military service in Afghanistan and will not be able to fill the position.

The following discussion and clarification occurred:

- a) It would not be possible to hire a temporary officer unless an additional position was funded. By law, we must hold the position during military leave.
- b) There is a possibility that someone may retire during the three-year period. We would still be required to retain the position due to grant supplanting requirements.
- c) The approximate cost is for the entire three-year term, with one pay raise and one merit increase.
- d) There is no obligation to hire unless the grant is awarded.

- e) This person would be used for patrol. In mutual aid circumstance the City is required to send out one officer, leaving only one officer in the City to patrol. Suggestion made to put aside monies annual at a rate of \$30K per year to prepare for fourth year in advance. Not recommended that COP Grant be utilized for the purposes because of the unpredictability of the grant offering.
- f) Discussion of whether Measure Q funds may be appropriate for this purpose occurred with opposing views.

MOTION: Councilmember Grantham moved the City Council approve the grant application for the Federal CHRP grant, and authorize the appropriate funding as required by the grant requirements; and, set aside a minimum of \$30,000 per year for four years to pay the funds in their entirety in the fourth year. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

2. Consideration of Support for AB 42 (Blakeslee) Pacific Gas and Electric Company Seismic Survey

Councilmember Winholtz provided an overview of Blakeslee Assembly Bill 42, which proposes a study and encouraged the execution of letter of support.

City Manager Andrea Lueker suggested we approve the letter as is but continue to monitor the bills progress and any updates or significant changes.

MOTION: Councilmember Winholtz moved the City Council approve sending a letter of support for Assembly Bill 42. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Joint City Council/Planning Commission Meeting
March 30, 2009

Mayor Peters adjourned the meeting at 8:30 PM.

Janice Peters, Mayor

Nancy Johnson, Chairperson

ATTEST:

Bruce Ambo, Secretary

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION 6 APRIL 13, 2009
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:09 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Susan Slayton	Acting City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.9(a); CONFERENCE WITH LEGAL COUNSEL REGARDING PENDING LITIGATION:

- City of Morro Bay v. Martony

CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS: Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to four (4) parcels.

Property: Whale's Tail - Lease Site 96-96W
Negotiating Parties: Mandella and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

Property: Salt Building - Lease Site- 65-66/65-66W
Negotiating Parties: Abba Imani and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

Property: Harbor Hut - Lease Site 122-123W
Negotiating Parties: Leage and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:42 p.m.

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

The meeting adjourned at 5:42 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó APRIL 13, 2009
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Susan Slayton	Acting City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	Dan Doris	Building Official
	Steve Knuckles	Fire Captain
	Aileen Nygaard	Associate Planner
	Christine Rogers	Housing Programs Coordinator
	Dylan Wade	Utilities/Capital Projects Manager
	Kathleen Wold	Senior Planner

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

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

PUBLIC COMMENT

Nancy Johnson announced óDahlia Daysö would be held in early August and awards would be given to those who grow the most beautiful dahlias in town. She said there was a new theme for this yearø Dahlia Days in honor of öCelebrating our Local Heroö, and her granddaughter presented dahlia plants to the Police and Fire Chiefs and the Harbor Director.

Hank Roth announced the Morro Bay Police Citizen Academy would begin on April 23rd and would continue for the following nine consecutive Thursday evenings at the Morro Bay Police Department.

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Gena Healey expressed concern with an incident on the beach with a State Patrol Officer who was offensive to her due to walking her dog on the beach and charged her with a misdemeanor. She suggested the beaches be more appropriately marked where dogs are not allowed.

Claire Grantham thanked the Police Department for their efforts during the homicide incident. She reminded the City Council that their responsibility is for public safety, and should not consider budget cuts when considering the Police Department's budget.

Keith Taylor, Friend of the Morro Bay Fire Department, stated a banner prepared by Goofy Graphics has been placed on the fence by the Apparatus Bay with a digital picture of Phase II of the Fire Department. He said a yard sale for Friends of the Police and Friends of the Fire Departments collected approximately \$840 in one day.

Deb Jeffers announced the American Cancer Society Relay for Life would be held at the Morro Bay High School on August 1st and encouraged people to participate in order to team up and raise public awareness and raise funds to find a cure for cancer.

Bill Woodson expressed support for Item D-2 (Reduced Fee Incentive for Green Building and Low Impact Development) stating this is a local, national and global issue and a wonderful investment in our future.

Susan Heinemann announced the Annual American University Women's (AAUW) Spring Garden Tour would be held on April 26th; part of the profits each year go towards a scholarship for local 7th grade female students to attend a week long Tech Trek Science Camp.

Emma Widdell, a recipient of the AAUW scholarship, reviewed her background in order to earn a scholarship to attend the Tech Trek Science Camp. She encouraged participants to purchase tickets for the AAUW Spring Garden Tour.

Peter Candela, Executive Director of the Chamber of Commerce, announced upcoming events, and reviewed the monthly Chamber statistics.

Galen Ricard expressed support for Item D-2 stating studies have shown that green building offers the most effective way to carry out policy goals and incentives such as faster permit processing and development plan reviews.

Joan Solu stated she is interested in Item D-2 and has implemented various green building techniques in her proposed project at 1050 Morro Avenue.

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Rachel Algelany expressed appreciation for the City considering Item D-2. She shared the New Home Construction Green Building Guidelines, and also a Sustainable Development publication from the General Services Administration regarding policies that need to be created today.

Dave Gill addressed Item D-1 (Letter From Dave Gill Representing the Sea Scouts Requesting a Fee Waiver for the Vessel St. Joseph), and requested the City Council consider his request for a fee waiver.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF MARCH 23, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 REQUEST FOR APPROVAL OF AMENDMENT #1 TO THE LEASE AGREEMENT FOR LEASE SITE 129W-131W--MORRO BAY FISH COMPANY, INC., 1231 EMBARCADERO; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 13-09.

A-3 REQUEST FOR CONDITIONAL APPROVAL OF ASSIGNMENT OF LEASE AGREEMENT FOR LEASE SITE 122-123/122W-123W AND EXTENSION 122W-123W FROM HARBOR HUT INC., GEORGE LEAGE TO THMT INC., HEATHER AND TROY LEAGE AND CONDITIONAL APPROVAL OF AMENDMENT #1 TO THE LEASE AGREEMENT FOR LEASE SITE 122-123/122W-123W AND EXTENSION 122W-123W--HARBOR HUT, 1205 EMBARCADERO; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 14-09.

A-4 RESOLUTION NO. 12-09 AUTHORIZING THE FEDERAL FUNDING UNDER FTA SECTION 5311 (49 U.S.C. SECTION 5311) WITH CALIFORNIA DEPARTMENT OF TRANSPORTATION TO PURCHASE ONE (1) WHEELCHAIR ACCESSIBLE DIAL-A-RIDE VEHICLE AND ONE (1) WHEELCHAIR ACCESSIBLE TROLLEY; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 12-09.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING 6 APRIL 13, 2009

A-5 ADOPTION OF ORDINANCE NO. 545 AMENDING TITLE 5 BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.04 REGARDING DURATION OF LICENSE AND FEE PAYMENT/PRORATING - SECOND READING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve second reading and adoption of Ordinance No. 545.

A-6 PROCLAMATION DECLARING THE WEEK OF APRIL 12-18, 2009 AS "NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Mayor Peters pulled Item A-6 in order to make a presentation to Police Department Support Services Manager Mary Sponhaltz in recognition of National Public Safety Telecommunications Week.

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

MOTION: Councilmember Borchard moved the City Council approve the remainder of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 6:57 p.m.; the meeting resumed at 7:06 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 15-09 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS PARK AND OPEN SPACE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Acting City Manager Susan Slayton stated Resolution No. 15-09 initiates the proceedings to levy the annual assessment, an Engineer's Report will be prepared for review at the May 11, 2009 City Council meeting, which will also include a resolution of intention declaring the City Council's intent to levy and collect the assessment. The Cloisters Landscaping and Lighting Maintenance Assessment District is a separate fund from all other City funds and can only be expended for improvements authorized for the district. Once set, the annual assessment is transmitted to the County Auditor for recordation on the County assessment role. The assessment amount will then appear each year on the parcel owner's property tax bill. In conformance with Proposition 218, The Right to

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Vote on Taxes Act, passed in 1996 by the voters in the State of California, the Cloisters Landscaping and Lighting Maintenance Assessment District was approved by 100% of the owners for which the assessment is to be levied. All property owners were fully apprised of the costs and benefits associated with the district, prior to its approval. Ms. Slayton recommended the City Council adopt Resolution No. 15-09 initiating proceedings to levy the annual assessment for the Cloisters Park and Open Space Landscaping and Lighting Maintenance Assessment District.

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

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 15-09 initiating proceedings to levy the annual assessment for the Cloisters Park and Open Space Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

B-2 RESOLUTION NO. 16-09 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Acting City Manager Susan Slayton stated Resolution No. 16-09 initiates the proceedings to levy the annual assessment, an Engineer's Report will be prepared for the second public hearing scheduled for the May 11, 2009 City Council meeting, which will also include a resolution of intention declaring the City Council's intent to levy and collect the assessment. The North Point Natural Area Landscaping and Lighting Maintenance Assessment District is a separate fund from all other City funds and can only be expended for improvements authorized for the district. Once set, the annual assessment is transmitted to the County Auditor for recordation on the County assessment role. The assessment amount will then appear each year on the parcel owner's property tax bill. In conformance with Proposition 218, The Right to Vote on Taxes Act, passed in 1996 by the voters in the State of California, the North Point Natural Area Landscaping and Lighting Maintenance Assessment District was approved by 100% of the owners for which the assessment is to be levied. All property owners were fully apprised of the costs and benefits associated with the district, prior to its approval. Ms. Slayton recommended the City Council adopt Resolution No. 16-09 initiating proceedings to levy the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District.

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

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MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 16-09 initiating proceedings to levy the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

B-3 ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND CONSIDERATION OF A CONCEPT PLAN FOR A VESTING TENTATIVE SUBDIVISION MAP SOO-062/ CONDITIONAL USE PERMIT UPO-138/COASTAL DEVELOPMENT PERMIT CPO-207, FOR A CUSTOM RESIDENTIAL 10 LOT CONSERVATION SUBDIVISION AND OPEN SPACE EASEMENT ON 4.75 ACRES AT 1305 TERESA DRIVE; (PUBLIC SERVICES)

Associate Planner Aileen Nygaard stated the applicant proposed to subdivide a 4.75 acre parcel with a Vesting Tentative Tract Map on the east side of Highway 1, adjacent to the senior care facility, into a 10-lot conservation subdivision for custom residential lots ranging in size from 14,458 to 30,461 square feet. Building envelopes are proposed to establish development boundaries on each lot and conserve the remaining lot area in open space easement. The intent of the applicant is to conserve open space for visual and natural vegetation conservation. A lot line adjustment is proposed to exchange equal area between the senior care facility and 10-lot subdivision in order to locate the existing senior care driveway on its parcel, instead of as an easement on the subdivision parcel. The lot line adjustment will allow room for the senior care facility to provide 22 parking spaces and five tree planters along the driveway as an amendment to the workforce building permit. Ms. Nygaard recommended the City Council adopt the Mitigated Negative Declaration and consider the Concept Plan for a Vesting Tentative Subdivision Map SOO-062/Conditional Use Permit UPO-138/Coastal Development Permit CPO-207.

Cathy Novak, representing the applicant, gave a brief project history, and an overview of project details with a slide presentation. She reviewed the staff report and conditions prepared by staff and provided the City Council with suggested modifications to the staff report, findings and conditions of approval. Ms. Novak also reviewed the City's permitting process and requested clarification of the permit process for this project.

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

Councilmember Smukler stated this is a sensitive area and the less pervious space the less runoff potential there will be. He said he supports the concept of reducing the parking and curb and gutter concept, and the addition of the Teresa Drive Park. Councilmember Smukler expressed some concern with public transportation access, and the homeowner association seems to be the best way to address these issues. He said he would like

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strong language in the CC&Rø regarding the use of chemicals, fertilizer, herbicides, and pesticides within the project. Councilmember Smukler stated he supports the landscape design and planting palette appropriate with the native habitat. He said he supports the 20-foot road with no parking, maintaining the cul-de-sac as is, along side the drive keep compacted to be utilized as sidewalk, or maintain as planting space or open space.

Councilmember Borchard stated she supports the applicantø concept on the road. She referred to the Building and Fire Code for fire management because each lot will be varied in size and location. She said she supports CC&Rø, a form of homeowner association (HOA), and a 20-foot road.

Councilmember Grantham stated there is potential for this to be a good project. He said even with a 12% grade, there is concern with erosion. Councilmember Grantham stated he would prefer no parking on the street and a 28-foot road with curb, gutter and sidewalk or some type of surface. He said he supports CC&Rø, and the planting of a lot of trees.

Councilmember Winholtz stated she supports HOA fees. She noted the road is illegal based on the Cityø Land Use Plan, which does not allow roads to go straight up the grade. Councilmember Winholtz stated the road should be reduced in size with no sidewalks and mitigate with landscaping. She said there should be no obstruction to the ridge way, which is also observed in the Land Use Plan. Councilmember Winholtz stated this is a barren area and a new habitat will be created; perhaps the HOA could create the 11th lot as a public use area. She said she is opposed to the three-feet beyond the 18-1/2 feet for chimneys and other items on the roof. Councilmember Winholtz stated she does support the 75% second story and the 20-foot road with no parking.

Mayor Peters reviewed the issues that received Council consensus. She stated she supports a 20-foot road with a walkway and no parking.

MOTION: Mayor Peters moved the City Council adopt the Mitigated Negative Declaration and consider the Concept Plan for a Vesting Tentative Subdivision Map SOO-062/Conditional Use Permit UPO-138/Coastal Development Permit CPO-207 with the following conditions: 1) there will be a homeowner association or equivalent management body; 2) there will be a 20-foot road with a pervious walkway; 3) the individual lots will observe the Building and Fire Codes to determine setbacks; 4) chimneys and architectural items can exceed 18-1/2 feet, but not satellite dishes; 5) second stories will be 75% of the first story; 6) the in-lieu amount will be \$150 per square foot; and 7) building will have sequenced habitat restoration. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

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B-4 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 546
ESTABLISHING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT
DISTRICT (MBTBID), FIXING THE BOUNDARIES THEREOF, AND
PROVIDING FOR LEVY OF A BUSINESS ASSESSMENT TO BE PAID BY
THE HOTEL BUSINESSES IN SUCH DISTRICT; (CITY ATTORNEY)

City Attorney Robert Schultz stated in order to initiate the process to form a City-wide Tourism Business Improvement District (TBID); the City Council on February 23, 2009 adopted a Resolution of Intention indicating its intention to establish a TBID for the benefit of tourism promotion and marketing in the City of Morro Bay. Included in the Resolution was the proposal by City hoteliers to establish the citywide TBID with a 3% assessment of gross room rates for the initial year and 2% for years thereafter. Following the adoption of the Resolution of Intention and consistent with statutory requirements, notification was published and mailed to area businesses and property owners, notifying the owners and other interested members of the public of the following key actions:

1. A public meeting to hear testimony supporting or opposing the proposed citywide TBID was held at the March 23, 2009 City Council meeting;
2. The April 13, 2009 TBID Protest Hearing, which is the subject of this report;
3. Introduction of Ordinance to Establish the Assessment;
4. Final Adoption of Ordinance to Increase Assessment; and
5. Ordinance Effective.

Based on transient occupancy tax revenues, each percentage of assessment would generate approximately \$165,000 per annum for the purpose of tourism marketing and promotional efforts. Since the assessment is directly tied to gross room revenue, the funds generated would fluctuate with the citywide room rates and changes in room inventory. Mr. Schultz recommended the City Council conduct a public hearing to receive testimony regarding the Council's intention to establish a citywide Tourism Business Improvement District; then rule upon any protests; and if a legally sufficient protest showing is not made, approve the first reading and introduction of Ordinance No. 546 establishing the Tourism Business Improvement District in the City of Morro Bay.

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

Councilmember Grantham stated he supported the concept at 2% assessment of gross room rates, but 3% is too high.

Councilmember Winholtz expressed that she had hoped the City would have participated in the countywide business improvement district.

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MOTION: Councilmember Borchard moved the City Council approve the first reading and introduction of Ordinance No. 546 establishing the Tourism Business Improvement District in the City of Morro Bay. The motion was seconded by Councilmember Smukler and carried with Councilmember Grantham voting no. (4-1)

Acting City Manager Susan Slayton read Ordinance No. 546 by number and title only.

B-5 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 547
PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA
DISPENSARIES; (CITY ATTORNEY)

City Attorney Robert Schultz stated in 1996, California voters enacted Proposition 215, the Compassionate Use Act, which protects qualified patients and their primary caregivers from prosecution under California laws for possession or cultivation of marijuana to treat serious illness pursuant to a doctor's recommendation. Several years later, in 2003, the State legislature enacted implementing legislation to allow qualified patients and caregivers to obtain identification cards that insulate them from arrest for cultivation and/or use of marijuana for authorized medical purposes. Although not expressly authorized under these laws, some people used this legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use. However, under federal law, marijuana has no currently accepted medical use and the cultivation, possession, or distribution of marijuana is prohibited. Congress has not changed this prohibition despite the passage of medical marijuana laws in a number of states. The ongoing conflict between Federal and State law on this subject has created a dilemma for local governments and their law enforcement agencies, particularly with regard to medical marijuana dispensaries. After reviewing the current status of Federal and State law and the associated risks and possible consequences of establishing an ordinance allowing medical marijuana dispensaries, the City Council on December 12, 2009 instructed the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. Mr. Schultz recommended the City Council ban medical marijuana dispensaries until such time as the tension between the State and Federal law is resolved. Ordinance No. 547 would prohibit medical marijuana dispensaries, but would not preempt California law governing medical marijuana and would not impact qualified patients and caregivers' rights to cultivate and possess medical marijuana for their own medical use, provided they maintain compliance with State law.

Mayor Peters opened the hearing for public comment.

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David Major stated a medical marijuana dispensary would bring a tax benefit to the City, as well as provide a natural alternative for medicine other than pharmaceutical chemicals. He said there is no other place on the Central Coast to purchase medical marijuana and the closest dispensary is Santa Barbara or Santa Cruz. Mr. Major stated it is a safe regulated location to acquire the substance.

Kent Cowell referred to President Obama's comments regarding medical marijuana. He stated he assisted in writing the regulations for medical marijuana dispensaries in the County, and requested the City Council not prohibit the establishment of medical marijuana dispensaries.

Mayor Peters closed the public comment hearing.

Mayor Peters stated the one dispensary in the City was run strictly by City's codes. She said she does not want to place anyone else at the same risk as the previous owner.

Councilmember Winholtz stated she would support a moratorium for a maximum time limit of three months. She said at that time she would support an ordinance allowing a medical marijuana coop in the City limits.

Councilmember Grantham stated he would support a moratorium for a maximum time limit of six months.

Councilmember Smukler stated this is an important time to be proactive in developing this type of service to the community and receive the financial benefits of this type of business. He said he would like to discuss the timelines of a temporary moratorium and then move forward.

Councilmember Borchard stated State and Federal laws have not rested on this matter, and she is not interested in having a marijuana dispensary in this City. She noted no other city in this County has allowed a marijuana dispensary in their community.

MOTION: Councilmember Winholtz moved the City Council direct staff to draft an ordinance to allow a medical marijuana coop within the City limits of Morro Bay that identifies location, kind of facility, includes sales tax, and any other pertinent information staff finds necessary; and, return to Council no later than October 2009. The motion was seconded by Councilmember Smukler and carried with Councilmember Borchard voting no. (4-1)

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MOTION: Mayor Peters moved the City Council approve the introduction and first reading of Ordinance No. 547 Prohibiting the Establishment of Medical Marijuana Dispensaries with the addition of Section 6 to read as follows: öSECTION 6. This Ordinance shall expire October 13, 2009 unless, prior to that date, the City Council takes affirmative action to extend this Ordinance.ö The motion was seconded by Councilmember Borchard and carried with Councilmember Winholtz voting no. (4-1)

Assistant City Manager Susan Slayton read Ordinance No. 547 by number and title only.

Mayor Peters called for a break at 10:00 p.m.; the meeting resumed at 10:08 p.m.

C. UNFINISHED BUSINESS

C-1 REVIEW OF SITE GENERATOR PROJECT FOR DIAL-A-RIDE, CITY HALL AND PUBLIC SERVICES DEPARTMENT OFFICES; (PUBLIC SERVICES)

Utilities/Capital Project Manager Dylan Wade stated this project was originally intended to provide a backup emergency generator project for Dial-a-Ride, City Hall and Public Services Department offices to provide emergency power during periods of extended power outages. Originally, the project was funded by two transit grants totaling \$22,308.45, and \$95,000 from the General Fund. To date, \$18,136.17 has been expended for design and preparation of plans and specifications. The updated overall cost of the project estimates at \$138,121.25, which includes \$20,000 for the generator housing structure, \$3,000 to upgrade the gas service, \$2,000 propane back-up, and \$113,121.25 from the estimate of probable cost from Thoma Electric for the generator and electric work. Mr. Wade recommended the City Council consider this item and provide further direction to staff.

Councilmember Smukler stated he prefers not to fund this project and would prefer to utilize the remaining grant funds to perform a more comprehensive energy audit, and with the assistance of PG&E increase the energy use within the buildings and be prepared for alternative energy use systems to be utilized. He said a back-up battery operated CB radio system would be helpful for Dial-a-Ride in the case of a power outage.

Councilmember Borchard stated she agrees that funding this project and taking funds from the General Fund is not in the City's best interest at this time. She would prefer to find an alternative way such as a rollover phone system to get Dial-a-Ride calls through during a power outage.

Councilmember Winholtz stated she is not in support of funding this project. She would support funding a generator for the Dial-a-Ride phone system.

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Councilmember Grantham stated he does support a generator that would be reliable and provide a public safety investment.

Mayor Peters stated she supports an energy audit and the purchase of an affordable generator to support the Dial-a-Ride phone system. She said it appears that the majority of Council does not want to move forward with this project, and the City should pursue an energy audit.

No further action was taken on this item.

D. NEW BUSINESS

D-1 LETTER FROM DAVE GILL REPRESENTING THE SEA SCOUTS
REQUESTING A FEE WAIVER FOR THE VESSEL ST. JOSEPH; (HARBOR)

City Attorney Robert Schultz stated the Sea Scouts took ownership of the St Joseph from L.V. Jones. The vessel is an 80-foot steel trawler that dates from the 1970s and since the new trawl regulations, has very little value as a commercial vessel. The Sea Scouts have been working on the vessel with the goal of making it seaworthy and taking it up to the Sacramento River area as a training/work vessel for the Sea Scouts.

MOTION: Councilmember Winholtz moved the City Council grant a waiver of fees for the St. Joseph for four months, and no further waivers beyond that timeframe, to enable the Sea Scouts to complete their efforts towards making the vessel seaworthy so that they can take it to Stockton. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-2 REDUCED FEE INCENTIVE FOR GREEN BUILDING AND LOW IMPACT
DEVELOPMENT; (PUBLIC SERVICES)

Public Services Director Bruce Ambo stated this item was identified as a Future Agenda Item at the January 12, 2009 Council meeting. The concept of reducing fees as a green building incentive was raised by Councilmember Smukler during a discussion on planning fees for waterfront projects earlier at the same meeting. Mr. Ambo recommended the City Council offer green building incentives in reimbursed building plan check and inspection fees for the following:

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- A. \$3,000 upon successful completion of *nationally* recognized "Leadership in energy and environmental design" (LEED Certification) on new homes, and
- B. \$2,000 upon successful completion of *California* "GreenPoint rated" project certification on new homes, and
- C. 40% permit fee reimbursement for all residential remodels achieving GreenPoint rated certification and all other projects including remodels, multi-family and commercial buildings that achieve LEED Certification; and
- D. direct staff to return to the Council with a resolution implementing the changes to the building fees and review procedures.

Councilmember Borchard expressed concern with the consideration of reducing fees that are now mandatory requirements for green building, which will require that much more staff time, and the incentive of fee reimbursement.

MOTION: Councilmember Grantham moved the City Council offer green building incentives in reimbursed building plan check and inspection fees as recommended by staff, and report back to Council in six months on the fiscal impact and the staff time involved in this process. The motion was seconded by Councilmember Smukler and carried with Councilmember Borchard voting no. (4-1)

MOTION: Councilmember Smukler moved the City Council direct staff to develop the concept of a five-year draft strategic green initiative plan, first to be presented to the Planning Commission and then to the City Council. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Grantham requested to agendize a discussion on health and safety issues regulating tattoo parlors; Council concurred.

ADJOURNMENT

The meeting adjourned at 10:54 p.m.

Recorded by:

Bridgett Bauer
City Clerk



AGENDA NO: A-2

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 21, 2009

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Quarterly Financial Report as of March 31, 2009

RECOMMENDATION:

Council accepts the status report as presented.

MOTION: I move that the City Council accepts the Quarterly Financial Report as of March 31, 2009.

FISCAL IMPACT:

None.

SUMMARY:

The revenue and expenditure status report, along with cash and investments, is presented as of March 31, 2009.

DISCUSSION:

The status reports presented are for operations as of March 31, 2009. Please remember that when looking at these reports, timing plays a role in revenue receipt, for example, the amount for taxes in the General Fund is missing the second property tax installment and the March TOT, both of which are due in April. Revenues appear to be much lower than expected due to timing.

Expenditures also experience timing issues. Currently, the General Fund expenditures are at 73%, but many one-time expenditures have already been paid. It appears that we will end the year having spent 100% of our estimate.

The Enterprise funds are on track. The Water fund expenditures are exceptionally high because the State water contract has been paid in full at this time.

Cash has dropped about \$2m since the end of last year. Our pending reimbursement from the State of California will make this up.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____



AGENDA NO: _____

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 1, 2009

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Resolution No. 17-09 Authorizing Paying and Reporting the Value of Employer Paid Member Contributions (EPMC) for SEIU Miscellaneous Employees

RECOMMENDATION:

Per the terms and agreements of the Memorandum of Understanding with the Morro Bay Miscellaneous Employees, City Council adopt Resolution No. 17-09 authorizing paying and reporting of the value of EPMC.

MOTION: I move that the City Council adopt Resolution No. 17-09 authorizing paying and reporting the value of EPMC for the SEIU Miscellaneous Employees.

FISCAL IMPACT:

The fiscal impact will be approximately 1% of salary of the SEIU Local 620 members.

DISCUSSION:

On November 10, 2008 the City Council adopted Resolution No. 72-08 approving the Memorandum of Understanding with SEIU, Local 620 representing the Morro Bay Miscellaneous Employees. The MOU states in Article 14, Section 14.12 effective the first payroll period in July 2009, the CITY shall commence reporting the Employer Paid Member Contribution (EPMC) to PERS as special compensation. Staff is presenting this item tonight in order to complete the required action.

CONCLUSION:

Per the terms and agreements of the current Miscellaneous Employees Memorandum of Understanding, adopt Resolution No. 17-09.

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

RESOLUTION NO. 17-09

**RESOLUTION FOR PAYING AND REPORTING THE
VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS FOR
SEIU MISCELLANEOUS EMPLOYEES**

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

WHEREAS, the City Council has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691; and

WHEREAS, the City of Morro Bay has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the City of Morro Bay of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions (EPMC); and

WHEREAS, the City Council has identified the following conditions for the purpose of its election to pay EPMC;

- This benefit shall apply to all employees of the Service Employees International Union Local 620 (SEIU)
- This benefit shall consist of paying the normal contributions as EPMC and reporting the same percent of compensation earnable as additional compensation.
- The effective date of the Resolution shall be July 1, 2009.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay elects to pay and report the value of EPMC, as set forth above.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 27th of April, 2009.

AYES:

NOES:

ABSENT:

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT BAUER, CITY CLERK



AGENDA NO: _____

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 1, 2009

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Resolution No. 18-09 Authorizing Paying and Reporting the Value of Employer Paid Member Contributions (EPMC) for the Morro Bay Fire Fighters

RECOMMENDATION:

Per the terms and agreements of the Memorandum of Understanding with the Morro Bay Fire Fighters, City Council adopt Resolution No. 18-09 authorizing paying and reporting of the value of EPMC.

MOTION: I move that the City Council adopt Resolution No. 18-09 authorizing paying and reporting the value of EPMC for the Morro Bay Fire Fighters.

FISCAL IMPACT:

The fiscal impact will be approximately 3.9% of salary of the Fire Fighters Association members.

DISCUSSION:

On February 9, 2009, the City Council adopted Resolution No. 07-09 approving the Memorandum of Understanding with the Morro Bay Firefighters. The MOU states in Article 13, Section 13.1 "effective the first payroll period in July 2009, the CITY shall commence reporting the Employer Paid Member Contribution (EPMC) to PERS as special compensation." Staff is presenting this item tonight in order to complete the required action.

CONCLUSION:

Per the terms and agreements of the current Fire Fighter Memorandum of Understanding, adopt Resolution No. 18-09.

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

RESOLUTION NO. 18-09

**RESOLUTION FOR PAYING AND REPORTING THE
VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS
FOR THE MORRO BAY FIREFIGHTERS**

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

WHEREAS, the City Council has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691; and

WHEREAS, the City of Morro Bay has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the City Morro Bay of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions (EPMC); and

WHEREAS, the City Council has identified the following conditions for the purpose of its election to pay EPMC;

- This benefit shall apply to all employees of the Morro Bay Firefighters Association
- This benefit shall consist of paying the normal contributions as EPMC and reporting the same percent of compensation earnable as additional compensation.
- The effective date of the Resolution shall be July 1, 2009.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay elects to pay and report the value of EPMC, as set forth above.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 27th of April, 2009.

AYES:
NOES:
ABSENT:

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT BAUER, CITY CLERK



AGENDA NO: A-5

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and Council **DATE:** April 20, 2009
FROM: Harbor Director
SUBJECT: Consideration for Approval to Release a Request for Proposals to Lease Lease Site 96/96W at 945 Embarcadero (Whale's Tail Restaurant)

RECOMMENDATION:

Authorize Staff to prepare and release a Request for Proposals to lease the tidelands property known as Lease Site 96/96W located at 945 Embarcadero (Whale's Tail Restaurant).

MOTION: I move that the City Council authorize release of a Request for Proposals for Lease Site 96/96W.

FISCAL IMPACT:

None at this time.

DISCUSSION:

The lease agreement for Lease Site 96/96W will terminate on January 31, 2010. City Staff recommends that the Lease Site be advertised as available to any party (including the existing tenant) by issuing a Request for Proposals (RFP) to lease the site after the termination of the existing lease. By issuing a RFP for the site, the City will be able to gauge the level of interest and financial capability in the general market for such a site, and choose the proposals that are most appropriate and desirable for future leasing. The process would be very similar to that described in the June 2007 RFP for Lease Sites 87/88-87W/88W. The RFP would be released by June 2009; there would be a response period of approximately 60 days; the City would assemble a review team to interview and evaluate the proposals received; and the team would make a recommendation to the City Council for which proposal should be provided a window period to obtain concept level approvals and negotiate a new lease agreement.

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

Staff would prepare an RFP that would encourage proposers to emphasize a smaller scale development that would remain roughly within the footprint of the existing building on Lease Site 96/96W, currently the Whaleø Tail Restaurant. The selection team would be asked to evaluate the proposals based on the quality and õfitö of the proposed development on the site, and their experience and financial capability to build the required improvements and operate the site.

CONCLUSION:

The termination date of this lease for Lease Site 96/96W is fast approaching, and Staff recommends that we issue a Request for Proposals for future leasing of the site to achieve the broadest possible number of concepts and qualified proposals from future lessees.



AGENDA NO: A-6

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and Council

DATE: April 20, 2009

FROM: Harbor Director

SUBJECT: Resolution to Authorize Grant Application (Principle Forgiveness Loan) to the State Water Resources Quality Control Board Clean Water State Revolving Fund for Phase I Construction of a Low Impact Development Boat Repair Yard

RECOMMENDATION:

That the City Council adopt Resolution No. 19-09 to authorize a grant application (principle forgiveness loan) for a Low Impact Development boat repair yard Phase I construction in the north waterfront.

MOTION: I move that the City Council approve and adopt Resolution No. 19-09.

FISCAL IMPACT:

None at this time.

BACKGROUND:

In 1998 the City Council approved the boating access facility committee plan and directed Staff to create a project to construct a boat repair facility in the area recommended by the committee, using the land water interface north of the Morro Bay power plant intake structure and vacant city land on the east side of Embarcadero/Coleman Drive for the repair yard. The project did not proceed until recently when property ownership issues were resolved with Morro Bay power plant in the area. Last year the City conceptually approved a plan for the north Embarcadero based on the new configuration of Embarcadero/Coleman Drive and the Harbor Walk project that included the boat repair facility in its previous conceptual location. Harbor staff engaged RRM Design to do some additional design and development of the boat repair yard concept and to work with Coastal Commission staff on resolving questions of habitat designations in the area.

In January Harbor staff applied to the Ocean Protection Council's Fisheries Challenge Program 2009 for a grant to do final design and development on this project. That program has been frozen in the current state budget crisis and is on hold.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

DISCUSSION:

During our discussions with OPC staff we were made aware that significant American Recovery and Reinvestment Act (ARRA) funds have been allocated to the State Water Resources Control Board for water quality projects, and a higher priority is given to projects that are listed in the Comprehensive Conservation and Management Plans (CCMP) for designated National Estuaries in the State. The City's proposed boat repair yard is a priority project listed in the Morro Bay National Estuary Program CCMP. This grant or principal forgiveness loan program is expected to be extremely competitive, but it seemed worth the effort to put together a project proposal. If nothing else this will put the project formally on the State Water Board project list which could be helpful in the future. Attached is a printout of our grant application, the most recent site plan for Phase I construction, and the letters of support for the OPC grant which will also be used in this application. The application has been submitted but requires a resolution of the Council to be complete.

CONCLUSION:

The City and the Morro Bay National Estuary Program have long supported construction of a state-of-the-art environmentally sound boat repair yard on the north Embarcadero, and staff recommends that the Council adopt Resolution No. 19-09 to authorize a grant application to start the construction process.

RESOLUTION NO. 19-09

**RESOLUTION TO AUTHORIZE GRANT APPLICATION
(PRINCIPLE FORGIVENESS LOAN) TO THE STATE WATER RESOURCES
QUALITY CONTROL BOARD CLEAN WATER STATE REVOLVING FUND
FOR PHASE I CONSTRUCTION OF A LOW IMPACT DEVELOPMENT BOAT
REPAIR YARD**

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

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

WHEREAS, in 2008 the City conceptually approved a plan for the north Embarcadero based on the new configuration of Embarcadero/Coleman Drive and the Harbor Walk project that included the boat repair facility; and

WHEREAS, the City allocated some funding to start the planning and engineering process for a Low Impact Development Boat Repair Yard; however, sufficient funding for construction is not available in the City Harbor Fund budget; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the Harbor Director is authorized to apply for a grant (principle forgiveness loan) from the State Water Resources Quality Control Board Clean Water State Revolving Fund for Phase I Construction of a Low Impact Development Boat Repair Yard. Said Harbor Director of the City of Morro Bay is hereby authorized and directed to sign and file such application with said State Water Quality Control Board.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 27th day of April, 2009 on the following vote:

AYES:

NOES:

ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Bauer, City Clerk



AGENDA NO:

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 22, 2009

FROM: Rob Schultz, City Attorney

SUBJECT: Adoption of Ordinance No. 546 Establishing the Morro Bay Tourism Business Improvement District (MBTBID), Fixing the Boundaries Thereof, and Providing for the Levy of a Business Assessment to Be Paid by the Hotel Businesses in Such District

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 546.

SUMMARY:

Ordinance 546 was introduced at the Council meeting held on April 13, 2009. This is the second reading, after which the Ordinance is adopted and will become effective on the 31st day after its passage.

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

City Manager Review: _____

City Attorney Review: _____



AGENDA NO:

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 22, 2009
FROM: Rob Schultz, City Attorney
SUBJECT: Adoption of Ordinance No. 547 Prohibiting the Establishment of Medical Marijuana Dispensaries

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 547.

SUMMARY:

Ordinance 547 was introduced at the Council meeting held on April 13, 2009. This is the second reading, after which the Ordinance is adopted and will become effective on the 31st day after its passage.

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

ORDINANCE NO. 547

**AN ORDINANCE OF THE CITY OF MORRO BAY
ADDING SECTION 9.06 TO THE MORRO BAY MUNICIPAL CODE
PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES
IN THE CITY OF MORRO BAY**

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

WHEREAS, in 1996 the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 *et. seq.* and entitled the "Compassionate Use Act of 1996") legalizing the use of marijuana for specific medical purposes; and

WHEREAS, the State of California adopted SB 420 which clarified the scope of the Compassionate Use Act and allowed cities and other governing bodies to adopt and enforce rules consistent with SB 420; and

WHEREAS, the City of Morro Bay Municipal Code is silent with regard to the regulation and location of medical marijuana dispensaries; and

WHEREAS, the City of Morro Bay has recently received inquiries regarding the permitting and establishment of medical marijuana dispensaries; and

WHEREAS, on June 6, 2005, the Supreme Court decided in *Gonzales v. Raich* that Congress's constitutional authority to regulate the interstate market in drugs extends to doctor-recommended marijuana consumed under the Compassionate Use Act; and

WHEREAS, the *Gonzales v. Raich* ruling clarified that those who try to use marijuana as a medical treatment risk legal action by the U.S. Drug Enforcement Agency or other federal agencies, and that state law provides no defense; and

WHEREAS, the Federal Government maintains that the distribution and consumption of marijuana for any purpose is a violation of federal law; and

WHEREAS, the California Attorney General has stated that Medical Marijuana Dispensaries "are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law"; and

WHEREAS, the conflict between federal and state law on medicinal marijuana calls into question the City's ability to permit medical marijuana dispensaries as a legally permitted use; and

WHEREAS, permitting a use that is illegal under federal law could result in detrimental impacts for City residents, businesses, visitors, and medicinal marijuana patients and their caregivers; and

WHEREAS, the Morro Bay City Council, at a duly noticed public meeting on April 13, 2009, considered oral comments and written information concerning the proposed amendment to the Municipal Code.

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1. A new chapter 9.06 of the Morro Bay Municipal Code is hereby added to read as follows:

Chapter 9.06

MEDICAL MARIJUANA DISPENSARIES

Sections:

- 9.06.010** **Definitions.**
- 9.06.020** **Medical Marijuana Dispensary – prohibited.**
- 9.06.030** **Violation – separate offense.**
- 9.06.040** **Penalties.**

9.06.010 **Definitions**

A. A medical marijuana dispensary is defined as any facility in a single fixed location where a primary caregiver makes available, sells, transmits, gives, or otherwise provides medical marijuana or cannabis for medical purposes to two or more qualified patients or persons with an identification card in accordance with Health and Safety Code Section 151362.

B. A medical marijuana dispensary shall not include the following uses as long as the location of such uses area is otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the

Health and Safety Code; a health care facility license pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 301 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 32 of the Division 2 of the Health and Safety Code; a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code; as long as any such use complies strictly with applicable California and federal law.

C. "Primary

Caregiver" shall have the same definition as in California Health and Safety Code Section 11362.7(d) as it may be amended from time to time.

D. "Qualified

Patient" shall have the same definition as in California Health and Safety Code Section 11362.7 (f) as it may be amended from time to time.

E. "Identification

Card" shall have the same definition as in California Health and Safety Code Section 11362.7(g) as it may be amended from time to time.

F. "Person with an Identification Card" shall have the same definition as in California Health and Safety Code Section 11362.7(h) as it

may be amended from time to time.

9.06.020 Medical Marijuana Dispensary – prohibited.

A medical marijuana dispensary shall not be permitted within the City.

9.06.030 Violation – separate offense.

Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

9.06.040 Penalties.

Violation of any provision of this chapter is a misdemeanor unless the city attorney authorizes issuance of an infraction citation or files a complaint charging the offense as an infraction or the court upon the prosecutorial recommendation of the city attorney determines that the offense is an infraction.

SECTION 2. This ordinance is consistent with protection of the public interest, health, safety, convenience, and welfare of the City. This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 3. This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law including without limitation the Constitution of the State of California or of the United States of America. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION 4. This ordinance shall become effective on the thirtieth day following passage and adoption hereof.

SECTION 5. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation printed, published, and circulated in the city in accordance with Section 36933 of the Government Code.

SECTION 6. This Ordinance shall expire October 13, 2009 unless, prior to that date, the City Council takes affirmative action to extend this Ordinance.

INTRODUCED at the regular meeting of the City Council held on the 13th day of April 2009, by motion of Mayor Peters and seconded by Councilmember Borchard.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay on the ____ day of _____, 2009 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT BAUER, City Clerk

APPROVED AS TO FORM:

ROBERT W. SCHULTZ, Esq.
City Attorney



AGENDA NO: A-9

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 21, 2009
FROM: Andrea K. Lueker, City Manager
SUBJECT: Status Report on Applications for Economic Stimulus Funding

RECOMMENDATION:

Staff recommends the City Council review this information and accept this report.

MOTION: I move the City Council accept the Status Report on Applications for Economic Stimulus Funding for file.

FISCAL IMPACT:

Not Applicable.

SUMMARY:

In order to keep the City Council, staff and residents of Morro Bay informed regarding the City's efforts in attracting Economic Stimulus funds, staff will be presenting a status report to the City Council on a monthly basis outlining the applications to date.

BACKGROUND:

On February 17, 2009 President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The stated purpose of the ARRA is:

- (1) To preserve and create jobs and promote economic recovery.*
- (2) To assist those most impacted by the recession.*
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.*
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.*
- (5) To stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.*

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

The ARRA provides funds for investments in many programs, including health care, energy, infrastructure, education, and public safety. The total cost of the package is \$787 billion, and consists of nearly \$355 billion for upgrades to transportation, infrastructure, construction, health care programs, education and housing assistance, and energy efficiency projects, \$144 billion in state and local fiscal relief, and \$288 billion in personal and business tax credits.

Specifically in California, the League of California Cities has compiled a "City Funding Book" to assist cities in their pursuit for funding. There will be regular updates made available on the League's website at www.cacities.org as more information becomes available.

DISCUSSION:

Attached is a chart of the applications that have been submitted to date for funds related to the Economic Stimulus funding. **The programs listed represent only those which funding has been requested and or application have been submitted.** Staff is tracking a number of other programs through a spreadsheet as well as "grant tracking report" form whose application dates are forthcoming.

u.w.council.status report economic stimulus 4 27 09

FUNDRAISER FOLLIES EVENT SUPPORT ALLOCATION

<u>P.A.U.P.</u>	<u>PERMIT #</u>	<u>PERMIT</u>	<u>USE FEE</u>	<u>TOTAL</u>	<u>2008-09</u> <u>ALLOC.</u>	<u>ADD'L FEES 08-09</u> (City Support, Insurance)	<u>2009-10</u> <u>ALLOC.</u>	
Chamber events:								
Kite Festival	1562	40.00	-	40.00	75.00		40.00	*
Parade '09	1563	40.00	64.00	104.00	75.00		104.00	*
July 4th '08	982	40.00	96.00	136.00	250.00	1,540.00	240.00	+
Avocado/Margarita Fest '08	981	40.00	96.00	136.00	96.00	1,048.00	240.00	+
Lighted Boat Parade '08	980	40.00	96.00	136.00	132.00		136.00	*
Mermaid/Pirate Parade '09	N/A	40.00	64.00	104.00	96.00	(Insurance) 88.00	104.00	*
New Year's Eve Party '08	945	558.00	154.00	712.00	96.00	-	240.00	-
Other events:								
Harbor Festival '08	1141	40.00	128.00	168.00	150.00	8,009.00	240.00	+
Music Festival '09	1680	40.00	96.00	136.00	132.00		136.00	*
Cruisin' MB Car Show '09	1752	40.00	256.00	296.00	150.00		240.00	-
Art in the Park (3)	1693	40.00	576.00	616.00	150.00		240.00	-
MBMA Street Fair (2) '08	1286	40.00	128.00	168.00	150.00	78.00	168.00	*
Waterfest	N/A	40.00	-	40.00	-		40.00	*
Best Pooch Pageant	1736	40.00	64.00	104.00	-	(Insurance) 130.00	104.00	*
Yogawave	1738	40.00	64.00	104.00	-		104.00	*
TOTALS:				3,000.00	1,552.00		2,376.00	
*indicates permit & use fees fully funded. - indicates fees not fully funded. + indicates additional funding provided.								



AGENDA NO: _____

Meeting Date: _____ Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 22, 2009

FROM: JANICE PETERS

SUBJECT: FUNDRAISER FOLLIES ALLOCATIONS FOR 2009-10

RECOMMENDATION: Approve allocation schedule and direct staff to notify event organizers regarding funds available for 2009-10 events.

FISCAL IMPACT: Minimal staff time for notification letters.

SUMMARY: The second annual Morro Bay Fundraiser Follies performances raised over \$3,000. The funds are distributed to all recognized events that draw visitors to Morro Bay. The event organizers are notified of the amount of funds available for their event to access each year. Allocations this year total \$2,376, distributed according to the attached schedule.

BACKGROUND: The Morro Bay Fundraiser Follies was approved by the City Council in December 2007 with the purpose to defray some of the costs the City must charge local events for permits, use fees, etc., and to promote positive interaction between City service providers and community members. The debut February 2008 Follies generated \$1648, which was allocated to 08-09 events. Each year \$1,000 is held in the Follies account to cover the next year's production expenses.

DISCUSSION: The proposed allocations were determined by covering permit and use fees to the extent the funds allowed. Only two events, the New Year's Eve Party and Cruising Morro Bay Car Show, had use fees too great to be covered completely. These two events, and several others that incur substantial additional costs, were allocated a maximum of \$240.

On approval of the attached allocation sheet, each named event will be notified of the funds available for their event to access for the 2009-10 year.

CONCLUSION: The Fundraiser Follies is fulfilling its established purpose and the fund allocation schedule for 2009-10 should be approved and implemented.

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

Page 1 of 2

**A PROCLAMATION OF THE CITY OF MORRO BAY
DECLARING MAY 2009 AS “BIKE MONTH”
MAY 18 TO MAY 22, 2009 AS “BIKE TO WORK AND SCHOOL WEEK”**

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

WHEREAS, bicycling is an effective means to reduce pollution and conserve energy and promotes the healthy lifestyle within communities by reducing traffic, noise and congestion; and

WHEREAS, many businesses, organizations and schools encourage customers, students and employees who travel by bicycle, providing incentive rewards, shower/locker facilities and other benefits; and

WHEREAS, bicycle transportation is an integral part of the "multi-modal" transportation systems planned by federal, state, regional, and local transportation agencies; and

WHEREAS, bike month is a San Luis Obispo County-wide celebration of human powered transportation which encourages people of all ages and abilities to ride bicycles to their destinations; and

WHEREAS, bike month promotions such as "Bike-to-Work and School Week", "Commuter Bike Challenge", and "Community Bike Happening and Movie" successfully encourage citizens to ride their bicycles, thereby reducing vehicular emissions in the county; and

WHEREAS, "Chain Reaction" is the theme for 2009, an inclusive request to all types of cyclists, whether veteran or novice, to support bicycling in all of its forms in San Luis Obispo County; and celebrate the joys and benefits of bicycling for transportation and recreation; and

WHEREAS, businesses are encouraged to provide support and discounts to cyclists throughout the month of May.

NOW, THEREFORE BE IT RESOLVED that the City of Morro Bay does hereby proclaim May 2009 as "Bike Month" and May 18 to May 22, 2009 as "Bike to Work and School Week".

IN WITNESS WHEREOF I have
hereunto set my hand and caused the
seal of the City of Morro Bay to be
affixed this 27th day of April 2009.

JANICE PETERS, Mayor
City of Morro Bay, California

ORDINANCE NO. 548

**AN ORDINANCE OF THE CITY OF MORRO BAY
REPEALING, AMENDING, AND REENACTING
TITLE 10 VEHICLES AND TRAFFIC OF THE
MORRO BAY MUNICIPAL CODE**

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

WHEREAS, certain parts of the current Title 10 of the Morro Bay Municipal Code date back to 1964 and therefore are outdated, cumbersome, and unenforceable; and

WHEREAS, for the purpose of providing a system of traffic regulations that are consistent with state law and generally conform to similar regulations throughout the State of California and the nation, the City of Morro Bay desires to repeal its previous traffic regulations and amend and reenact Title 10 as contained herein; and

WHEREAS, City Staff made recommended amendments to Title 10 and presented the draft Title 10 Ordinance to City Council at its council meeting on January 6, 2009 for review and comment; and

WHEREAS, the City Council provided staff with direction and recommended changes to the draft Ordinance and City Staff has since made these changes and believes this rewritten Ordinance will serve the city's needs well and address enforcement issues that have been a concern; and

WHEREAS, a public hearing was scheduled for April 27, 2009, for consideration of this Ordinance and appropriate public notices were given.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY
DOES ORDAIN AS FOLLOWS:**

Title 10 of the Morro Bay Municipal Code is hereby repealed, amended, and reenacted to read as follows:

Title 10

VEHICLES AND TRAFFIC

Chapters:

- 10.04** **Definitions**
- 10.08** **Administration**
- 10.12** **Enforcement and Obedience to Traffic Regulations**
- 10.16** **Traffic-Control Devices**
- 10.20** **Turning Movements**
- 10.24** **One-Way Streets and Alleys**
- 10.28** **Special Stops Required**
- 10.32** **Miscellaneous Driving Rules**
- 10.36** **Pedestrian Regulations**
- 10.40** **Stopping, Standing and Parking for Certain Purposes or in Certain Places**
- 10.44** **Stopping, Standing or Parking Restricted or Prohibited in Certain Areas**
- 10.48** **Stopping for Loading or Unloading Only**
- 10.52** **Restricted Use of Certain Streets**
- 10.56** **Speed Zones**
- 10.60** **Obstructions to Visibility**
- 10.64** **Parking Revenues, Fines and Forfeitures**
- 10.68** **Inoperative Vehicles**
- 10.72** **Bicycles**
- 10.76** **Coasters, Roller Skates and Similar Devices**
- 10.80** **Oversize and Overweight Vehicles**
- 10.84** **Police Towing Services**
- 10.88** **Street Use by Vehicles Used As Living Quarters**
- 10.92** **Off Highway Vehicles**
- 10.96** **Penalty for Traffic Violations**

Chapter 10.04

DEFINITIONS

Sections:

10.04.010	Generally.
10.04.020	Alley.
10.04.030	Bicycle.
10.04.040	Central traffic district.
10.04.050	Curb.
10.04.060	Divisional island.
10.04.070	Holidays.
10.04.080	Loading zone.
10.04.090	Official time standard.
10.04.100	Park.
10.04.110	Parking meter.
10.04.120	Parkway.
10.04.130	Passenger loading zone.
10.04.140	Pedestrian.
10.04.150	Police department employee.
10.04.160	Police officer.
10.04.170	Skateboard.
10.04.180	Stop.
10.04.190	Stop or stand.
10.04.200	Vehicle Code.

10.04.010 Generally.

A. The words and phrases set out in this chapter when used in this title shall, for the purposes of this title, have the meanings respectively ascribed to them in this chapter.

B. Whenever any words or phrases used in this title are not defined, but are defined in the Vehicle Code of the state and amendments thereto, such definitions shall apply.

10.04.020 Alley.

öAlleyö means that roadway defined in Section 110 of the Vehicle Code.

10.04.030 Bicycle.

öBicycleö means a device as defined in Section 231 of the Vehicle Code.

10.04.040 Business District.

öBusiness Districtö shall mean as defined in Section 235 of the Vehicle Code.

10.04.050 Central Traffic District.

öCentral business districtö is the district within Morro Bay that includes all streets or portions of streets within the area bounded by the following streets: Bounded on the south by Pacific Street, on the north by Beach Street, Main Street and Radcliff, on the west by the

Embarcadero and Front street and on the east by Kern Avenue, Morro Bay Boulevard and Quintana Road.

10.04.060 Curb.

“Curb” means the lateral boundary of the roadway whether such curb be marked by curbing construction, or not so marked: the word curb as used in this title shall not include the line dividing the roadway of a street from parking strips in the center of a street, nor from the tracks or rights-of-way of public utility companies.

10.04.070 Divisional island.

“Divisional island” means a raised island located in the roadway and separating opposing or conflicting streams of traffic.

10.04.080 Holidays.

Within the meaning of this title, “holidays” are those dates as described in the federal holiday law.

10.04.090 Loading zone.

“Loading zone” means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

10.04.100 Official time standard.

Whenever certain hours are named in this title, they shall mean standard time or daylight savings time as may be in current use in this city.

10.04.110 Park and Parking

“Park” or “Parking” means the definition as described in Section 463 of the Vehicle Code.

10.04.120 Parking meter.

“Parking meter” means a mechanical device installed within or upon the curb or sidewalk area immediately adjacent to a parking space, for the purpose of controlling the period of time occupancy of such parking meter space by any vehicle.

10.04.130 Parkway.

“Parkway” means that portion of a street other than a roadway or a sidewalk.

10.04.140 Passenger loading zone.

“Passenger loading zone” means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

10.04.150 Pedestrian.

“Pedestrian” means the definition as described in Section 467 of the Vehicle Code.

10.04.160 Police department volunteer.

“Police department volunteer” means persons who are registered and approved volunteers with the police department who are authorized and trained in traffic control and to enforce parking regulations.

10.04.170 Police officer.

“Police officer” means every officer of the police department of this city as defined in Section 830.1 of the California Penal Code.

10.04.180 Skateboard.

“Skateboard” means a short narrow board with two small wheels fixed to the bottom of either end, on which (as a recreation or sport) a person can ride in a standing or crouching position, propelling themselves by occasionally pushing one foot against the ground.

10.04.190 Stop or Stopping.

“Stop or Stopping” means the definition as described in Section 587 of the Vehicle Code.

10.04.200 Stop or stand.

“Stop or stand,” when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

10.04.210 Traffic Control device.

“Traffic Control device” means a sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or shared-use path by authority of a public agency having jurisdiction.

10.04.220 Vehicle Code.

“Vehicle Code” means the Vehicle Code of the state of California.

Chapter 10.08

ADMINISTRATION

Sections:

- 10.08.010 Office of city traffic engineer established – Authority to place and maintain traffic-control devices.**
- 10.08.020 Traffic engineer’s powers and duties.**
- 10.08.030 Traffic-control devices and markings - Installation and maintenance.**
- 10.08.040 Traffic committee - Established - Membership.**
- 10.08.050 Traffic committee - Duties.**
- 10.08.060 Enforcement.**
- 10.08.070 Declared Streets**

10.08.010 Office of city traffic engineer established – Authority to place and maintain traffic-control devices.

The office of city traffic engineer is established. The city traffic engineer shall be the city engineer until the council shall authorize the creation of a separate officer, and he/she shall exercise the powers and duties as provided in Section 10.08.020 and in the traffic regulations of this city. Whenever the city traffic engineer is required or authorized to place or maintain official traffic-control devices or signals, he may cause such devices or signals to be placed or maintained.

10.08.020 Traffic engineer’s powers and duties.

It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, signs and signals, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering and traffic investigations of traffic conditions, to recommend traffic-control devices for inclusion in the capital improvement program and present plans for consideration by the council, and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this city. Whenever, by the provisions of this title, a power is granted to the city traffic engineer or a duty imposed upon him/her, the power may be exercised or the duty performed by him/her or by his deputy or by a person authorized in writing by him/her.

10.08.030 Traffic-control devices and markings - Installation and maintenance.

The physical maintenance of traffic-control devices and markings shall be handled by the Public Services Department. The installation of devices, signs or markings authorized by city traffic engineer will be either by contract or through the public services department.

10.08.040 City Staff Traffic Advisory Committee - Established - Membership.

There is established an advisory traffic committee consisting of a minimum of the following city staff members or their representatives: the city traffic engineer, the chief of police and the fire chief.

10.08.050 City Staff Traffic Advisory Committee - Duties.

It shall be the duty of the city staff traffic advisory committee to consider public suggestions having to do with traffic matters and recommend ways and means of improving traffic conditions and the administration and enforcement of traffic regulations.

10.08.060 Enforcement.

A. All adopted state and city-parking ordinances shall be administered and enforced by the police chief, the fire chief, and the City Traffic Engineer, or such other persons, as they shall designate as enforcing officers.

B. It is the duty of the police chief to enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations, to investigate traffic accidents and to collaborate with other city departments and the staff traffic safety committee with the administration of the traffic laws and in developing ways and means to improve traffic conditions.

10.08.070 Declared Streets

A. All of the streets and highways in the city now existing or hereafter created or dedicated are declared streets, and all the city parking lots or public areas (whether improved or unimproved) upon which driving, stopping, standing or parking of vehicles shall be limited and restricted; provided, that such street, lot or public area is properly signposted or marked so as to designate the limitation or restriction placed herein. The council may from time to time limit or restrict the driving, stopping, standing or parking of vehicles upon any public street, city parking lot or public area in the city. Such limitation or restriction shall be effectuated by resolution of the council specifying the streets, lots and public areas and limitations or restrictions on driving, standing, stopping or parking therein, followed by proper signposting of the street, lot or public area.

B. When authorized signs are in place giving notice thereof, no person shall drive, stop, stand or park any vehicle on any street, city parking lot or public area in the city in violation thereof.

Chapter 10.12

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

Sections:

- 10.12.010** Traffic direction - Police and fire department officials' authority.
- 10.12.020** Persons other than officials shall not direct traffic.
- 10.12.030** Obedience to traffic regulations - Required.
- 10.12.040** Obedience to traffic regulations - Persons riding bicycles or animals.
- 10.12.050** Obstruction or interference with police or authorized officers prohibited.
- 10.12.060** Public employees to obey traffic regulations.
- 10.12.070** Exemption of certain vehicles.
- 10.12.080** Report of damage to certain property required.
- 10.12.090** Authority to remove vehicles.

10.12.010 Traffic direction - Police and fire department officials' authority.

A. Officers, assigned employees and authorized volunteers of the police department are primarily responsible to direct all traffic by voice, hand, audible or other signals in conformance with traffic laws, except that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, other assigned city employees may direct traffic as conditions may require, notwithstanding that provisions to the contrary are contained in this title or the Vehicle Code. No other person shall direct traffic in any emergency situation unless so directed by the incident commander of the emergency situation.

B. During non-emergency situations such as construction, the chief of police or traffic engineer may authorize and/or require the construction firms to provide adequate and proper traffic control and direction during construction.

10.12.020 Obedience to traffic regulations - Required.

It is a misdemeanor or infraction for any person driving any vehicle or other conveyance upon any street, or any pedestrian, to do any act forbidden or fail to perform any act required as applicable to any such person under this title.

10.12.030 Obedience to traffic regulations - Persons riding bicycles or animals.

Every person riding a bicycle or riding or driving an animal upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions that by their very nature can have no application.

10.12.040 Obstruction or interference with police or authorized officers prohibited.

No person shall interfere with or obstruct in any way any police officer or other officer or employee of this city in their enforcement of the provisions of this title.

10.12.050 Removal of chalk marks

A. The owner or operator of any motor vehicle exercising the privilege of parking a vehicle on any street or portion thereof where regulations are in effect restricting the length of

time vehicles may be parked on a street or portion thereof does so on the condition that the police officers or other designated city personnel may place chalk or other removable marks on the tire of the vehicle for the purpose of enforcing such parking regulations.

B. It is unlawful for any person to erase, rub out, conceal or otherwise remove, any chalk or other mark so placed by a police officer or other designated city personnel while the marked vehicle remains parked on the street or portion thereof. For the purpose of this section, the movement of a previously marked vehicle in such a manner as to cause the tire marking to be concealed or removed, and without leaving the parking space or the block where such vehicle was parked when its tires were previously marked shall be deemed to be an erasure or removal of such chalk or other marking.

10.12.060 Exemption of certain vehicles.

A. The provisions of this title regulating the operation, parking and standing of vehicles shall not apply to authorized emergency vehicles.

B. The provisions of this title regulating the parking or standing of vehicles shall not apply to any vehicle of a city department or public utility while necessarily in use for construction, repair work, or during an emergency, or any vehicle owned or operated by the United States Postal Service while in use for the collection, transportation or delivery of the United States mail.

10.12.070 Report of damage to certain property required.

The operator of any vehicle or the person in charge of any animal involved in any accident resulting in damage to any property publicly owned or owned by a public utility, including, but not limited to, any fire hydrant, parking meter, lighting post, telephone pole, electric light or power pole, or resulting in damage to any tree, traffic-control device or other property of a like nature located in or along any street, shall immediately or as soon as practical after such accident make a written report of such accident to the police department of this city.

10.12.090 Authority to remove vehicles.

A. Any police officer of the city police department may remove a vehicle as specified in Section 22650-22856 of the California Vehicle Code.

B. Any trained police volunteer may remove a vehicle as specified in Section 22651.05 of the California Vehicle Code.

Chapter 10.16

TRAFFIC-CONTROL DEVICES

Sections:

- 10.16.010 Authority to place and maintain.**
- 10.16.020 Traffic-control signs required for enforcement purposes.**
- 10.16.030 Obedience required.**
- 10.16.040 Traffic signal installation.**
- 10.16.050 Lane marking.**
- 10.16.060 Distinctive roadway markings - Authority to place.**
- 10.16.070 Removal, relocation and discontinuance - Authority.**
- 10.16.080 Hours of operation.**
- 10.16.090 Unauthorized painting on curbs prohibited.**
- 10.16.100 Unauthorized signs or signals prohibited**
- 10.16.110 Signs and signals - Tampering with**

10.16.010 Authority to place and maintain.

A. The city traffic engineer shall have the power and duty to place or cause to be placed official traffic-control devices when and as required to make effective the provisions of this title.

B. Whenever the Vehicle Code requires for the effectiveness of any provision thereof that traffic-control devices be installed to give notice to the public of the application of such law, the city traffic engineer is authorized to install or cause to be installed the necessary devices subject to any limitations or restrictions set forth in the law applicable thereto.

C. The city traffic engineer may also place or cause to be placed such additional traffic-control devices as he may deem necessary or proper to regulate traffic or to guide or warn traffic, but he shall make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations and rules as may be set forth in this chapter or as may be determined by ordinance or resolution of the council.

D. The police chief may also place or cause to be placed temporary traffic-control signs as he may deem necessary or proper to regulate traffic or to guide or warn traffic in emergency situations, special events, or other temporary events.

E. It is unlawful for any person to place or maintain any device other than an official warning or directional sign or signal erected under competent authority, on or in view of the street, which purports to be, or is an imitation of, or resembles an official warning or direction sign or signal, or which attempts to direct the movement of traffic or the actions of operators of vehicles; and any such prohibited device shall be a public nuisance and the police department may remove it, or cause it to be removed without notice.

10.16.020 Traffic-control signs required for enforcement purposes.

No provision of the Vehicle Code or of this title for which signs are required shall be enforced against an alleged violator unless appropriate legible signs are in place giving notice of such provisions of the traffic regulations.

10.16.030 Obedience required.

The operator of any vehicle shall obey the instructions of any official traffic-control device placed in accordance with this title unless otherwise directed by a police officer or other authorized person subject to the exceptions granted the operator of an authorized emergency vehicle when responding to emergency calls.

10.16.040 Traffic signal installation.

A. The city traffic engineer is directed to install official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.

B. The city traffic engineer shall ascertain and determine the locations where such signals are required by field investigation, input from the City Staff Traffic Advisory Committee, traffic counts and other traffic information as may be pertinent and his determinations therefrom shall be made in accordance with those traffic engineering and safety standards and instructions set forth in the Traffic Manual issued by the California Department of Transportation.

C. Whenever the city traffic engineer installs an official traffic signal at any intersection, he shall likewise erect at such intersection street name signs visible to the principal flow of traffic unless such street name signs have previously been placed and are maintained at any such intersection.

10.16.050 Lane marking.

The city traffic engineer is authorized to mark centerlines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the highway.

10.16.060 Distinctive roadway markings - Authority to place.

The city traffic engineer is authorized to place distinctive roadway markings as described in the Vehicle Code on those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. Such markings or signs and markings shall have the same effect as similar markings placed by the State Department of Transportation pursuant to the provisions of the Vehicle Code.

10.16.070 Removal, relocation and discontinuance - Authority.

The city traffic engineer is authorized to remove, relocate or discontinue the operation of any traffic-control device not specifically required by the Vehicle Code or this title whenever he shall determine in any particular case that the conditions which warranted or required the installation no longer exist.

10.16.080 Hours of operation.

The city traffic engineer shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this title.

10.16.090 Unauthorized painting on curbs prohibited.

No person, unless authorized by city traffic engineer, shall paint any street or curb surface; provided, however, that this section shall not apply to the painting of numbers on a curb surface by any person who has complied with the provisions of any resolution or ordinance of this city pertaining thereto.

10.16.100 Unauthorized signs or signals prohibited.

It is unlawful for any person to place or maintain any device other than an official warning or directional sign or signal erected under competent authority, on or in view of the street, which purports to be, or is an imitation of, or resembles an official warning or direction sign or signal, or which attempts to direct the movement of traffic or the actions of operators of vehicles; and any such prohibited device shall be a public nuisance and the traffic engineer and/or police department may remove it, or cause it to be removed without notice.

10.16.110 Signs and signals-Tampering with.

It is unlawful for any person to deface, injure, move or interfere with any official warning or directional signal or sign.

Chapter 10.20

TURNING MOVEMENTS

Sections:

- 10.20.010** **Turning markers - Authority to place - Obedience to required.**
- 10.20.020** **Restricted turn signs - Authority to place.**
- 10.20.030** **No-turn signs - Obedience required.**
- 10.20.040** **No free right turn on red light signs – Obedience required - Sign posting.**
- 10.20.050** **U-Turns**

10.20.010 **Turning markers - Authority to place - Obedience to required.**

A. The city traffic engineer is authorized to place markers, buttons or other official traffic-control signs within or adjacent to intersections and indicating the course to be traveled by vehicles turning at such intersections, and the city traffic engineer is authorized to locate and indicate more than one lane of traffic from which drivers of vehicles may make right or left hand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

B. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning there, no driver of a vehicle shall disobey the directions of such indications.

10.20.020 **Restricted turn signs - Authority to place.**

The traffic engineer is authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

10.20.030 **No-turn signs - Obedience required.**

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of such sign.

10.20.040 **No free right turn on red light signs – Obedience required - Sign posting.**

A. No driver of a vehicle shall make a right turn against a red or stop signal at any intersection which is sign-posted giving notice of such restriction as provided in subsection B of this section.

B. The city traffic engineer shall post appropriate signs giving effect to this section where he determines that the making of right turns against a traffic signal östopö indication would seriously interfere with the safe and orderly flow of traffic.

10.20.050 **U-Turns**

A. No vehicle in a business district shall be turned so as to proceed in the opposite direction except at an intersection.

B. No vehicle in a residential district shall be turned so as to proceed in the opposite direction when any other vehicle is approaching from either direction within two hundred feet except an intersection.

Chapter 10.24

ONE-WAY STREETS AND ALLEYS

Sections:

10.24.010 Sign posting.

10.24.010 Sign posting.

Whenever any ordinance or resolution of this city designates any one-way street or alley, the city traffic engineer shall place signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Chapter 10.28

SPECIAL STOPS REQUIRED

Sections:

10.28.010 Stop signs—Erection—Removal—Obedience to required.

10.28.020 Vehicles emerging from an alley, driveway or building.

10.28.010 Stop signs—Erection—Removal—Obedience to required.

The city traffic engineer is authorized to erect stop signs at those locations where he or she deems such controls to be necessary or remove those signs no longer warranted in order to protect the public safety. When signs are erected giving notice thereof, drivers of vehicles shall stop at the entrance or entrances to such intersections.

10.28.020 Vehicles emerging from an alley, driveway or building.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway or driveway.

Chapter 10.32

MISCELLANEOUS DRIVING RULES

Sections:

- 10.32.010** Driving through funeral procession.
- 10.32.020** Commercial vehicles using private driveways.
- 10.32.030** Riding or driving on sidewalk.
- 10.32.040** Riding or driving on new pavement markings.
- 10.32.050** Driving on limited access roadways.
- 10.32.060** Barriers and signs—Placing or erecting—Tampering with—Obedience to required.
- 10.32.070** Entering intersections and crosswalks.
- 10.32.080** Driving over fire hose prohibited

10.32.010 Driving through funeral procession.

No operator of any vehicle shall drive between the vehicles comprising a funeral procession or a parade; provided, that such vehicles are conspicuously so designated. The directing of all vehicles and traffic on any street over which such funeral procession or parade wishes to pass shall be subject to the orders of the police department.

10.32.020 Commercial vehicles using private driveways.

A. No person shall operate or drive a commercial vehicle in, on or across any private driveway approach or sidewalk area itself without the consent of the owner or occupant of the property, if a sign or markings are in place indicating that the use of such driveway is prohibited.

B. For the purpose of this section, a "commercial vehicle" means a vehicle having a rated capacity in excess of one-half ton.

10.32.030 Riding or driving on sidewalk.

No person shall ride, drive, propel, or cause to be propelled, any vehicle or animal across or upon any sidewalk excepting over permanently constructed driveways and excepting when it is necessary for any temporary purpose to drive a loaded vehicle across a sidewalk; provided further, that the sidewalk area be substantially protected by wooden planks two inches thick, and written permission be previously obtained from the city traffic engineer. Such wooden planks shall not be permitted to remain upon such sidewalk area during the hours from six p.m. to six a.m.

10.32.040 Riding or driving on new pavement markings.

No person shall ride or drive any animal or any vehicle over or across any newly made pavement or freshly painted markings in any street when a barrier, sign, cone-marker or other warning device is in place warning persons not to drive over or across such pavement or marking, or when any such device is in place indicating that the street or any portion thereof is closed.

10.32.050 Driving on limited access roadways.

No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are lawfully established.

10.32.060 Barriers and signs—Placing or erecting—Tampering with—Obedience to required.

No person, public utility or department in the city shall erect or place any permanent barrier or sign on any street unless of a type approved by the city traffic engineer or disobey the instructions, remove, tamper with or destroy any permanent or temporary barrier or sign lawfully placed on any street by any person, public utility or by any department of this city.

10.32.070 Entering intersections and crosswalks.

A. No operator of any vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

B. It is unlawful for the operator of a vehicle to drive into any marked crosswalk while there is in such crosswalk on the half of the roadway or street on which such vehicle is traveling any pedestrian engaged in crossing the street or roadway, until such pedestrian shall have passed beyond the path of said vehicle.

10.32.080 Driving over fire hose prohibited

No vehicle shall be driven over any unprotected hose of the fire department when laid on any street or private driveway without the consent of the fire chief or fire personnel in command of the incident.

Chapter 10.36

PEDESTRIAN REGULATIONS

Sections:

10.36.010 Crosswalks—Establishment.

10.32.020 Crosswalks—Use required when.

10.36.010 Crosswalks—Establishment.

A. The city traffic engineer shall establish and designate crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway as follows:

Crosswalks may be established and maintained at all intersections within the central traffic district and at such intersections outside such districts, and at other places within or outside the district where the city traffic engineer determines that there is particular hazard to pedestrians crossing the roadway, subject to the limitations contained in subsection B of this section.

B. Other than crosswalks at intersections, no crosswalk shall be established in any block that is less than four hundred feet in length and such crosswalk shall be located as nearly as practicable at midblock.

C. The city traffic engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing that pedestrians shall not cross in the crosswalk so indicated.

10.36.020 Crosswalks—Use required when.

No pedestrian shall cross a roadway other than by a crosswalk in the central traffic district or in any business district.

Chapter 10.40

STOPPING, STANDING AND PARKING FOR CERTAIN PURPOSES OR IN CERTAIN PLACES

Sections:

- 10.40.010** Applicability of provisions—Temporary alteration of parking controls and regulations by traffic engineer and police chief.
- 10.40.020** Stopping or standing in parkways prohibited.
- 10.40.030** Maintenance of no stopping and no parking zones—Traffic engineer's duty—Compliance with markings required.
- 10.40.040** No stopping and parking areas.
- 10.40.050** Storage of vehicles upon streets prohibited.
- 10.40.060** Parking/Storage of Boats, Trailers, and RV's upon certain streets prohibited.
- 10.40.070** Repairing or greasing vehicles on public streets prohibited—Exception.
- 10.40.080** Washing or polishing vehicles on public streets.
- 10.40.090** Parking adjacent to schools.
- 10.40.100** Parking prohibited on narrow streets.
- 10.40.110** Parking on grades.
- 10.40.120** Peddlers, vendors—Unlawful parking.
- 10.40.130** Emergency parking signs.
- 10.40.140** Parking of large or commercial vehicles near intersections.
- 10.40.150** Nighttime parking of large vehicles.
- 10.40.160** Nighttime parking of vehicles with operating air-conditioning or refrigeration units.
- 10.40.170** Restricted parking in certain city parking lots.
- 10.40.180** Violation—Penalty.

10.40.010 Applicability of provisions—Temporary alteration of parking controls and regulations by traffic engineer.

A. The provisions of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times as specified in this chapter, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

B. The provisions of this chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code or the ordinances of this city prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

C. The city traffic engineer and/or police chief, or his or her designated alternate may, at his or her discretion, set aside, suspend or relocate parking controls and regulations on a temporary basis when it is found to be in the public interest or required for traffic safety. Before any such temporary change may become effective, the city traffic engineer shall receive the police department's approval for the change and have the change posted.

10.40.020 Stopping or standing in parkways prohibited.

No person shall stop, stand or park a vehicle within any parkway.

10.40.030 Maintenance of no stopping and no parking zones—Traffic engineer’s duty—
Compliance with markings required.

A. The city traffic engineer is authorized to maintain, by appropriate signs or by paint upon the curb surface, all no stopping zones, no parking areas, and restricted parking areas, as defined and described in this chapter.

B. When the curb markings or signs are in place, no operator of any vehicle shall stop, stand or park such vehicle adjacent to any such legible curb marking or sign in violation of any of the provisions of this chapter.

10.40.040 No stopping and parking areas.

No operator of any vehicle shall stop, stand, park or leave standing such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or other authorized officer, or traffic sign or signal:

A. Within any divisional island, unless authorized and clearly indicated with appropriate signs or markings;

B. On either side of any street between the projected property lines of any public walk, public steps, street, or thoroughfare terminating at such street when such area is indicated by appropriate signs or by red paint upon the curb surface;

C. In any area where the city traffic engineer determines that the parking or stopping of a vehicle would constitute a traffic hazard or would endanger life or property, when such area is indicated by appropriate signs or by red paint upon the curb surface;

D. In any area established by resolution of the council as a no parking area, when such area is indicated by appropriate signs or by red paint upon the curb surface;

E. Upon, along or across any railway track in such manner as to hinder, delay or obstruct the movement of any car traveling upon such track;

F. In any area where the parking or stopping of any vehicle would constitute a traffic hazard or would endanger life or property;

G. On any street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway or the installation of underground utilities or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided, that signs giving notice of such no parking are erected or placed at least twenty-four hours prior to the effective time of such no parking;

H. At any place within twenty feet of a point on the curb immediately opposite the midblock end of a safety zone, when such place is indicated by appropriate signs or by red paint upon the curb surface;

I. At any place within fifteen feet of a crosswalk at an intersection when such place is indicated by appropriate signs or by red paint upon the curb surface, except that a bus may stop at a designated bus stop;

J. Within fifteen feet of the approach to any traffic signal, boulevard stop sign, or official electric flashing device;

- K. Within any parkway;
- L. Within ten feet of any intersection;
- M. Within ten feet of any fire hydrant;
- N. Directly in front of any building in which is housed fire fighting apparatus belonging to the city;
- O. In any intersection;
- P. In a crosswalk;
- Q. In any reserved space, except to take on or let off passengers or merchandise, unless otherwise provided in this chapter.

10.40.050 Parking for more than seventy-two hours prohibited.

Pursuant to California Vehicle Code Section 22507, no vehicle, boat, trailer shall be parked or left standing upon any street, highway, city parking lot or public area (whether improved or unimproved) within the city for seventy-two or more consecutive hours without having been moved at least one-tenth of a mile during that period.

10.40.060 Parking/Storage of Boats, Trailers, and RV's upon certain streets prohibited.

No person shall park or store any boat, trailer, or recreational vehicle upon any street, highway, city parking lot or public area (whether improved or unimproved) within a Business District, as defined in Section 235 of the California Vehicle Code, between the hours of 2:00 a.m. and 6:00 a.m., unless such area is designated by the City for such parking or storage.

10.40.070 Repairing or greasing vehicles on public streets prohibited—Exception.

No person shall construct or cause to be constructed, repair or cause to be repaired, change the oil, grease or cause to be greased any vehicle or any part thereof upon any public street in this city. Temporary emergency repairs may be made upon a public street.

10.40.080 Washing or polishing vehicles on public streets.

No person shall wash or cause to be washed, polish or cause to be polished any vehicle or any part thereof upon any street in this city, when a charge is made for such service.

10.40.090 Parking adjacent to schools.

A. The city traffic engineer is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his or her opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected prohibiting parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.

10.40.100 Parking prohibited on narrow streets.

A. The city traffic engineer is authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed twenty feet, or upon one side of a street as indicated by such signs or markings when the width of the roadway does not exceed thirty feet.

B. When official signs or markings prohibiting parking are erected upon narrow streets as authorized in this section, no person shall park a vehicle upon any such street in violation of any such sign or marking.

10.40.110 Parking on grades.

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding three percent without blocking the wheels of the vehicle by turning them against the curb or by other means.

10.40.120 Peddlers, vendors—Unlawful parking.

A. Except as otherwise provided in this section, no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunchwagon or eating cart or vehicle, on any portion of any street within this city, except that such vehicles, wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten minutes at any one place. The provisions of this subsection shall not apply to nonprofit organizations that have obtained prior approval of the council.

B. No person shall park or stand on any street any lunchwagon, eating cart or vehicle, or pushcart from which tamales, peanuts, popcorn, candy or other articles of food are sold or offered for sale.

10.40.130 Emergency parking signs.

A. Whenever the chief of police shall determine that an emergency traffic congestion is likely to result from the holding of public or private assemblages, special event, gatherings or functions, or for other reasons, the chief of police shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the chief of police shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency and the chief of police shall cause such signs to be removed promptly thereafter.

B. When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs.

10.40.140 Parking of large or commercial vehicles near intersections.

No person shall park any vehicle greater than six feet in height, including any load thereon, within one hundred feet of any intersection at any time. This section shall not apply to any particular intersection until signs or markings giving adequate notice thereof have been placed as determined appropriate by the city engineer.

10.40.150 Nighttime parking of large vehicles.

Between the hours of ten p.m. and seven a.m., it is unlawful to park or leave standing upon any public right-of-way within two hundred feet of any dwelling, any vehicle exceeding (1) twenty feet in length, or (2) six thousand pounds unladen weight, except trailer coaches, housecars, campers or motorhomes.

10.40.160 Nighttime parking of vehicles with operating air-conditioning or refrigeration units.

Between the hours of ten p.m. and seven a.m., no person shall park or leave standing on any street or public right-of-way any vehicle, except a passenger vehicle, with an operating

refrigeration or other unit to cool, heat, humidify, or otherwise air-condition the cargo area, except for locations at least two hundred feet distant from the nearest dwelling.

10.40.170 Restricted parking in city parking lots except the boat lunch area.

No person shall stop, stand or park a vehicle on any city parking lot which signs are posted between the hours of two a.m. and five a.m. of any day or between the hours established by resolution of the council; provided that this section shall not apply to Tidelands Boat Launch area.

10.40.180 Violation—Penalty.

Every person convicted of a violation of any of the provisions of this chapter shall be punished by a fine for each separate offense as provided in Section 10.64.030.

Chapter 10.44

STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED IN CERTAIN AREAS

Sections:

- 10.44.010** **Timed parking.**
- 10.44.020** **Parking parallel on one-way streets.**
- 10.44.030** **Diagonal parking.**
- 10.44.040** **Parking space markings.**
- 10.44.050** **No stopping zones.**
- 10.44.060** **All night parking prohibited—Exception.**

10.44.010 **Timed parking.**

When authorized signs, parking meters or curb markings have been determined by the city traffic engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle for a period of time longer than the designated length of time, hours and days posted by sign, parking meter or curb marking. Green curb markings shall mean no standing or parking of time longer than ten minutes up to one hour. All other time designations shall be from one hour up to ten hours. Vehicle must move a minimum of one hundred fifty meters once designated time at occupied space has elapsed.

10.44.020 **Parking parallel on one-way streets.**

A. Subject to other more restrictive limitations, a vehicle may be stopped or parked within eighteen inches of the left-hand curb facing in the direction of traffic movement upon any one-way street unless signs are in place prohibiting such stopping or standing.

B. In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are in place permitting such standing or parking.

C. The city traffic engineer is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way roadway or a highway having two or more separate roadways and shall erect signs giving notice thereof.

D. The requirements of parallel parking imposed by this section shall not apply in the event any commercial vehicle is actually engaged in the process of loading or unloading freight or goods, in which case such vehicle may be backed up to the curb; provided, that such vehicle does not extend beyond the centerline of the street and does not block traffic thereby.

10.44.030 **Diagonal parking.**

A. On any of the streets or portions of streets established by resolution of the council as diagonal parking zones, when signs or pavement markings are in place indicating such diagonal parking, it is unlawful for the operator of any vehicle to park the vehicle except:

1. At the angle to the curb indicated by sign or pavement markings allotting space to parked vehicles and entirely within the limits of the allotted space;
2. With the front wheel nearest the curb within six inches of the curb.

B. The provisions of this section shall not apply when such vehicle is actually engaged in the process of loading or unloading passengers, freight or goods, in which event the provisions applicable in Section 10.40.040 shall be complied with.

10.44.040 Parking space markings.

A. The city traffic engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs on city streets and in municipal parking lots where authorized parking is permitted.

B. When such parking space markings are placed on the highway or in a municipal parking lot, subject to other and more restrictive limitations, no vehicle shall be stopped, left standing or parked other than within a single space, unless the size or shape of such vehicle makes compliance impossible.

10.44.050 No stopping zones.

A. The city traffic engineer shall designate established no stopping zones by placing and maintaining appropriate signs indicating that stopping of vehicles is prohibited and indicating the hours and days when stopping is prohibited.

B. During the hours and on the days designated on the signs, it is unlawful for the operator of any vehicle to stop said vehicle on any of the streets or parts of streets established by the city traffic engineer as no stopping zones.

10.44.060 All night parking prohibited in Central Traffic District—Exception.

No person shall stop, stand or park a vehicle on any street upon which signs are posted in the central traffic district between the hours of two a.m. and five a.m. of any day or between the hours established by resolution of the council; provided, that this section shall not apply to a vehicle of any regularly licensed physician when actually engaged in making professional calls; and provided, that the physician's vehicle is plainly marked and identifiable.

Chapter 10.48

STOPPING FOR LOADING OR UNLOADING ONLY

Sections:

- 10.48.010 Loading zones—Marking—Authority.**
- 10.48.020 Curb markings—Meanings—Authority to place.**
- 10.48.030 Yellow loading zone—Time restrictions for loading and unloading.**
- 10.48.040 White zones—Time restrictions for loading and unloading.**
- 10.48.050 Standing in any alley.**
- 10.48.060 Bus zones—Establishment—Authority.**
- 10.48.070 Handicapped parking.**
- 10.48.080 Violation—Penalty.**

10.48.010 Loading zones—Marking—Authority.

A. The city traffic engineer is authorized to determine and to mark loading zones and passenger loading zones as follows:

1. At any place in the central traffic district or any business district;
2. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.

B. Loading zones shall be indicated by yellow paint upon the top of all curbs in the zones.

C. Passenger loading zones shall be indicated by white paint upon the top of all curbs in the zones.

10.48.020 Curb markings—Meanings—Authority to place.

The city traffic engineer is authorized, subject to the provisions and limitations of this chapter, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and the curb markings shall have the meanings as set forth in this section.

A. "Red" means no stopping, standing or parking at any time except as permitted by the Vehicle Code, and except that a bus may stop in a red zone marked or signed as a bus zone.

B. "Yellow" means no stopping, standing or parking at any time between seven a.m. and six p.m. of any day, except Sundays, for any purpose other than the commercial loading or unloading of materials by a commercially registered and licensed vehicle or a professionally signed passenger vehicle that displays an authorized commercial loading zone permit. The commercial loading zone permit requirements and fee shall be established by resolution.

C. "White" means no stopping, standing or parking for any purpose other than loading or unloading of passengers, or for the purpose of depositing mail in an adjacent mailbox, which shall not exceed three minutes, and such restrictions shall apply between seven a.m. and six p.m. of any day, except Sundays, and except as follows:

1. When such zone is in front of a hotel or in front of a mailbox the restrictions shall apply at all times.
2. When such zone is in front of a theater the restrictions shall apply at all times.

D. When the city traffic engineer as authorized under this chapter has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb markings in violation of any of the provisions of this section.

10.48.030 Yellow loading zone—Time restrictions for loading and unloading.

A. No person shall stop, stand or park a vehicle in any yellow loading zone for any purpose other than loading or unloading material for such time as is permitted in this section.

B. The loading or unloading of materials shall be allowed only for those deliveries made by commercially registered and licensed vehicles or professionally signed passenger vehicles displaying an authorized commercial loading zone permit that is used for commercial business deliveries; also, the delivery or pickup of express and parcel post packages and United States mail. All other passenger vehicles not meeting the sign and permit requirements may not use a loading zone for any purpose except when the zone is not effective.

C. Permission herein granted to stop or stand a vehicle for the purpose of loading or unloading materials shall not extend beyond the time necessary therefor, and in no event for more than thirty minutes. Evidence that there was no activity involving the loading or unloading of materials into or from a vehicle during any continuous period of time of eight minutes or longer shall constitute prima facie evidence that the vehicle was parked longer than the time necessary for loading or unloading. The council may, by resolution, temporarily extend the time for unloading and loading of materials at select locations when it is deemed in the best interest of the public due to temporary conditions such as construction, street or public parking lot closures.

10.48.040 White zones—Time restrictions for loading and unloading.

A. No person shall stop, stand or park any vehicle in any passenger loading zone or any vehicle other than a taxicab in a specially marked loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in this section.

B. Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage and shall not extend beyond the time necessary therefor and in no event for more than three minutes.

C. The council may, by resolution, allow taxicabs to stand in specially marked passenger loading zones and regular parking spaces for extended periods of time providing the driver is present in the cab.

D. Within the total time limits specified in this section the provisions of this section and Section 10.44.030 shall be enforced so as to accommodate necessary and reasonable loading or unloading, but without permitting abuse of the privileges hereby granted.

10.48.050 Standing in any alley.

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of persons or materials in any alley. Time limits for loading shall be as established in Sections 10.44.020, 10.44.030 and 10.44.040, except that these limitations shall apply twenty-four hours per day seven days a week, including Sundays and holidays. (Prior code § 3211.5)

10.48.060 Bus zones—Establishment—Authority.

A. The city traffic engineer is authorized to establish bus zones for the loading and unloading of buses and common carriers or passengers, and to determine the location thereof.

B. Bus zones shall normally be established on the far side of an intersection. (Prior code § 3211.6)

10.48.070 Handicapped parking.

No person other than a person described in Vehicle Code Section 22511.5 shall stop, stand or park in a parking space designated expressly for the use of handicapped persons.

A. The city traffic engineer shall designate special blue curb parking spaces for the purpose of providing on-street parking for exclusive use by disabled persons.

B. The city traffic engineer shall designate parking stalls or spaces in publicly owned, leased or controlled off-street parking facilities for exclusive use by disabled persons.

C. The city declares that there are privately owned and operated parking facilities which may reserve parking space for exclusive use by disabled persons.

D. Designation of parking spaces for disabled persons shall be made by posting immediately adjacent to and visible from same a sign consisting of the international symbol of access; on-street spaces shall be designated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. All off-street parking facilities shall display a white on blue sign not less than seventeen inches by twenty-two inches in size with lettering not less than one inch in height, which clearly states: This facility is subject to public traffic regulations and control. Unauthorized vehicles not displaying distinguishing license plates or placards issued for physically handicapped persons will be issued citations and towed away at owner's expense.

This sign shall also display the international symbol of access, and shall be posted at the entrance to the parking facility or immediately adjacent to and visible from the reserved space(s).

E. No person shall park or stand any vehicle in a disabled person parking space designated as required in subsection D of this section, unless the vehicle bears a special license or displays a special placard issued under the provisions of Section 9105 or Section 22511.5 of the California Vehicle Code.

F. Blue curb on-street parking spaces shall be operative twenty-four hours a day, Sundays and holidays included; off-street disabled persons parking spaces shall be operative at all times the parking facilities in which they are located are open.

G. Parking zones for disabled persons are subject to any temporary parking prohibitions established by the city including daily prohibitions necessary for traffic control, construction and street maintenance.

H. Notwithstanding the provisions of Section 10.64.030, fines for violation of this section shall be as set out in Vehicle Code Section 42001(a).

10.48.080 Violation—Penalty.

Every person convicted of a violation of any of the provisions of this chapter shall be punished by a fine for each separate offense as provided in Section 10.64.020.

Chapter 10.52

RESTRICTED USE OF CERTAIN STREETS

Sections:

- 10.52.010 Advertising vehicles.**
- 10.52.020 Non-motor-drawn vehicles.**
- 10.52.030 Truck routes.**
- 10.52.040 Commercial vehicles prohibited from using certain streets—Sign posting.**
- 10.52.050 Maximum gross weight limits of vehicles on certain streets.**

10.52.010 Advertising vehicles.

No person, without prior permission of the council, shall operate or drive any vehicle used solely for advertising purposes or any advertising vehicle equipped with a sound-amplifying or loud speaking device upon any street or alley at any time within the central traffic district.

10.52.020 Non-motor-drawn vehicles.

A. No person shall drive any animal-drawn vehicle into or within the central business district, and no person shall operate any non-motor-driven vehicle, cart, cab or other device for hire within the central business district, except by special permit of the chief of police.

B. The chief of police shall establish, and make available upon request, administrative procedures and standards for permit processing and approval.

C. A nonrefundable fee, as established by council resolution, may be required with each permit application to defray administrative costs for processing and inspection.

10.52.030 Truck routes.

A. Whenever the city designates and describes any street or portion thereof as a street, the use of which is permitted by any vehicle exceeding a maximum gross weight limit of five tons, the city traffic engineer is authorized to designate such street or streets by appropriate signs as "truck routes" for the movement of vehicles exceeding a maximum gross weight limit of five tons.

B. When any such truck route or routes are established and designated by appropriate signs, the operator of any vehicle exceeding a maximum gross weight limit of five tons shall drive on such route or routes and none other except that nothing in this section shall prohibit the operator of any vehicle exceeding a maximum gross weight of five tons coming from a "truck route" having ingress and egress by direct route to and from restricted streets when necessary for the purpose of making pickups and deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted streets for which a building permit has previously been obtained.

C. The provisions of this section shall not apply to (1) passenger buses under the jurisdiction of the Public Utilities Commission, (2) any vehicle owned by a public utility, or (3) any vehicle under contract to the city.

10.52.040 Commercial vehicles prohibited from using certain streets—Sign posting.

A. Whenever any resolution of the city designates and describes any street or portion thereof as a street, the use of which is prohibited by any commercial vehicle, the city traffic engineer shall erect and maintain appropriate signs on those streets affected by such designation.

B. Those streets and parts of streets established by resolution of the council are declared to be streets, the use of which is prohibited by any commercial vehicle. The provisions of this section shall not apply to passenger buses under the jurisdiction of the public utilities commission or under contract to the city.

Chapter 10.56

SPEED ZONES

Sections:

10.56.010 Speed limit designation.

10.56.020 Regulation of speed by traffic signals—Sign posting.

10.56.010 Speed limit designation.

Prima facie speed limits shall be determined by the city traffic engineer pursuant to provisions set forth in the California Vehicle Code. A speed limit established pursuant to this section shall be effective when appropriate signs giving notice thereof are erected upon a street. The following speed limits are so designated:

Name of Street or Portion Affected	Speed Limit (miles per hour)
Main Street: Yerba Buena Street to Atascadero Road (State Highway 41)	40
Main Street: Atascadero Road (State Highway 41) to Radcliff	35
Main Street: Marina Street to Morro Bay State Park	30
Quintana Road: Morro Bay Blvd. to La Loma Ave.	35
Quintana Road: La Loma Ave. to Easterly City Limits	40
South Bay Blvd.: State Highway 1 to Southerly City Limits	40
Avalon Street: Laurel Avenue to Main Street	25
Atascadero Road: State Highway 1 to Embarcadero Road	25
Piney Way: Morro Bay Blvd. to Main Street	25
Embarcadero road: Beach Street to Coleman Drive	30
Coleman Drive: Embarcadero Road to Morro Rock	25

10.56.020 Regulation of speed by traffic signals—Sign posting.

The city traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections, and may erect appropriate signs giving notice thereof.

Chapter 10.60

OBSTRUCTIONS TO VISIBILITY

Sections:

- 10.60.010** **Scope.**
- 10.60.020** **Intersections.**
- 10.60.030** **Exceptions.**
- 10.60.040** **Violations deemed nuisance—Abatement.**

10.60.010 **Scope.**

No obstruction to cross-visibility shall be deemed to be excepted from the application of this chapter because of its being in existence at the time of the adoption of the provisions set out in this chapter, unless expressly exempted by the terms of this chapter.

10.60.020 **Intersections.**

At intersections not controlled by a stop sign or traffic signal, no plant, structure, or other solid object over three feet high (above adjacent curb) which would obstruct visibility may be located within the area indicated in Section 17.48.210 of the zoning regulations. At controlled intersections, the city engineer may determine visibility requirements for proper sight distance.

10.60.030 **Exceptions.**

The provisions set out in Section 10.60.020 shall not apply to public utility poles; trees trimmed (to the trunk) so that only the trunk obstructs the view; saplings or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross-view; and permanent buildings.

10.60.040 **Violations deemed nuisance—Abatement.**

In addition to the remedy by prosecution for violation of this chapter, any obstruction maintained in violation of this chapter shall be deemed a nuisance, and upon failure to abate the same within fourteen days after the posting upon the premises of notice to abate the nuisance, signed by the director of public works or his or her authorized representative, they may enter upon the premises and remove or eliminate the obstruction. In such event the cost to the city of the abatement of the nuisance shall be a personal obligation against the owner of the premises upon which the nuisance was maintained, recoverable by the city in an action before any court of competent jurisdiction.

Chapter 10.64

PARKING REVENUES, FINES AND FORFEITURES

Sections:

- 10.64.010** Persons violating the provisions of title to be fined for each separate offense.
- 10.64.020** Parking fines.
- 10.64.030** Disposition of fine and forfeitures.

10.64.010 Persons violating the provisions of title to be fined for each separate offense.

Every person convicted of a violation of any of the provisions of this title shall be punished by a fine for each separate offense as provided in Section 10.64.030. For the purposes of this section: (1) a separate offense occurs when the initial citation is issued for a parking violation; and (2) an additional separate offense occurs, and an additional citation shall be issued, whenever, after the issuance of any citation, the vehicle remains parked for a subsequent period of time equaling or exceeding the parking limitation for the space or zone in which the vehicle is parked.

10.64.020 Parking fines.

The fines for parking violations written under the provisions of the Morro Bay Municipal Code and the California Vehicle Code shall be established by resolution of the council or as included in this Title.

10.64.030 Disposition of fine and forfeitures.

All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of any of the provisions of this title, shall be paid into the city treasury.

Chapter 10.68

INOPERATIVE VEHICLES

Sections:

10.68.010	Findings and declarations.
10.68.020	Definitions.
10.68.030	Exceptions.
10.68.040	Applicability of other laws.
10.68.050	Administration and enforcement.
10.68.060	Initiation of proceedings.
10.68.070	Notice of vehicle abatement—Service of notice.
10.68.080	Notice of vehicle abatement—Contents.
10.68.090	Hearing and determination.
10.68.100	Vehicle abatement.
10.68.110	Notice to Department of Motor Vehicles.
10.68.120	Collection of removal and administration costs.

10.68.010 Findings and declarations.

In accordance with the determinations made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, as public nuisances, the council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the public health, safety and general welfare. Therefore, the presence of such vehicles, or a part thereof, on private or public property, as defined in Section 10.68.010, and except as expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter as set forth under Section 38773.5 of the California Government Code.

10.68.020 Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

A. "Code enforcement officer" means and includes, for the purposes of this chapter code enforcement officers regularly employed or designated in that capacity by the city.

B. "Highway" means a way or place of whatever nature, publicly maintained and opened to the use of the public for purposes of vehicular travel. Highway includes streets.

C. "Owner of the land" means the owner of the land on which the vehicle or parts thereof is located as shown on the last equalized assessment roll.

D. "Owner of the vehicle" means the last registered owner and legal owner of record.

E. "Public property" means any property owned by a public agency, but does not include highways.

F. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon

stationary rails or tracks, including, but not limited to, autos, trucks, buses, motorcycles, trailers and mobile homes. (Prior code § 3218.1)

10.68.030 Exceptions.

A. This chapter shall not apply to the following as set forth in Section 22661 of the California Vehicle Code:

1. A vehicle or parts thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

2. The storage of one vehicle or parts thereof which is located behind a solid fence six feet in height and which is not plainly visible from a street, highway or other property;

3. A vehicle or parts thereof which is stored or parked in a lawful manner on private property on an approved site in connection with the business of a licensed dismantler, vehicle dealer, junk dealer, a towing service, or an auto repair or body shop, when such storage or parking is necessary to the operation of an otherwise lawfully conducted business or commercial enterprise.

B. Nothing in this section shall authorize the maintenance of a public or private nuisance as prohibited in Chapter 8.24.

10.68.040 Applicability of other laws.

This chapter does not constitute the exclusive procedure for removal of abandoned, wrecked, dismantled or inoperative vehicles within the city, but supplements and is in addition to all other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the city, the county, the state or any other legal entity or agency having jurisdiction, relating thereto.

10.68.050 Administration and enforcement.

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the police chief of the city or such other persons as he or she shall designate as enforcing officers, or by the city code enforcement officer, or other person(s) so directed by the city manager.

10.68.060 Initiation of proceedings.

When the enforcing employee has reason to believe or observes that the accumulation and the storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on public or private property constitutes a public nuisance as described in Section 10.68.010, he or she shall immediately investigate the same. In the performance of such investigation the enforcing employee and his or her designees may enter upon private or public property to examine a vehicle or parts thereof and to obtain information as to the identity and the ownership thereof.

10.68.070 Notice of vehicle abatement—Service of notice.

If the enforcing employee determines from his or her investigation that a public nuisance exists, he or she shall serve or cause to be served, either by personal service or by registered or certified mail, a copy of a notice of vehicle abatement upon every person concerned, including the owner of the property on which the alleged public nuisance exists, as shown on the last equalized assessment roll, and the last known registered and legal owner of the subject vehicle if the identification numbers are available to determine ownership. If a notice sent by registered or certified mail is returned unclaimed, a subsequent notice sent by first class mail, postage prepaid,

to the last known address of the party concerned shall be sufficient and such notice shall be effective upon mailing. The failure of any person to receive such notice shall not affect in any manner the validity of the proceedings taken under this chapter.

10.68.080 Notice of vehicle abatement—Contents.

The notice of vehicle abatement served pursuant to Section 10.68.070 shall contain the following information:

- A. The findings, in brief, that the vehicles constitute a public nuisance;
- B. That it is the intention of the enforcing employee to abate the vehicles on the premises, as both are described, fifteen days from service of notice of vehicle abatement, and that the costs of removal may be assessed against the premises;
- C. A common description of the premises by address or assessor's parcel number and a description of the vehicles, including license numbers or identification numbers if these are available on the vehicles;
- D. That the owner of the property or any owner of the vehicles may, within ten days of receipt of the notice, file a written request for a hearing before the council, or such person as they may designate to hear the matter, to show any cause why the vehicles should not be abated by the enforcing officer;
- E. That the owner of the property on which the vehicles are located may either appear at a hearing or present a sworn statement denying responsibility for the presence of the vehicles and giving the reasons for the denial, and that such statement shall be deemed a request for a hearing not requiring the presence of the requestor.

10.68.090 Hearing and determination.

A. All hearings under this chapter shall be held before the council, or any person they may designate to hear the matter, who may hear all the relevant evidence pertaining to the alleged public nuisance, including testimony on the condition of the vehicle or parts thereof, the circumstances concerning its location on the private or public property, and the costs of removal and disposal.

B. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The hearing shall commence within twenty days of the filing of the written request, and it may be continued from time to time. Any person affected may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine witnesses. The owner of the land on which the vehicle is located may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing denying responsibility for such denial.

- C. After the conclusion of the hearing, the council or hearing officer may:
- 1. Impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purposes of this chapter;
 - 2. Delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it; or
 - 3. Find that the vehicle or parts thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided in Section 10.68.100; and determine the administrative costs and the cost of removal and charge the same against the owner or other person in possession of the parcel of land on which the vehicle or parts thereof is located, or

against the owner of the vehicles, or against them jointly. Any such order requiring removal shall include a description of the vehicle or parts thereof, and the correct identification number and license number of the vehicles if available at the site.

D. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, the city shall not charge the costs of administration or of removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such landowner.

E. If an interested party makes a written presentation to the council, but does not appear, he or she shall be notified in writing of the decision.

10.68.100 Vehicle abatement.

After a finding has been made by the enforcing employee that any vehicle or parts thereof is a public nuisance under this chapter and if no hearing has been requested pursuant to subsections D and E of Section 10.68.080, or if the council after a hearing so orders, the vehicle or parts may be disposed of by removal to a scrapyard or automobile dismantler's yard, or to any suitable site operated by a local agency for processing as scrap or other final disposition consistent with this section. The party removing the vehicle or parts thereof may in so doing enter upon the private or public property on which it is located. Except as provided in the Vehicle Code, after removal a vehicle shall not be reconstructed or made operative.

10.68.110 Notice to Department of Motor Vehicles.

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificate, certificate of title, and license plates.

10.68.120 Collection of removal and administration costs.

The council may, from time to time, determine and set an amount to be assessed as administrative costs under this chapter. If no hearing is requested and held by the council, the enforcing employee shall determine the cost of removal and charge the same against the owner or other person in possession of the parcel of land on which the vehicle or parts thereof are located or against the owner of the vehicle, or against them jointly. If the administrative costs and the cost of removal which are charged against the owner of a parcel of land, pursuant to this section or to Section 10.68.090 are not paid within thirty days of the date of the order, such costs shall be assessed against the parcel of land pursuant to Section 25845 of the Government Code and shall be transmitted to the tax collector for collection. The assessment shall have the same priority as other county and city taxes.

Chapter 10.72

BICYCLES AND MOTORIZED BICYCLES

Sections:

- 10.72.010** **Definitions**
- 10.72.020** **Operation of bicycles and motorized bicycles**
- 10.72.030** **Violations and penalties**

10.72.010 **Definitions**

For purposes of this chapter the words set out in this section are defined as follows:

- A. A "bicycle" is a device as described in Section 231 of the California Vehicle Code.
- B. A "motorized bicycle" is a device as described in Section 406 of the California Vehicle Code.
- C. The provisions of this chapter apply to bicycles and motorized bicycles.

10.72.020 **Operation of bicycles and motorized bicycles.**

A. As per California Vehicle Code Section 21200, every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by Division 11 of the California Vehicle Code. However any police officer operating a bicycle during the course and scope of his/her duties is exempt from the requirements of this chapter if the bicycle is being operated under any of the following circumstances:

- 1. In response to an emergency call.
- 2. While engaged in rescue operations.
- 3. In the immediate pursuit of an actual or suspected violator of the law.

B. It is unlawful to operate a bicycle on a roadway unless it is equipped with the required equipment as set forth in California Vehicle Code Section 21201.

C. It is unlawful to violate any of the following provisions of the California Vehicle Code:

Section 21202	Operation on Roadway
Section 21203	Hitching Rides
Section 21204	Riding on a Bicycle
Section 21205	Carrying Articles
Section 21207.5	Prohibited Operation of Motorized Bicycles
Section 21208	Permitted Movements from Bicycle Lanes
Section 21209	Motor Vehicles and Motorized Bicycles in Bicycle Lanes
Section 21210	Bicycle Parking
Section 21211	Obstruction of Bikeways or Bicycle Paths or Trails

D. It is unlawful to operate any bicycle that is in an unsafe condition, which is not equipped as required by this code, or which is not safely loaded.

E. Any person under the age of 18 years old and any parent or legal guardian having control or custody of an unemancipated minor, must comply with the requirements of California Vehicle Code Section 21212 pertaining to helmets.

F. No person shall equip a bicycle with a siren or operate or use a bicycle so equipped; provided, that nothing in this section prohibits the equipping, operation or use of a public safety department bicycle with a siren as approved by the Chief of Police.

G. Every bicycle equipped with a carrier must have the carrier securely attached to the bicycle.

H. Every bicycle that is equipped with handlebar grips must have the grips securely fitted, glued or cemented to the handlebars.

I. No person shall ride or operate a bicycle upon any sidewalk in a business district unless such sidewalk is officially designated as a bicycle route.

J. Any person riding or operating a bicycle upon any street where a bicycle lane or path appropriate to his/her direction of travel is established and officially designated may ride or operate such bicycle in such bicycle lane or path or on the sidewalk where otherwise allowed by this code. "Street" means a way or place of whatever nature publicly maintained and open to the use of the public for purposes of travel.

K. No person riding or operating a bicycle, moped, motorcycle, sled, toy vehicle, or any other similar human-powered or motor-powered device upon a public right-of-way or upon park or open space lands owned and/or controlled by the city shall tow any other vehicle or person, including a skateboard and rider, except that bicycle trailers used for the delivery or transportation of newspapers, magazines, people or merchandise may be towed when being used in such activity.

L. No person riding or operating a bicycle, moped, skateboard, roller skates, roller blades, sled, toy vehicle, or any other similar human-powered or motor-powered device upon a public right-of-way or upon any land, property, or facilities owned or controlled by the city, shall participate in any race, speed, or endurance contest unless such race, speed or endurance contest has been approved by the city.

M. No person riding or operating a bicycle, moped, skateboard, roller skates, roller blades, sled, toy vehicle, or motorcycle shall perform any acrobatic, fancy, stunt, or trick riding upon a public right-of-way or upon any land, property, or facilities owned or controlled by the city.

N. No person shall park a bicycle against any window or on the main-traveled portion of the sidewalk, nor in such a manner as to constitute a hazard to pedestrians, traffic or property.

O. No person shall willfully or maliciously remove, destroy, mutilate or alter the identification number of any bicycle frame.

10.72.030 Violations and penalties.

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

1. A fine not exceeding fifty dollars for a first violation;
2. A fine not exceeding one hundred dollars for a second violation of the same ordinance within one year;
3. A fine not exceeding two hundred fifty dollars for each additional violation of the same ordinance within one year.

Chapter 10.76

COASTERS, ROLLER SKATES AND SIMILAR DEVICES

Sections:

- 10.76.010** Use of prohibited on streets and sidewalks.
- 10.76.020** Application of foreign substance
- 10.76.030** Reckless skateboarding and roller-skating
- 10.76.040** Violations and Penalties

10.76.010 Use of prohibited on streets and sidewalks.

A. Skateboarding and roller-skating shall be prohibited on any public street, sidewalk, parking lot or other public property when such area is prohibited or restricted by resolution of the city council.

B. Skateboarding and roller-skating shall be prohibited on any private property when the owner or person in charge of the property has posted an appropriate sign restricting or prohibiting such use.

C. Skateboarding and roller-skating shall be prohibited on downtown streets between Market Avenue and Shasta Avenue on Morro Bay Blvd. and between Dunes Street and Pacific Street on Main Street when posted.

10.76.020 Application of foreign substance.

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

10.76.030 Reckless skateboarding and roller-skating.

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

10.76.040 Violations and Penalties.

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

1. A fine not exceeding fifty dollars for a first violation;
2. A fine not exceeding one hundred dollars for a second violation of the same ordinance within one year;
3. A fine not exceeding two hundred fifty dollars for each additional violation of the same ordinance within one year.

Chapter 10.80

OVERSIZE AND OVERWEIGHT VEHICLES

Sections:

10.80.010	Purpose of provisions.
10.80.020	Permit—Required.
10.80.030	Permit—Application—Contents.
10.80.040	Permit—Good for one-time move only—Blanket permit issuance.
10.80.050	Permit—Denial—Restrictions—Permit holder’s responsibilities.
10.80.060	Permit holder’s responsibility for damages to public property.
10.80.070	Liability insurance required.
10.80.080	Notification of police department required prior to move.

10.80.010 Purpose of provisions.

The purpose of this chapter is to establish regulations and procedures for permitting the movement of oversize and overweight vehicles and loads on city streets.

10.80.020 Permit—Required.

No vehicle or structure which exceeds the size and/or weight limitations established by the California Vehicle Code shall be allowed on city streets without first obtaining a permit issued by the city engineer and complying with the conditions set forth by the permit.

10.80.030 Permit—Application—Contents.

Each permit application shall include a full description of the vehicle, and its contents, for which the permit is issued. The description shall indicate the extent of the oversize and/or overweight, the routes to be followed, date and time of day when the move will be made.

10.80.040 Permit—Good for one-time move only—Blanket permit issuance.

The permit issued shall be for a one-time move unless noted otherwise. Blanket permits may be issued for a time period not to exceed one year, but may not be issued for vehicles or loads which cannot be moved at normal traffic speeds.

10.80.050 Permit—Denial—Restrictions—Permit holder’s responsibilities.

A. The city engineer may deny the issuance of a permit or set special requirements based upon public safety and the limitation of the street system to handle the proposed vehicle or structure.

B. The permit holder is fully responsible to arrange with the appropriate utility companies and with the city for the relocation and replacement of wires, poles, traffic-control devices and other facilities. The permit holder shall not cut or trim trees, attach cables to them or otherwise disturb them. The permit holder shall not puncture or mark the pavement in any way.

C. The permit holder shall not park the vehicle or structure upon a public street unless the permit is so endorsed.

D. Upon completion of a move, and as directed by the city engineer or the police department, the permit holder shall clear the right-of-way of materials left by his or her operation and restore it to the condition existing prior to the move.

10.80.060 Permit holder's responsibility for damages to public property.

The permit holder shall be responsible for the repair of all damage to public property, including trees, pavement, curb, gutter, sidewalk, and other facilities both above and below ground. The State of California financial responsibility laws shall apply in all cases where motor vehicles are used.

10.80.070 Liability insurance required.

The permit holder is responsible for personal injury or private property damage which may occur through any act or omission when acting under a permit; and in the event any claim is made against the city or any department, officer, agent or employee thereof, by reason of, or in connection with, any such act or omission, the permit holder shall defend, indemnify and hold each of them harmless from such claim. The permit shall not be effective for any purpose unless and until the permit holder files with the city engineer an insurance certificate and an "additional insured endorsement" to the satisfaction of the city attorney. The insurance certificate supplied shall reflect the endorsement naming the city, its officers, agents and employees, as additional insured, and indicate that the policy will not be canceled or the coverage reduced without ten days' advance written notice to the city. The amount of coverage shall not be less than that required by the California Vehicle Code for vehicles weighing in excess of seven thousand pounds unladen weight per Section 16600.5 or such other amount considered appropriate for unusually large or heavy loads which pose a substantial risk to public facilities, as determined by the city engineer and city attorney.

10.80.080 Notification of police and fire departments required prior to move.

The permit holder shall notify the police and fire departments twenty-four hours in advance of moving on the public streets and obtain clearances regarding the need for front and rear escorts, sufficient personnel to handle traffic or utility problems and proper signing.

Chapter 10.84

POLICE TOWING SERVICES

Sections:

10.84.010	Establishment Authority
10.84.020	Definitions
10.84.030	Police tow service agreements
10.84.040	Agreement termination
10.84.050	Application
10.84.060	Compensation
10.84.070	Rates and fees
10.84.080	Independent contractor status
10.84.090	Requirements of tow service providers
10.84.100	City indemnification
10.84.110	Insurance
10.84.120	Police tow service provider fees
10.84.130	Disputes and claims
10.84.140	Appeal

10.84.010 Establishment Authority.

In exercise of their power, the City council may regulate the operations of police towing services contracted to the City to include rates and fees charged resulting from police towing services requested pursuant to California Vehicle Code Section 21100(g). The chief of police is authorized and directed to enter into and regulate police towing services contracted to private tow companies. Tow service providers shall provide tow service to the City on request in accordance with all the rules and regulations outlined in this Agreement. The provisions of this Agreement shall apply only to the towing and storage of vehicles, contracted as a result of police activity or in the performance of duties as a City contracted tow service provider.

10.84.020 Definitions.

The following words shall have the meaning given herein:

“City” is the City of Morro Bay.

“Person” is any person, firm, partnership, association, corporation, company, or organization of any kind.

“Tow Service Provider” is a person under contract with the City to provide the services of a vehicle tow truck or trucks or towing service, whereby motor vehicles are towed or otherwise moved by use of a tow truck so designed for that purpose or by a truck, automobile, or other vehicle so adapted to that purpose. Tow Service Providers must be under current contract with the California Highway Patrol to provide towing services unless granted an exception by the Police Chief.

10.84.030 Police tow service agreements.

Police tow service contracts are valid for a period of one year and effective from July 1st through June 30th of the following year. Tow service providers will be required to sign an initial Agreement, which will automatically renew annually unless canceled by either party. The Chief

of Police may review the tow service agreement on an annual basis to evaluate the service provided by the tow company. Only towing service providers under contract with the City as provided herein shall be entitled to participate in the distribution of City towing service orders. Any agreement entered into pursuant to these regulations shall not affect any other permit or license requirements imposed by federal, state or local law.

10.84.040 Agreement termination.

A. Default. The agreement may be terminated by the City if the tow service provider:

1. Ceases operations for any reason, or fails or refuses to promptly answer City calls for towing services;

2. Fails to comply with the provisions of this chapter or the fee schedule;

Fails to respond to the twenty-minute maximum response time requirements without previously notifying the police dispatchers.

B. Termination for Cause - If, through any cause, the tow service provider shall fail to fulfill in a timely and proper manner its obligations under the contract, or if the tow service provider violates any of the covenants, agreements or stipulations of the contract, the City will thereupon have the right to terminate the contract by giving written notice to the tow service provider of such termination and specifying the effective date thereof, at least three days before the effective date of such termination.

Notwithstanding the above, the tow service provider will not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by the tow service provider.

C. Termination for Convenience of the City - The City may terminate the contract at any time by notice in writing from the City to the tow service provider at least five days before the effective date of such termination.

D. Either party may terminate this Agreement at any time for any other reason by tendering written notice to the other party thirty (30) days before the effective date of termination. In the event of such termination, or at the expiration of this Agreement, within fifteen (15) days of such date, Tow Service Provider shall prepare and file with City all written reports required and due under this Agreement, a closing statement of any fees payable to City, and remit full payment of all fees due and payable (if applicable).

10.84.050 Application

A. Application for tow services agreement shall be made to the Chief of Police by submitting the following documents:

Copy of the California Highway Patrol Rotation Tow Listing Application

Copy of current liability and automotive insurance

Copy of Worker's Compensation insurance

Copy of City of Morro Bay business license

Description of storage areas including photos

Description of all tow trucks including photos

B. An initial application hereunder shall be accompanied by a nonrefundable application fee as determined by the City.

C. The Chief of Police may recommend to the City council that a contract be entered into with the applicant if the operator meets all the requirements of these regulations, and any other requirements imposed by federal, state or local law. The Chief of Police may regulate the number of tow service providers.

10.84.060 Compensation.

Tow service providers shall receive no compensation except those fees payable by parties responsible for fees due to towing services rendered. In no event shall the City be under obligation to compensate tow service provider for services rendered to other parties. As Tow Service Provider's sole compensation for Services provided under this Agreement, Tow Service Provider shall be entitled to keep and retain all profits realized from the lawful redemption, sale or disposition of all vehicles, vehicle parts, or equipment removed, towed or stored under this Agreement.

10.84.070 Rates and Fees.

A. Towing fees of the Tow Service Provider will be reasonable and not exceed those rates established by the local area California Highway Patrol.

B. Rates and Charges shall be posted in the tow service provider's office, visible to the public.

C. A copy of the schedule of current rates shall be provided to the police department. The police department shall be advised in writing of any proposed adjustment of the rates prior to any change taking place. The Chief of Police must approve any rate changes.

D. In the event the police department accepts liability for a tow, no charge will be made for storage fees to the City or other person or business.

10.84.080 Independent Contractor Status.

A. The relationship between the tow service provider and the City is that of independent contractor. The tow service provider is not an employee of the City, and is not entitled to the benefits provided by the City to its employees, including, but not limited, to group insurance and retirement plans.

B. The conduct and control of the services to be performed by the tow service provider under this contract will lie solely with the tow service provider. The tow service provider will perform its services for the City in accordance with currently approved methods and ethical standards applicable to its professional capacity. The tow service provider will be free to practice its profession and/or trade for others during those periods when it is not performing work under the contract for the City.

C. The tow service provider will provide its own motor vehicles and will maintain and operate the vehicles at its own expense. The vehicles will be maintained by the tow service provider in a safe and serviceable condition and meet all California regulations.

10.84.090 Requirements of Tow Service Providers

A. Response to Tow Requests.

1. Tow service providers shall be available for response within the incorporated area of the City and within a reasonable distance of those limits on a twenty-four hour, seven-day per week basis. Services originating as a result of a call from the police department shall not be

subcontracted to another contracting tow service provider or to any other person or business at any time of the day or night.

2. Tow service providers shall be capable of responding a minimum of two tow service vehicles within the defined area within twenty minutes. If the tow service provider is unable to respond as required, the police dispatcher will be so advised so that another tow service may be summoned.

3. Tow service providers shall conduct business in an ethical, orderly manner, endeavoring to obtain and keep the confidence of the community. They will abide by the decisions of police officers or code enforcement officers.

B. Training and Experience. Tow service provider shall provide proper and adequate training and supervision of its agents and personnel. No charge will be permitted if, in the opinion of the City, a charge, or part of a charge, results from inadequate training and/or inexperience of the tow service provider, its employees, personnel, or agents. Each tow service provider requesting an agreement shall have been operating as a towing service in the San Luis Obispo County for not less than one year prior to requesting the agreement unless this requirement is waived by the Chief of Police. Any tow truck driver employed by a tow service provider shall have had sufficient training and/or experience to enable the driver to safely and competently tow vehicles.

C. Employee Records. The tow service provider shall keep complete and accurate records of its employees and maintain these records for at least two years after an employee or agent leaves its employment, and that these records shall be made available to the office of the Morro Bay City attorney upon request.

D. Towing and Storage Records. The tow service provider shall maintain complete and thorough records of all City requested towing and storage transactions, including consecutively numbered receipts and the same shall be open for inspection by the City at any reasonable time with or without notice. The records and receipts shall be maintained in good condition in a safe and secure area for a period of not less than two years and shall be kept longer if requested by the City. Information in the records shall include times and dates of towage, locations from which vehicles are towed, their descriptions, license numbers, etc. and the fees paid by the claimant of the vehicle.

E. Office and Storage Facility. Tow service providers shall maintain a physical location within five miles of the geographic boundaries of the City. The Chief of Police may exempt this requirement. All structures and property involved in the operator's wrecking, towing and storage operations shall be in compliance with all applicable building, fire, and zoning codes and ordinances, and with all adopted or proposed land use plans. All towed vehicles must be stored within an area that is screened from street view by a minimum six foot high view-obscuring fence. No towed vehicle may be parked by the tow service provider or its employees or agents outside its authorized and licensed storage yard.

F. Vehicle Storage. Tow service providers shall be solely responsible for the safekeeping of all vehicles towed, and for any personal property within the towed vehicle. In keeping with this responsibility, tow service providers shall provide secured areas in which towed vehicles may be safely stored in an area until ready for release to authorized persons.

1. No vehicle will be stored in inside storage and charged as such without prior approval of the police department watch commander.

2. Tow service providers shall have the capability for releasing vehicles between eight a.m. and five p.m., normal business days (generally Monday through Friday or Saturday), and by appointment after hours and during nonbusiness days.

3. Tow service providers have the responsibility for safeguarding all articles left in impounded/stored vehicles. Bulk property left in vehicles will normally be listed on the vehicle impound report by the police officers. Any article removed for any reason will be properly identified on the tow service provider's copy of the impound report.

G. Abandoned Vehicles. Tow service providers will furnish the necessary personnel and equipment to pick up, tow away and lawfully dispose of all motor vehicles abandoned in the City or removed in violation of the 72 hour parking restrictions, irrespective of value, as designated by the police department.

1. Abandoned vehicles will be removed from City streets and private property without charge to the City if requested by police or code enforcement personnel. Abandoned vehicle impounds requested by private property owners are not a police matter and will be subject to rates and fees established by the tow company.

2. Abandoned vehicles will, if at all possible, be towed during Monday through Friday, eight a.m. to five p.m.

H. Equipment. A tow service provider must have the following equipment:

1. A minimum of two tow trucks with at least one being a flat bed; each having at least ten thousand pound gross vehicle weight capacity.

2. Each tow truck shall have a winch and cable; each of a weight bearing or pulling capacity equal to the gross load capacity of the tow truck to which they are attached. Each boom tow truck shall have cables at least one hundred fifty feet long. All winches shall have safety dogs or equivalent braking devices.

3. Each tow truck shall be maintained in compliance with the provisions of sections 24605, 25300, 27700, and 27907 of the California Vehicle Code.

I. Other Duties.

1. Tow service providers shall, upon request by the police department, protect from disturbance and touching all surfaces and contents of an impounded vehicle, until released from such obligation by a representative of the police department.

2. Allow inspection for impounded or stored vehicles by any person estimating or appraising damage to such vehicles, and shall assist police representatives making such inspections.

3. Remove hazards and clean up debris at the area of a towing operation.

4. Comply with all instructions of City dispatchers, police officers, and fire personnel at the scenes of towing operations.

J. Legal Requirements. All tow service vehicles and all tow vehicle operators will meet all legal requirements in respect to proper licensing, mechanical equipment, emergency lighting, towing, storage, lien selling, or junking. Tow service providers will comply with all vehicle code sections pertaining to required equipment (VC 27700), lighting equipment (VC24605-06, 25110, 25253), signs (VC27907), drivers (VC2430, 2431, 2436.5, 2436.7, 2432). Tow service providers will also comply with Vehicle Code Section 10652 requiring the reporting of vehicles stored for a period of thirty days or more.

K. Assignment of Tow Requests. The tow service provider will accept the decision of the Chief of Police as it relates to the assignment of calls, if more than one business or company operates as a tow service provider. The City will make every attempt to equally distribute the

calls-for-service on a "rotation" basis. The City retains the right to assign at its election, where in its sole discretion it determines that a particular service or equipment is required and convenience to the particular need, which would permit them, when they feel a particular operator can service a particular need better than another, or has equipment more appropriate than another, to exercise discretion in the assignment.

10.84.100 City Indemnification

Tow service providers shall indemnify and save the City and its officers, agents and employees harmless against all claims for damages to persons or property arising out of tow service providers execution of the work, or otherwise by the conduct of the operator or its employees, agents, subcontractors, or others (including the active and passive negligence of the City, its officers, agents and employees) in connection with the execution of the work covered by this agreement and any and all costs, expenses, attorney's fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgment or not, except only for those claims arising from the sole negligence or willful conduct of the City, its officers, agents, or employees. Further, tow service provider at his/her own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents or employees.

Tow service providers shall reimburse the City for all costs and expenses (including but not limited to fees and charges of engineers, attorneys, and other professionals and court costs) incurred by City in enforcing the provisions of this section.

10.84.110 Insurance

A. Tow service provider shall, throughout the duration of its contract, maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all its operations, its agents and employees, performed in connection with the contract including but not limited to premises and automobile.

B. Tow service provider shall maintain the following minimum limits:

General liability: combined single limit per occurrence--two million dollars;

Automobile liability; combined single limit per occurrence--two million dollars.

C. All insurance companies affording coverage to the tow service provider shall be required to add the City of Morro Bay as "additional insured" under the insurance policy.

D. All insurance companies affording coverage to the tow service provider shall be insurance organizations authorized by the Insurance Commissioner of the State Department of Insurance to transact business of insurance in the state of California.

E. All insurance companies affording coverage shall provide thirty days' written notice to the City should the policy be canceled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

F. Tow service provider shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City attorney, concurrently with the submittal of the application. A statement of the insurance certificate which states that the insurance company "will endeavor" to notify the certificate holder, "but failure to mail such notice shall impose no obligation or liability of any kind upon

the company, its agents or representatives does not satisfy the requirements. The tow service provider shall ensure that the above quoted language is stricken from the certificate by the authorized representative of the insurance company.

G. Tow service provider shall provide a substitute certificate of insurance no later than thirty days prior to the policy expiration date. Failure by the operator to provide such a substitution and extend the policy expiration date shall be considered a default by tow service provider.

H. Maintenance of insurance by the tow service provider as specified in this chapter shall in no way be interpreted as relieving the tow service provider of any responsibility whatever and the tow service provider may carry, at its own expense, such additional insurance as it deems necessary.

I. Pursuant to Labor Code Section 3700, the tow service provider shall be insured against liability for worker's compensation at the statutory limit or undertake self-insurance in accordance with provisions of that code, and provide certification of such compliance as part of the application process.

10.84.120 Police tow service provider files.

The chief of police or designee will maintain a record file of each tow service provider. Such file will include the tow service provider's application for a tow services contract, a copy of the contract, copy of insurance coverages, and a record of all inspections and complaints regarding the respective tow service providers.

10.84.130 Disputes and claims.

The City council designates authority to the Chief of Police and/or the City Attorney or authorized agent to settle any claim or dispute involving the City and the tow service provider.

10.84.140 Appeal

Any tow service provider whose application for a permit has been denied or whose permit has been revoked may appeal in writing within five days of notice of such action to the City Manager. The City Manager or his/her representative will review the decision for reasonableness and may receive evidence and testimony from all interested parties. The decision of the City Manager shall be final.

Chapter 10.88

STREET USE BY VEHICLES USED AS LIVING QUARTERS

Sections:

- 10.88.010** **Prohibited on certain streets**
- 10.88.020** **Individual use permit for residents on restricted streets**
- 10.88.030** **Exhibit A – Streets designated**

10.88.010 **Prohibited on certain streets.**

Except as provided in Section 10.88.020, it is unlawful for any person to operate any vehicle containing or carrying a compartment designed or used as temporary or permanent living quarters for human occupancy, or to pull or tow any trailer designed or used as temporary or permanent living quarters for human occupancy, over, across or upon any portion of portions of the streets designated in Exhibit A, in Section 10.88.040.

10.88.020 **Individual use permit for residents on restricted streets.**

Upon application by any person residing on any street or portion of any street set forth in Exhibit A, the traffic engineer may issue to such person an individual use permit, granting to such permittee, the members of his/her household and his/her agents and employees, the right to operate or tow the vehicles or trailers particularly described in such use permit over, upon and across the streets designated in Exhibit A. The provisions of Section 10.88.010 shall not apply to any person operating or towing any vehicle or trailer pursuant to such individual use permit.

10.88.030 **Exhibit A – Streets designated**

Streets and portions of streets affected by use restrictions of this chapter are as follows:

All streets east of Juniper from Avalon to City Limits

Andros

Azure, except that portion of Azure Street lying westerly of Sandlewood Street

Bali

Beachcomber

Capri

Coral

Danmar

Driftwood

Easter

Formosa

Gilbert

Hatteras

Island

Java

Kodiak

Luzon

Mindoro

Nassau Court

Nassau Street

Oahu

Oceanside

Orcas

Panay

Rennel

Sandlewood, except for the portion of Sandlewood between Azure Street and Indigo Street

Sicily

Sienna

Tahiti

Terra

Trinidad

Toro Lane

Vashon

Verdon

Whidbey

Chapter 10.92

OFF HIGHWAY VEHICLES

Sections:

10.92.010	Definitions
10.92.020	Prohibition

10.92.010 Definitions.

As used in this chapter, "off-highway motor vehicle" means and includes any motorcycle, motor-driven cycle, minibike, trailbike, or motor vehicle commonly referred to as a sand buggy, dune buggy, all-terrain vehicle (ATV) or jeep (38012 CVC).

10.92.020 Prohibition.

A. No person shall operate or drive any off-highway vehicle upon any public property which is not held open to the public for vehicular use and which is not subject to the provisions of the California Vehicle Code except for emergency vehicles, the vehicles of governmental agencies and public utilities and the vehicles of persons holding a written permit from the city.

B. No person shall operate any off-highway motor vehicle on any private property of another which is not held open to the public for vehicular use, and which is not subject to the provisions of the California Vehicle Code except for emergency vehicles, the vehicles of governmental agencies or public utilities and to persons or vehicles driven upon such property without the written consent of the owner or person in lawful possession of such property. Such written consent shall be displayed upon request of a peace officer and shall contain as a minimum: the name and address of the person to whom the permit is issued; any restrictions as to days or hours of operation; designation of a definite expiration date which will be automatically six months from the date of issue if none is so designated; and signature of property owner or person in lawful possession of such property.

C. It is unlawful for any person operating or driving an off-highway vehicle within the city limits to violate any of the provisions of California Vehicle Code Division 16.5.

D. No person shall operate or drive an off-highway vehicle in such a manner as to disturb the peace and quiet of any neighborhood or person by noise, dust, smoke, fumes or other cause arising out of the operation of such vehicle.

Chapter 10.96

PENALTY FOR TRAFFIC VIOLATIONS

Sections:

10.96.010 Amount designated.

10.96.010 Amount designated.

Unless otherwise specified in this Title all fines and penalties for violation of any provisions of Title 10 will be established by resolution of the council.

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

INTRODUCED at a regular meeting of the City Council of the City of Morro Bay held on the 27th day of April 2009, by motion of Councilmember _____ and seconded by Councilmember _____.

PASSED AND ADOPTED on the ____ day of _____, 2009, by the following vote:

- AYES:
- NOES:
- ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Bauer, City Clerk

APPROVED AS TO FORM:

Robert Schultz, City Attorney



AGENDA NO: _____

MEETING DATE: 4/27/08

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 19, 2009

FROM: John DeRohan, Police Chief

SUBJECT: Introduction and First Reading of Ordinance No. 548 Repealing, Amending, and Reenacting Title 10 VEHICLES AND TRAFFIC of the Morro Bay Municipal Code

RECOMMENDATION:

Staff recommends that you conduct a public hearing to receive testimony and then introduce Ordinance No. 548.

MOTION: I move for introduction and first reading of Ordinance No. 548 by number and title only.

FISCAL IMPACT:

None.

BACKGROUND:

Title 10 provides for regulations for the placement and enforcement of Traffic Control within the City of Morro Bay. Certain parts of the current Title 10 date back to 1964 and therefore are outdated, cumbersome, and unenforceable. Staff brought to City Council a draft rewrite of Title 10 at your council meeting on January 6, 2009. City Council provided staff with direction and recommended changes to the draft ordinance. Staff has since made these changes and presents the attached ordinance for introduction and first reading. As mentioned in the staff report of January 6, 2009, staff could not provide a redline version of the ordinance because it is a complete rewrite of Title 10.

DISCUSSION

The revisions and implementation of Ordinance No. 548 will ensure that the City is in compliance with state law and provide City staff with enforcement mechanisms. For example, the California Vehicle Code requires that all jurisdictions that enforce speed limit regulations with radar speed measuring devices perform studies to justify the posted limits. The studies must be conducted every five years, but may be extended to ten years if road geometry and traffic volumes have not significantly changed. The code allows speed limits that are obeyed by at least eighty-five percent

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

(85th percentile) of the drivers. The Code does not allow enforcement with radar systems where less than eighty-five percent of the drivers are obeying the limit unless there are conditions present that justify the lower limit, such as road geometry, driveways or high pedestrian volumes.

The Morro Bay Police Department conducted a radar speed survey between December 2007 and February 2008. On each street studied, vehicle speed surveys were conducted on weekdays at non-peak hours that gave reasonable indications of the prevailing speeds on each road segment. A Police Department SMART radar trailer, certified as properly calibrated, was used in the survey. The results of the radar survey were used by the Public Services Engineering Division in the preparation of the 2008 Speed Survey Report. The Speed Survey is in the City Council read file at City Hall. The results are summarized in the following table:

<u>Name of Street or Portion Affected</u>	<u>Speed Limit (miles per hour)</u>
Main St.: Yerba Buena St. to State Highway 41	40
Main St.: Atascadero Rd. (State Highway 41) to Quintana Rd	
Between Quintana Rd. and the Highway 1 on/off ramp.....	25
Between the Highway 1 on/off ramp to Highway 41.....	35
Main St.: Marina St. to Olive St.....	30
Main St.: Olive St. to Morro Bay State Park.....	30
Quintana Rd.: Morro Bay Blvd. to La Loma Ave	35
Quintana Rd.: La Loma Ave. to South Bay Blvd.	40
South Bay Blvd.: State Highway 1 to Southerly City Limits	40
Avalon St.: Main St. to Laurel Ave	25
Atascadero Rd.: Main St. to the Embarcadero Rd.....	25
Piney Way: Morro Bay Blvd. to Main St.	25
Embarcadero Rd.: Beach St. to Coleman Dr.	30
Coleman Dr.: Embarcadero Rd. to Morro Rock	25

CONCLUSION:

The City Staff Traffic Committee and the City Attorney met on several occasions to prepare this final recommended ordinance. The amendments to Ordinance No. 548 will serve the city's needs well and address some of the enforcement issues that have been a concern.



AGENDA NO: B-2

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and Council **DATE:** April 20, 2009
FROM: Harbor Director
SUBJECT: Report on Harbor Fees Including Mooring Fees and Boat Launch
Parking Fees at Tidelands Park

RECOMMENDATION:

That the City Council review Harbor fees in comparison to other harbors, hold a public hearing to take public comment, and provide Staff direction for preparing the annual Harbor Department Master Fee Schedule adjustments in June 2009.

MOTION: None prepared. City Council direction requested.

FISCAL IMPACT:

Currently Harbor Fees account for approximately \$300,000 annually in Harbor Fund revenues. As an example, a standard CPI increase to all Harbor fees would result in an annual increase in fee revenue of approximately \$10,500. Establishing a boat Launch Ramp parking fee of \$1 hourly and \$10 daily maximum is expected to raise approximately \$20,000 in annual revenues at current usage, which is down at least 50% in recent years over historical use. The Harbor Department has already submitted a budget request that will include a one-time \$24,000 budget item to purchase and install two self-pay parking fee machines at the Launch Ramp parking lot with signage. Council will review that budget request during budget hearings.

BACKGROUND:

This item is a following action to the Management Partners Report recommendations. Last year the City Council directed that staff prepare a report (going through the Harbor Advisory Board) with a comparison of mooring fees in other Central Coast harbors, and recommend a daily fee for parking at the boat Launch Ramp.

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

Attached is the March 2009 Harbor Advisory Board agenda item on this subject and that information will not be reiterated in this report.

The Harbor Advisory Board passed two Motions on this subject at their March 2009 meeting.

- 1) Harbor Advisory Board recommends that City Council increase all liveaboard fees by the cost of Consumer Price Index (CPI) annually until such time that Harbor facilities and services are improved; then the item can be revisited.
- 2) Harbor Advisory Board recommends that City Council implement a parking fee of \$1 per hour with a maximum of \$10 per day for boat trailer spaces only at the boat launch ramp, using an automated machine.

The Board also discussed recommending establishing a mooring transfer fee and continued the hearing until their April 2009 meeting for further information and discussion. At their April 2009 meeting the Harbor Advisory Board passed the following motion:

- 3) Harbor Advisory Board recommends that City Council institute a Mooring Transfer Fee, with the exact amount to be determined.

This hearing was again continued until the May 7, 2009 Harbor Advisory Board meeting for further discussion on potentially recommending a mooring transfer fee to the City Council.

DISCUSSION:

Many Harbor fees are kept low by City policy supporting commercial fishing, including those for City slips and the two T-Piers. The Council asked the Harbor Advisory Board to focus on mooring fees as an area for potentially raising revenues. Staff reported to the Harbor Advisory Board that a comparison of other Harbor mooring fees is imperfect, but does not appear to justify a large increase in Morro Bay mooring fees, even if the market might bear it. Many people in the audience of the March Harbor Advisory Board meeting requested that the Board not recommend substantial increases in liveaboard fees. Thus the Board made the above recommendation on that specific subject.

The Board did make a specific recommendation for setting a boat Launch Ramp parking fee, and in April recommended that the Council establish a Mooring Transfer Fee. The Harbor Advisory Board is scheduled to take up the subject of recommending a specific transfer fee at their May 2009 meeting. There are typically only 2-4 mooring transfers annually.

CONCLUSION:

Staff prepared a report comparing fees in other Central Coast harbors and the Harbor Advisory Board reviewed this report in March and April. The Harbor Advisory Board recommends not to raise liveaboard fees more than CPI until Harbor facilities and services are improved, to establish a parking fee for boat launchers at the Tidelands Park Launch Ramp of \$1 hourly and \$10 daily maximum, and to establish a Mooring Transfer Fee. Staff requests direction on desired new fees or specific fee increases from the City Council for inclusion in the annual Master Fee Schedule revisions to be presented to the City Council in June 2009. In the absence of Council direction on specific fees, staff will recommend the standard CPI adjustments in June 2009.



AGENDA NO.: D-1

Meeting Date: 4/27/09

**THIS IS AN ORAL
PRESENTATION -
THERE IS NO WRITTEN
INFORMATION PROVIDED.**

RESOLUTION NO. 20-09

**RESOLUTION ADOPTING THE BYLAWS FOR THE MORRO BAY TOURISM
BUSINESS IMPROVEMENT DISTRICT (MBTBID) ADVISORY BOARD**

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

WHEREAS, the California Streets and Highways Code Section 36500 et seq. authorizes cities to establish parking and business improvement areas for the purpose of promoting tourism within business districts in order to create jobs, attract new business, and enhance the business district; and

WHEREAS, tourism is an important contributor to the economy of the City and the promotion of the City's tourist lodging establishments will serve an important public purpose; and

WHEREAS, the owners of the tourist lodging establishments have requested that the City Council consider establishing such an improvement area; and

WHEREAS, the California Streets and Highways Code Section 36530 requires the City Council to appoint an advisory board for such an improvement area, which shall make recommendations to the City Council on the expenditure of revenues derived from the levy of assessments and on the method and basis of levying the assessments.

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

Section 1. The recitals set forth herein are true and correct.

Section 2. The City Council, at the request of owners of tourist lodging establishments within the City, and pursuant to Section 36530 of the California Streets and Highways Code, does hereby establish the "Morro Bay Tourism Business Improvement District Advisory Board" (the "Board").

Section 3. The purpose of the Board shall be to consult with and advise the City Council on those matters dealing with the method and basis of levying assessments within the proposed Morro Bay Tourism Business Improvement District; expenditures of revenues derived from such assessments; and programs, services, improvements, and activities intended to promote tourism and local tourist lodging establishments within the District.

Section 4. The City Council hereby adopts Bylaws for the Board, attached as Exhibit A, and incorporated herein.

Section 5. This Resolution is effective upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the _____th day of _____ 2009 on the following vote:

AYES:

NOES:

ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Bauer, City Clerk

**CITY OF MORRO BAY
TOURISM BUSINESS IMPROVEMENT DISTRICT
ADVISORY BOARD BYLAWS**

Purpose and Authority

The Morro Bay Tourism Business Improvement District (MBTBID) Advisory Board (öBoardö) advises the City Council on the administration and use of the MBTBID assessment funds. The Board recommends projects to the City of Morro Bay to promote tourism to directly benefit the City's lodging industry.

APPOINTMENT

The MBTBID Board shall be comprised of seven (7) voting members. Appointments and the filling of vacancies shall be made by the City Council. Committee members shall serve at the pleasure of the City Council. Because of the diversity among assessment district members represented by the Board including local, regional and national lodging industry interests, it is neither practical nor advisable to limit Board membership to City residents. Accordingly, membership on the MBTBID Board shall be exempt from residency requirements otherwise applicable to City Advisory bodies. In addition, a member of the City's Promotions Committee shall not be precluded from serving on the MBTBID.

TERM OF OFFICE

Members of the MBTBID Board shall serve, without compensation, for a period of four (4) years. Appointments shall be made in such a manner such that no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

The MBTBID Board shall consist of four (4) members from the Morro Bay lodging industry, one (1) member representing the Morro Bay Chamber of Commerce and two (2) members from the community at large.

The four members from the lodging industry shall consist of one member representing lodging rooms of less than 22 rooms, two members representing 50 or less rooms, and one member representing hotels with 51 or more rooms.

The Chamber of Commerce representative shall be the Executive Director of the Morro Bay Chamber of Commerce.

The ōat largeŀ members shall be residents and registered voters of the City during the term of appointment.

Each member 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)

FUNCTIONS AND DUTIES

The functions and duties of the MBTBID Board shall include, but not be limited to, the following:

1. Plan a comprehensive program to promote tourism to the City of Morro Bay and prepare an annual marketing program consistent with industry goals and objectives.
2. Develop advertising and promotional programs and projects to benefit the lodging industry in Morro Bay.
3. Present an annual assessment report to the City Council regarding the implemented promotional programs and projects.
4. Perform any other lawful tasks as directed by the Council.

ABSENCE FROM MEETINGS

Absence of a Board Member from three (3) consecutive meetings without formal consent of the Board as noted in its official minutes will constitute the voluntary resignation of the absent member effective the date of the third meeting. Upon a member being absent for 4 or more meetings in one calendar year, excused or unexcused, the Council shall, at a public meeting, review the appointment and consider appointing a replacement.

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, the Vice-Chairperson shall perform duties of the office. 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 comment, 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. In all matters and things not otherwise provided for in the Bylaws 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 among the Advisory Board, 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.

BYLAW AMENDMENTS

All amendments to the Bylaws shall be approved by the City Council.

BYLAWS
Tourism Business Improvement District Advisory Board (TBID)
City of Morro Bay

ARTICLE I – THE BOARD

Section 1: Purpose

The Morro Bay Tourism Business Improvement District Board (MBTBID) advises the City Council in the administration and use of the TBID assessment funds. The Board recommends projects to promote tourism to the City of Morro Bay to directly benefit the City's lodging industry.

Section 2: Terms of Office

The MBTBID Board shall consist of four (4) members from the Morro Bay lodging industry, one (1) member representing the Morro Bay Chamber of Commerce and two (2) members from the community at large ~~if the City continues funding tourism promotion at the current level.~~ Members of the MBTBID Advisory Board will be approved by the Council and will serve for a term of three (3) years, commencing on May 1, 2009, or any other date as directed by the Council. No Board members shall serve more than two (2) consecutive terms (six years) on the MBTBID Board. Any Board member who has been appointed to fill a vacant seat in mid-term shall not be precluded from thereafter serving two (2) three-year terms (six years), so long as the initial, partial term is less than one (1) year.

Section 3: Board Members

a. **Qualifications**

To be eligible for membership on the MBTBID Board, a person must present satisfactory evidence of ownership and/or operation of a tourist lodging establishment within the City presently paying Transient Occupancy Tax (TOT). No more than one representative from any property or ownership entity may serve on the MBTBID Board at the same time.

b. **Open Membership:**

Criteria and selection for membership shall not discriminate based upon sex, race, religion, creed, color, age, national or ethnic origin, or any other classification protected by law.

c. Total Membership & Term Of Appointment

The total membership of the MBTBID Board shall be seven (7) members. The lodging membership shall be allocated among the lodging membership category, defined above, as follows: one member representing lodging rooms of less than 22 rooms, two members representing 50 or less rooms, one member representing hotels with 51 or more rooms.

The Chamber of Commerce representative shall be the Executive Director of the Morro Bay Chamber of Commerce. The ~~two~~ at large members from the community will be selected by the City Council ~~if they continue to fund tourism promotion at current levels. If City funding ceases, the two at large members will represent the lodging community as determined by the Advisory Board.~~

A member's regular term of appointment shall be three (3) years. However, to insure proper rotation, the initial Board members shall select by drawing straws three (3) members to serve for two (2) years. Following this initial two (2) year term, the regular term of appointment for each of these members shall then be three (3) years.

- (1) Selection Process ó 60 Days before the expiration of each term, the Board will notify the properties of the open positions and request nominations. The Board will then nominate the new members and submit the candidates to the City Council for approval.
- (2) No person shall be eligible for appointment for more than two consecutive terms, exclusive of prior appointment to fill an unexpired term of office.
- (3) Persons who have served two full consecutive terms may be reappointed following a one-year absence.
- (4) In the event that there is not a member representative in any category, the Advisory Board will make a nomination to fill any vacancies.

d. Member Code of Ethics

Board members shall adhere to the City Council's Code of Ethics (Appendix).

Section 4: Functions and Duties

The functions and duties of the MBTBID Board shall include, but not be limited to, the following:

- a. Planning a comprehensive program to promote tourism to the City of Morro Bay and prepare an annual marketing program consistent with industry goals and objectives.
- b. Develop advertising and promotional programs and projects to benefit the lodging industry in Morro Bay.
- c. Present an annual assessment report to the City Council regarding the implemented promotional programs and projects.
- d. Perform any other lawful tasks as directed by the Council

Section 5: Conflict of Interest

- a. Board members shall not use their position to influence government decisions in which they have a financial interest or where they have an organizational responsibility or personal relationship that would present conflict of interest.
- b. Board members shall refrain from using their position to unduly influence the deliberations or decisions of the City Council or other City commission, board or committee.

Section 6: Termination of Membership

Membership in the MBTBID Board shall terminate in the event that:

- a. The member shall not be, or shall no longer be, a member of that membership category from and for which he or she was elected or appointed; or
- b. Unexcused Absences

If a member shall be absent without the consent of the MBTBID Board from three (3) meetings, whether regular or special, within six (6) consecutive calendar months, such absence shall result in the termination of the membership of the absenting member. A member's absence shall be excused if, prior to the meeting from which said member will be absent, said member notifies the Chairperson of his or her intent to be absent and the reasons therefore; provided, however, that a member shall be entitled to only two (2) excused absences within twelve (12) consecutive calendar months. At each meeting, after the roll has been called, the Chairperson shall report to the MBTBID Board the name of any member who has so notified him or her of his or her intent to be absent and the reason for such absence.

- c. The member shall have served two consecutive full terms.

Section 7: Removal of Members

A member may be removed by an affirmative vote of five or more members of the MBTBID Board.

Section 8: Resignation

Any MBTBID Board Member may resign at any time by giving written notice to the Chairperson, who shall forward such notice to the MBTBID Board. Any such resignation will take effect upon receipt by the Chairperson or upon any date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

Section 9: Filling of Vacancies

In the event of a vacancy on the MBTBID Board, the City Council shall review and ratify an individual to fill such vacancy as soon as reasonably practicable. New members must meet the Membership qualifications previously noted.

Section 10: Remuneration

Members shall serve without pay except for reimbursement for travel expenses to meetings outside of the City.

ARTICLE II – OFFICERS

Section 1: Officers

The officers shall be a Chairperson and a Vice Chairperson, each of whom shall be elected for a one-year term at the first meeting of the MBTBID Board. No Board member shall serve more than two (2) consecutive one-year terms as Chairperson or Vice Chairperson. Any Board member who has been appointed to fill a vacant seat as Chairperson or Vice Chairperson in mid-term shall not be precluded from thereafter serving as Chairperson or Vice Chairperson for two (2) consecutive one-year terms, so long as the initial, partial term is less than six (6) months.

The Chairperson shall preside over all meetings of the MBTBID Board, prepare all meeting agendas with staff and otherwise perform such duties as directed by the MBTBID Board or Council.

The Vice Chairperson shall serve in the absence or incapacity of the Chairperson.

Section 2: Chairperson

The Chairperson shall preside at all meetings of the MBTBID Board and may submit such agenda, recommendations and information at such meetings as are reasonable and proper for the conduct of the business affairs and policies of the MBTBID Board. The Chairperson may sign documents necessary to carry out the business of the MBTBID Board.

Section 3: Vice-Chairperson

The Vice-Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In the event of death, resignation or removal of the Chairperson, the Vice Chairperson shall assume the Chairperson's duties until such time as the MBTBID Board shall elect a new Chairperson

Section 4: Additional Duties

The officers of the MBTBID Board shall perform such other duties and functions as may from time to time be required by the MBTBID Board, these Bylaws, or other rules and regulations, or which duties and functions are incidental to the office held by such officers.

Section 5: Election

The Chairperson and Vice Chairperson shall initially be elected from among the members of the MBTBID Board at the MBTBID Board's first regular meeting. Thereafter, the Chairperson and Vice Chairperson shall be elected from among the members of the MBTBID Board annually. The regular term of appointment for both officers shall be one (1) year. Officers of the MBTBID Board shall hold office until their successors are elected and in office. Any such officer shall not be prohibited from succeeding him or herself.

Section 6: Removal of Officers

Upon an affirmative vote by 5 or more Board members present at a regular or special meeting of the MBTBID Board, any officer may be removed from office, and a successor elected.

Section 7: Vacancies

Should the offices of the Chairperson or Vice Chairperson become vacant, the MBTBID Board shall elect a successor from among the MBTBID Board members at the next regular or special meeting, and such office shall be held for the unexpired term of said office.

ARTICLE III – MEETINGS

Section 1: Regular and Special Meetings

The MBTBID Board shall meet monthly, at a location accessible to the public, in Morro Bay, California. A notice, agenda and other necessary documents shall be delivered to the lodging members, personally, by mail or by e-mail, at least seventy-two (72) hours prior for a regular meeting and 24 hours prior for a special meeting.

Section 2: Minutes

Minutes of the MBTBID Board shall be prepared in writing. Copies of the minutes of each MBTBID Board meeting shall be made available to each member of the MBTBID Board.

ARTICLE IV – AMENDMENTS

These bylaws may be amended by the Council, upon the recommendations of two-thirds of the committee members currently serving on the MBTBID Board, provided that the text of any such proposed amendment shall have first been provided in writing to each committee member.



AGENDA NO: D-3

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council

DATE: April 21, 2009

FROM: Michael Pond, Fire Chief

SUBJECT: CONSIDERATION OF THE AD-HOC FIRE SERVICE COMMITTEE APPOINTMENTS AND GUIDELINES; AND, THE DEVELOPMENT OF AN AMADOR AGREEMENT FOR FORMAL CONSIDERATION BY CAL FIRE

RECOMMENDATION:

1. Staff recommends Council appoint two council members to participate on the newly formed ad-hoc Fire Services Committee along with the City Manager, Fire Chief, and up to two firefighters.
2. Staff further recommends that this committee identify fire service needs through a process to update the Morro Bay Fire Department 5-Year Strategic Plan.
3. Finally, Staff recommends the committee be directed to develop an Amador Agreement proposal for formal consideration by Cal Fire.

MOTION: I move that the City Council 1) appoint council members _____ and _____ to the ad-hoc Fire Services Committee as well as Andrea Lueker, Mike Pond and up to two firefighters; and 2) direct the committee to identify fire service needs through a process of updating the Morro Bay Fire Department 5-Year Strategic Plan; and 3) direct the committee to develop an Amador Agreement proposal for formal consideration by Cal Fire.

FISCAL IMPACT:

The few direct costs associated with the establishment of this committee will be absorbed by the approved Fire Department budget. Overtime costs, at approximately \$33 per hour, will be a potential factor if either firefighter representative is required to return to work for meeting attendance.

BACKGROUND:

On March 9, 2009, the City Council directed staff to form an ad-hoc committee comprised of one to two Council members, one or two executive staff members, and one or two firefighters. Council further directed that this ad-hoc committee discuss the City fire service need; and, explore Federal and/or State stimulus funds in order to open Fire Station 54.

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

At this same Council meeting, Council also directed staff to provide costs, for consideration in the budget process, to provide a part-time reserve firefighter as a fourth person scheduled each day and to come back with information on an Amador Agreement with Cal Fire within 30 days.

The Morro Bay Fire Department 5-Year Strategic Plan has been a guiding document for the City. This plan recommends staffing the north Morro Bay Fire Station and that the City should provide a minimum of 4 firefighters on shift per day to; 1) address response times concerns in north Morro Bay; 2) address the increasing call volume; 3) respond to simultaneous calls; and 4) comply with OSHA mandates. The City has been looking for opportunities to address these issues since 2004. This included consideration of a contract for fire services with Cal Fire. To date, the City has not been able to fund additional staffing or additional construction necessary to make Fire Station 54 fully operational.

DISCUSSION:

Staff is recommending Council appoint one to two members to represent Council on the ad-hoc Fire Services Committee. Once this is completed, staff will schedule the initial meetings. City Manager Andrea Lueker and Fire Chief Mike Pond have agreed to fill the two executive staff positions and the Morro Bay Firefighters will provide the final one or two, yet to be named members of the committee.

The City Council directed that "this new ad-hoc committee discuss the City fire services need; and, explore Federal and/or State stimulus funds in order to open Fire Station 54." Staff suggests that the fire service needs can be best identified through a process to update the existing Morro Bay Fire Department 5-Year Strategic plan, which was presented to Council in 2004. The committee should reaffirm and/or modify previous goals and objectives, eliminate previous recommendations that have been successfully addressed, and then focus on identifying current needs before developing up-to-date recommendations. The Council, City Manager, and Department staff would then have a document with stated goals, objectives, and recommendations available to guide funding targeted at addressing fire service needs for the next five year period. Recommendations would likely focus on providing improvements to response times, simultaneous calls, two unit staffing, Station 54, and addressing OSHA mandates. An Amador Agreement would be an example of one option presented by the committee as a viable option for reducing response times for north Morro Bay.

A staff report regarding the Amador Agreement option will not be available in the time frame requested by Council. Cal Fire would like a formal request and a proposal from the City prior to their considering this option. The City should be clear in its intentions before asking Cal Fire to undertake additional work on behalf of the City. Staff is requesting Councils formal authorization to develop and present a proposal to Cal Fire for consideration. Staff would like to present Cal Fire with a proposal that is mutually beneficial by improving response times both in north Morro Bay and to Cal Fire/County Fire areas outside the City limits. An Amador Agreement may be one of several options to consider in the budget process while also considering increased MBFD staffing options to be presented when considering allocation of Measure Q revenues.

CONCLUSION:

Appointed members of the ad-hoc Fire Services Committee have an opportunity to identify current issues and make recommendations. The final product will be an updated Morro Bay Fire Department 5-Year Strategic Plan. This plan will provide guidance to staff and council when considering the utilization of funds to improve fire services now and for the next five year period.



AGENDA NO: D-4

MEETING DATE: 4/27/09

Staff Report

TO: Honorable Mayor and City Council

DATE: April 8, 2009

FROM: Andrea K. Lueker, City Manager

SUBJECT: Recommendation to Participate in a Feasibility Study for Joint Dispatch Services

RECOMMENDATION:

Staff recommends the City Council agree to participate in the Joint Dispatch Services study to look at the concept of regionalization of dispatch services.

Participation in the study clearly meets Priority Goal "A" as determined by the Morro Bay City Council at their Goal Setting Workshop on February 17/18, 2009 and subsequently adopted by Council action at the March 9, 2009 City Council meeting.

Goal A reads "Develop and maintain a structurally sustainable budget". Success factors under Goal A include the following: "Help acquire information in the most cost-effective way to determine choices for public safety (Note: Fire evaluation is underway; this refers a comprehensive cost study to examine the Morro Bay Police Department/Sheriff, **including dispatch operations**).

MOTION: I move that the City Council participate in the Joint Dispatch Study and fund the \$6,000 from the unallocated Measure Q funds.

FISCAL IMPACT:

There remains approximately \$24,000 of unallocated Measure Q funds from the first year of collection. Funding this study for \$6,000 is an appropriate use of the funds and will not affect the General Fund.

SUMMARY:

The cities of Arroyo Grande, Grover Beach and the Oceano Community Services District have discussed for some time the concept of joint dispatch operations for their Police and Fire Departments. Recently, through a combined effort, they produced a Request for Proposals for the study. The project was awarded to Dhillon Management Services to Conduct a Joint Dispatch Study. At a recent City Manager meeting, the City Manager of Arroyo Grande extended an invitation to the other cities in the region to become part of the study. To date, it appears that the cities of San Luis Obispo, Atascadero and Paso Robles have agreed to join

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Arroyo Grande, Grover Beach and the Oceano Community Services District as part of the study area.

DISCUSSION:

The City Council, at their recent Goal Setting Workshop identified a number of items for City Staff to research in an effort to "Develop and maintain and structurally sustainable budget". One of those items was a review of dispatch services. Currently most communities in the County of San Luis Obispo staff and operate their own, separate dispatch centers. The communities of Arroyo Grande and Grover Beach have decided to investigate the possibility of a more regional approach to dispatch and as a result contracted for a study. Other communities have been invited to participate in the study.

In discussing this issue with the Department Head team, several questions and concerns have arisen such as dispatch of Public Services staff, other duties currently handled by the dispatchers, location of equipment as well as others. However, these questions/concerns will be addressed in the study. As well, there are other counties in California that have successfully regionalized their dispatch operations and improved cost efficiencies.

The City Council has been proactive in looking at alternatives for service as evidenced by their authorization to obtain a proposal from Cal Fire as well as the upcoming review of a proposal from the County Sheriff. Participation in this study, along with the majority of the other cities in the County is the next logical step in the realization of developing and maintaining a structurally sustainable budget.