



CITY OF MORRO BAY HARBOR ADVISORY BOARD A G E N D A

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 - Thursday, March 5, 2015
Veteran's Memorial Building - 6:00 P.M.
209 Surf Street, Morro Bay, CA**

Bill Luffee, Chair	Marine Oriented Business
Dana McClish, Vice Chair	Recreational Boating
Alan Alward	Morro Bay Commercial Fishermen's Organization
Gene Doughty	South Bay/Los Osos
Neal Maloney	Waterfront Leaseholders
Lynn Meissen	Member at Large
Ron Reisner	Member at Large
Tom Hafer	Alternate to Alan Alward (MBCFO)
Joe Conchelos	Alternate to Alan Alward (MBCFO)

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CHAIR AND ADVISORY BOARD MEMBER ANNOUNCEMENTS & PRESENTATIONS

PUBLIC COMMENT PERIOD

Members of the audience wishing to address the Board on City business matters other than scheduled items 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 Chair, please come forward to the podium and state your name and address for the record. Board meetings are audio and video recorded and this information is voluntary and desired for the preparation of minutes.
- Comments are to be limited to three minutes.
- All remarks shall be addressed to the Board, as a whole, and not to any individual member thereof.
- The Board respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, Board member 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 Board to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in Board 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 Harbor Department's Office Assistant at (805) 772-6254. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

- A-1 Approval of Minutes from Harbor Advisory Board meeting held on February 5, 2015
Staff Recommendation: Approve minutes.

B. PUBLIC HEARINGS, REPORTS, AND APPEARANCES

- B-1 Harbor Department Status Report
Staff Recommendation: Receive and file.

C. UNFINISHED BUSINESS

- C-1 Review of Harbor Department Rules and Regulations Document and Morro Bay Municipal Code Chapter 15 for Harbor Advisory Board Input and Direction Regarding Requiring Insurance for Use of City Facilities, Impoundment of Vessels as an Enforcement Tool, Requiring Insurance for Liveaboards, Restriction of City Slips to Owners/Crew/Guests Only, Language Clean-Up in Certain Sections and Establishing a Defined Appeals Process
Staff Recommendation: Review Harbor Department Rules and Regulations document, Morro Bay Municipal Code Chapter 15 and other documentation provided for input and direction on areas noted.

- C-2 Update from the Marine Services Facility/Boatyard Ad-Hoc Committee on Committee's Recent Activities, Findings and Recommendations with Regard to the Draft Work Products Received to Date from Lisa Wise Consulting
Staff Recommendation: Receive and file.

- C-3 Update from the Capital Improvement Planning Ad-Hoc Committee on Committee's Recent Activities
Staff Recommendation: Receive and file.

D. NEW BUSINESS

- D-1 Review of Harbor Lease Sites with Construction or Other Lease/Lease Site Activity Currently Underway
Staff Recommendation: Receive and file.

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 the Morro Bay Harbor Department, 1275 Embarcadero, for any revisions or call the department at 772-6254 for further information.

Materials related to an item on this Agenda are available for public inspection during normal business hours at the Harbor Department and at Mill's/ASAP, 495 Morro Bay Boulevard, or online at www.morro-bay.ca.us. Materials related to an item on this Agenda submitted to the Board after publication of the Agenda packet are available for inspection at the Harbor Department during normal business hours or at the scheduled meeting.

CITY OF MORRO BAY

HARBOR ADVISORY BOARD

SYNOPSIS MINUTES

The regular meeting of the City of Morro Bay Harbor Advisory Board was held Thursday, February 5, 2015 at 6:00 PM in the Veteran's Hall, 209 Surf ST, Morro Bay, California.

ESTABLISH QUORUM AND CALL TO ORDER

Present:	Members:	Alan Alward (MBCFO Rep) Gene Doughty Bill Luffee Neal Maloney Dana McClish Lynn Meissen Ron Reisner
	Staff:	Eric Endersby, Harbor Director Polly Curtis, Office Assistant

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CHAIR AND ADVISORY BOARD MEMBER ANNOUNCEMENTS & PRESENTATIONS

Acting Chair Luffee said that Mr. Eckles was not reappointed to the Board, and Mr. McClish has been reappointed for another four years. Mr. Luffee welcomed new Harbor Advisory Board member Mr. Neal Maloney, and asked for an overview of his life and business.

Mr. Maloney said he is the owner of Morro Bay Oyster Company which he's been running since 2008 on 134 acres of state-leased ocean bottom in the Estuary. Previously he was hired by Tomales Bay Oyster Company in 2004, and took over that company when the owner retired. Mr. Maloney recently acquired the City Lease Site at 1287 Embarcadero, formerly owned by Chuck Marciel of M & M General Refrigeration Service, and is operating his oyster nursery in tanks at that location with plans to expand tanks for harvesting oysters there. He sells wholesale oysters all over California as well as to restaurants from San Francisco to LA, and Arizona, Colorado and Southern Nevada. He said his background is in Marine Biology and Conservation at the University of Oregon with a minor in Business. Mr. Maloney said he looks forward to serving on the Harbor Advisory Board.

Mr. McClish said the Central Coast Maritime Museum Association hosted a presentation by the San Diego Maritime Museum on January 22nd on the replica of Cabrillo's ship the San Salvador, which they hope to bring to Morro Bay while on tour. The City of Morro Bay would then be the facilitator of viewings to the public. Mr. Reisner said the San Diego Maritime Museum came here to get an expression of interest from the City; he asked Councilmember Makowetski if he were able to let the Board know what the City's current interest is on that idea. Mr. Makowetski said it might be jumping the gun to say there has been any formal decisions made, since that was the Maritime Museum's first presentation, but he said judging by the past Tall Ship events, the City would probably play whatever part it needs to play.

Mr. McClish announced that the Cal Poly Mustang Regatta collegiate races will be held this weekend, and the Morro Bay Yacht Club will host the event with them. He said 16 schools will be represented, and the races will most likely take place past the launch ramp between the two mooring fields.

Acting Chair Luffee said the "Friends of the Morro Bay Harbor Department" is now an official 501(c)3 corporation, and formal meetings will be held among members Mr. McClish, Mr. Reisner, and himself. The Harbor Department liaison is Harbor Patrol Supervisor Becka Kelly. Mr. Luffee said the public can contact him regarding meetings or donations at 550-9250, or call Becka at the Harbor Department.

Ms. Meissen reported that three weeks ago a full-grown, male, California sea lion boarded her 43' sailboat while on the mooring, jumping onto the deck from the water; he turned over her skiff, losing oars, cushions, fenders and spare mooring lines. When she attempted to chase the sea lion off the deck with an oar, the animal snarled at her. Ms. Meissen called the Harbor Patrol. HPO Mather came with the patrol boat and attempted to chase the sea lion away with a boat hook, but the animal snarled at him fiercely. HPO Mather then used the Harbor Patrol Boat water-cannon to spray the sea lion which then jumped off and swam away. Ms. Meissen said sea lions are a problem up and down the coast, and she does not approve of the Harbor Department turning over their floating docks to sea lions. She believes it would be better to not make the sea lions welcome or comfortable and that HPOs should be using the water-cannon to scare the sea lions away, and then they might not return to the bay.

Mr. Endersby said this could be a Future Agenda Item if the Board concurred, but the Harbor Department had relinquished the floating docks to the sea lions in order to keep them off the slips, boats, and three-hour docks. He did not believe it was possible to keep sea lions out of the bay. Acting Chair Luffee said this could be a Future Agenda Item and the Board concurred.

Mr. Doughty said the Big, Bad and Ugly Surf Contest will be held on the weekend of February 14th at the Morro Rock beach, which has been running for 25 years. He also said weather is on the way, and he just serviced a mooring that had only one pennant line that had hockled and was unravelling; he reminded boat owners to keep checking and securing their lines.

PUBLIC COMMENT

Mr. Jeremiah O'Brien said he appreciated all the work Mr. Eckles did for the harbor and the Board. He welcomed Mr. Maloney to the Board, who has proved himself a valuable part of the waterfront. Morro Bay City Council Member Matt Makowetski said he is the new Council liaison to the Harbor Advisory Board. He was welcomed by Acting Chair Luffee.

A. CONSENT CALENDAR

A-1 MINUTES

Mr. McClish said a correction should be made on the December 4, 2014 Minutes that Mr. Eckles' twins are a boy and a girl. Ms. Meissen moved the December 4, 2014 Harbor Advisory Board minutes be approved with the correction. The Motion was seconded by Mr. Doughty and carried unanimously.

D. NEW BUSINESS

D-1 Election of Harbor Advisory Board Chair and Vice Chair

Acting Chair Luffee requested Item D-1 be moved forward to the first Item, with the Board's consensus. Mr. Reisner moved to nominate Mr. Luffee as Chair of the Harbor Advisory Board. The motion was seconded by Mr. McClish and carried unanimously.

Mr. Doughty moved to nominate Mr. McClish as Vice-Chair of the Harbor Advisory Board. The motion was seconded by Mr. Alward and carried unanimously.

B. PUBLIC HEARINGS

B-1 Harbor Department Status Report

Mr. Endersby briefed the Board on the following topics:

Recent City Council Actions:

**Ordinance 588 Commercial Fishing Vessel Slip Qualification
Authorized Additional Funding for Lease Site Audits
Approved Assignment and Assumption of LS 144-144W
Accepted Quit Claim Deeds from Power Plant Owner Dynegy, Triangle Lot
Approved Continued Negotiations on LS62/62W and LS63-64/63W-64W
Approved License Agreement with Cal Poly for N T-Pier Docking Space
Approved Extension of Consulting Agreement with Lisa Wise Consulting**

Recent Events:

**January 1 – New Year’s Day Polar Bear Dip
January 16-19 – Winter Bird Festival
January 27 – Harbor Dept. Used Oil Recycle Center Ribbon Cutting Ceremony**

Harbor Patrol Happenings

**Rescue Family Stranded on Sandspit
New Radio-Equipped Helmet for PWC, Funded by “Friends of HD”
Shark Attack December 28th
Storms in December**

Derelict Vessel Demo: Kingfisher, Glowing Star, Viejo del Mar

C-MANC Washington DC March 9-12

Clarification of Claims Made vs. Harbor Department by Boater at December HAB

C. UNFINISHED BUSINESS

C-1 Review of Harbor Department Rules and Regulations Document and Morro Bay Municipal Code Chapter 15 for Harbor Advisory Board Input and Direction Regarding T-Pier Usage, Mooring Size Limits, Fee Use of City “Head Float” Dock Areas and Overhead Casting

Mr. Endersby asked the Board to review the current Morro Bay Municipal Code in Chapter 15, saying the remaining 15 items to be discussed will fall into three groups as follows:

A - Environmental

9. Prohibiting careening of vessels on the sandspit except in emergencies.
10. Limiting the amount of repair on vessels in water (25%) that should go to a boatyard.
13. Adding/strengthening Best Management Practices.
14. Marine Sanitation Devices and discharge in the bay.

B – Policy

1. Requiring vessel insurance for use of City facilities.
3. Use of impoundment of vessels for other than non-payment of fees as an enforcement tool.
6. Insurance required for Liveboards.
11. Specific reference to City slips for owners/crew/guests only.
15. Cleaning up the section that mentions Associated Pacific and Jim Entwisle.
16. A defined appeal process.

C – Operational

2. Time limit on recreational vessel stay on T-Piers.
4. Setting a definitive number on the maximum size vessel that a mooring can accommodate.
5. Allowing a limited number of commercial fishing vessels to have Liveboard permits at the T-Piers.
8. Eliminating the \$1/day non-mooring holder skiff tie-up fees at City head-float areas.
12. No overhead casting in certain areas.

Mr. Endersby said at this time staff are bringing the "C" list of "Operational" items to the Advisory Board for consideration tonight. He said each item will be broken down into "issue," "current rule/code," and "staff-provided information" and "recommendations" sections in order to better inform the analysis.

Mr. Endersby and the Board discussed each item under the Operational heading. The Board made recommendations on each item with the following results and concurrence:

2. Six month time limit for recreational vessels on T-Piers.
4. At discretion of Harbor Director to set max size vessel that a mooring can accommodate.
5. Three (3) Permitted Liveboards on each T-Pier for commercial fishing vessels.
8. Change skiff tie-up rate to \$3.00/day.
12. No overhead casting in certain areas.

C-2 Update from the Marine Services Facility/Boatyard Ad-Hoc Committee on Committee's Recent Activities, Findings and Recommendations with Regard to The Draft Work Products Received to Date from Lisa Wise Consulting

Mr. Reisner, Ad-Hoc Committee Chair, presented a synopsis status report to the Harbor Advisory Board, reviewing the current status and history of the draft work projects received from project consultant Lisa Wise Consulting. Discussion by the Board.

C-3 Update from the Capital Improvement Planning Ad-Hoc Committee on Committee's Recent Activities

Chair Luffee appointed Neal Maloney to the Ad-Hoc Committee. Chair Luffee said the Capital Improvement Planning Ad-Hoc Committee has not convened since the previous Harbor Advisory Board meeting. Nothing to report.

E. DECLARATION OF FUTURE AGENDA ITEMS

February Declarations:

State Park Marina Operating Agreement
Coast Guard Building Location Plans

Future:

Morro Bay Fish Quota Share and Trawl Permits
Annual Review of All Waterfront Lease Sites
Water Lease Site Improvements Including Dock Configurations
Mooring Field Design and Maintenance
Inspecting Marine Sanitation Devices on All Vessels in Morro Bay Harbor
Planning for Power Plant Property
Sea Lion Abatement in Morro Bay

F. ADJOURNMENT

This meeting was adjourned at 8:45 PM.
Submitted by,

Polly Curtis
Harbor Department



AGENDA NO: B-1

MEETING DATE: March 5, 2015

Staff Report

TO: Harbor Advisory Board

DATE: February 25, 2015

FROM: Eric Endersby, Harbor Director

SUBJECT: Harbor Department Status Report

RECOMMENDATION

Receive and file.

DISCUSSION

Recent City Council Action: At their February 24, 2015 meeting, the Council received an informational update on the power plant property from the City Manager and City Attorney, it was item C-1 on the agenda. A few of the highlights:

1. The City now owns the "Triangle Lot" parking lot property in the SW corner of the plant property. Next step will be to turn the lot into public parking and lowering the block wall to approximately three feet high to "open" up the lot, removal of all the trailered vessels and other items currently squatting in the lot, rearrangement of the two parallel driveways into the Triangle Lot and City's Front Street lot next door, and installation of parking delineation measures to informally organize parking. This will likely consist of surplus plastic and other pilings currently stockpiled by the Harbor Department.
2. Any transfer of plant property in lieu of the final Community Development payment of \$525,000 to the City is "off the table," and the final payment has been made to the City's General Fund.
3. The City's easement on the property that has the fisherman's and Harbor Department's gear storage areas is unchanged.
4. While the entire property was listed for sale, Dynegy just took it off the market as it had received no viable offers.

Also at the February 24 meeting, the City adopted its 2015-1016 Goals and Program Objectives. This was item A-4 on the agenda. Some of the harbor-related highlights are:

1. Comprehensive update of the General Plan and Local Coastal Plan
2. Maintain core public safety services including enhanced IT and communication/information services, proactive code enforcement, and emergency plan updates.
3. Ensure fiscal sustainability including retooling the City's budget processes, establishing a financial oversight body, establishing a dedicated capital replacement strategy and funding for all major capital assets, fuller fee recovery, implementing all possible Management Partners study recommendations, and vehicle leasing instead of purchasing.

Prepared By: EE

Dept. Review: EE

4. Support economic development with continued work on the marine services/boatyard facility, Maritime Museum, marine Research/Aquarium, Coast Guard facility and Tidelands park fish cleaning station.

5. Improve City infrastructure, facilities and open spaces including an Embarcadero promenade, converting the Triangle Lot to temporary parking and planning for its future use, ADA assessment and compliance at all City facilities, and a Harbor Office needs assessment.

Recent Events: Over the weekend of February 7-8 the Morro Bay Yacht Club hosted the Cal Poly Mustang Regatta, a sanctioned collegiate sailing event. Participating schools were Cal Poly, UC Santa Barbara, UCLA, UC San Diego, CSU Monterey, UC Santa Cruz, the California Maritime Academy and Westmont College. UCSB won the event.

The 25th Annual Big, Bad and Ugly surf contest was held on Valentine's Day to great surf and beautiful weather. Our own Lifeguard Supervisor Kyle Shaffer took 3rd place in the Men's Division, and now-retired Harbor Patrolman Tom Kellerman took 1st in the Grand Master's Division.

Snowy Plover Fencing: The symbolic fencing to delineate the Western Snowy Plover on the sandspit went up February 25th with the assistance of State Parks personnel. As always, the public is requested to share the beach and keep themselves and their animals out of the fenced areas.

Cable Committee Grant: The Harbor Department was successful in obtaining another generous grant from the Central Coast Joint Cable Fisheries Liaison Committee to fund a three-person City delegation this year to Washington DC with CMANC, the California Marine Affairs and Navigation Conference. This year's proceedings are March 9-11 and the Mayor, City Manager and Harbor Director will be the attendees.

Emergency Management Earthquake Training: Harbor Patrolman Scott Mather attended a week-long earthquake emergency management training seminar conducted by Cal OES February 9-13. The training consisted of principals of emergency management and preparation for emergency operations in response to a disaster.

Social Media: The City of Morro Bay now has its own Facebook page for keeping the citizens apprised of upcoming events, significant incidents, maintenance and road closures, City business and issues and happenings of various sorts. Visit: www.facebook.com/CityofMorroBay. The City has also set up a YouTube channel for posting of various City-related meetings. Visit www.youtube.com/channel/UCBvqPAbGDi4ZxxJMLRWEE7Q.

Skiff and Surplus Gear Auction: On March 8 the Harbor Department will be conducting its annual skiff and surplus gear auction. The location will be at the department's gear storage yard at the end of the dirt Embarcadero extension, exact time TBA.

Harbor Patrol Happenings: On Thursday evening, February 19th three teenage juveniles scaled Morro Rock and got into a bad way on their way down. Harbor Patrol personnel spotted the three descending above the quarried east face cliff area and directed Fire Dept. personnel to their location. Two managed to move back up and into a safer area, however, one stopped and got stuck just short of a sheer, overhung 200 foot cliff. Fortunately his mother was in cell phone contact with him (she was in the parking lot below) and told him to sit tight, which he did, until Fire personnel were able to rappel down to him just after dark.

On Saturday, February 21st a Stand Up Paddler suffered a serious leg ligament injury just south of the South Jetty. Harbor Patrol personnel accessed him via rescue jet ski and brought him back to the Harbor Office for treatment and transport to the hospital.

See attached **January, 2015 Harbor Department Update** for other recent significant happenings.



AGENDA NO: C-1

MEETING DATE: March 5, 2015

Staff Report

TO: Harbor Advisory Board

DATE: February 25, 2015

FROM: Eric Endersby, Harbor Director

SUBJECT: Review of Harbor Department Rules and Regulations Document and Morro Bay Municipal Code Chapter 15 for Harbor Advisory Board Input and Direction Regarding Requiring Insurance for Use of City Facilities, Impoundment of Vessels as an Enforcement Tool, Requiring Insurance for Liveboards, Restriction of City Slips to Owners/Crew/Guests Only, Language Clean-Up in Certain Sections and Establishing a Defined Appeals Process

RECOMMENDATION

Review Harbor Department Rules and Regulations document, Morro Bay Municipal Code Chapter (MBMC) 15 and other documentation provided for input and direction on areas noted.

FISCAL IMPACT

None.

BACKGROUND

Starting last fall, the Harbor Advisory Board considered several areas of the Harbor Department Rules and Regulations and MBMC Chapter 15 (harbor and ocean regulations) for possible revision. At the November 6, 2014 Advisory Board meeting, the Board identified 16 items that it wished to consider at a future date for input on possible revision. Those 16 items were enumerated and categorized into four categories (Definitions, A-Environmental, B-Policy, C-Operational) and staff began bringing them before the Board; first on December 4, 2014 where the Board considered and provided input on the “Definitions” in Chapter 15 of the MBMC, and most recently on February 5 where the Board provided input on the “C” list of items that were “operational” in nature.

DISCUSSION

Of the (A) and (B) list items to be considered, staff are bringing forward the (B) list items as follows, maintaining the numbering of the individual items from the original list of 16:

Prepared By: EE

Dept. Review: EE

B – Policy

1. Requiring vessel insurance for use of City facilities
3. Use of impoundment of vessels for other than non-payment of fees as an enforcement tool
6. Insurance required for Liveaboards
11. Specific reference to City slips for owners/crew/guests only
15. Cleaning up the section that mentions Associated Pacific and Jim Entwisle
16. A defined appeal process

1. Requiring vessel insurance for use of City facilities

ISSUE: Without insurance protection the City can be liable for damage, injuries and deaths, pollution and salvage from vessel accidents and incidents using City facilities and/or operating out of Morro Bay, including but not limited to the costs associated with them.

CURRENT RULE/CODE: There exists no current rule or code addressing insurance requirements for vessels using any City facilities. All of our waterfront leases require valid and appropriate insurance for all businesses operating from them, including vessel marine insurance for those businesses operating vessels.

STAFF-PROVIDED INFORMATION: Two types of marine vessel insurance are applicable to the discussion: Hull and Machinery, and Protection and Indemnity.

Hull and Machinery (H&M) insurance covers for loss or damage to the vessel and its equipment. The causes of loss insured against are called perils and are generally named. They include fire, explosion, theft, piracy, bursting of boilers, negligence of the master and crew and “perils of the sea” - a broad marine insurance term which is internationally recognized to include flooding, sinking and grounding. This insurance pays for the repair and/or replacement of the vessel itself.

Protection and Indemnity (P&I) insurance, commonly called “liability” insurance, covers for third party liabilities arising out of the ownership and operation of a vessel. The risks covered can include bodily injury to crew and passengers, pollution, wreck removal as well as elements of collision liability not covered in an H&M policy. P&I is a separate policy from H&M, with a separate premium.

Probably one the most important insurance functions of P&I is regular surveying and hauling/maintenance of insured vessels, which will in turn result in those vessels being maintained in a more seaworthy fashion as a requirement of the insurance coverage. The primary question to be asked is, would requiring insurance of our facility users prevent the significant exposures that have caused past significant issues? Unfortunately, the answer is not a simple one in that the majority of the vessels that cause the problems and issues that we may be trying to protect the City from with insurance are generally the same vessels that are falling into dereliction or are derelict, likely not paying their bills and are uninsurable in the first place. Therefore, an insurance provision may not get the City where it wants to be without being excessively burdensome or punitive on those responsible vessels and vessel owners that generally do not pose significant risks.

RECOMMENDATIONS: Staff believe that requiring P&I could result in decreased exposure of the City in various instances, and could help ensure that derelict or deteriorating vessels are not allowed on City facilities as they would presumably be unable to get insurance. The cost to our commercial fishermen, however, may be excessive, or in some instances insurance may be unobtainable for perfectly sound and operational vessels simply due to the vessel's age and construction.

Staff further believe that strengthening the "Operability and Seaworthiness" sections of the Rules and Regulations, and ensuring that enforcement of those sections have sufficient "teeth" to prompt a corrective response, may be equally or more effective than a blanket insurance requirement. Another alternative could be a requirement, at the option of the vessel owner, of showing one of: insurance, a marine survey, or proof of adequate vessel haulout and maintenance.

In sum, staff recommend further investigation of the various issues at play, perhaps with the formation of an ad-hoc committee, before the Board takes a position or makes recommendations with regard to requiring insurance.

3. Use of impoundment of vessels for other than non-payment of fees as an enforcement tool

ISSUE: The Harbor Patrol has the authority to impound vessels under MBMC Section 15.56, however, under this section it can only be for nonpayment of fees. There are other instances, for example when a vessel owner presents a threat to the safety and security of City facilities and is denied use of those facilities, where impoundment of the vessel is the best tool to control the situation. While the Harbor Department Rules and Regulations do stipulate that vessels that have been denied use of City facilities, for whatever reason, are subject to impoundment under MBMC 15.56, 15.56 does not technically provide for impoundment for anything other than nonpayment of fees.

CURRENT RULE/CODE: MBMC Section 15.56 addresses nonpayment of fees, and the Rules and Regulations (paragraph two of Section 5) address impoundment for continued use of City facilities without permission.

STAFF-PROVIDED INFORMATION: The applicable Municipal Code and Rules and Regulations sections need to be revised so that they are congruous.

RECOMMENDATIONS: Staff recommend that MBMC Section 15.56 be revised to cover impoundment procedures for instances other than nonpayment of fees, and that the Rules and Regulations be revised to clearly indicate the instances under which a vessel is subject to impoundment. Staff recommend that in addition to nonpayment of fees, vessels may be subject to impoundment for the following: the vessel and/or vessel owner represents a threat to the safety and security of City facilities and/or harbor users; the vessel represents a threat to pollute; the vessel owner chronically abuses use or time restrictions on City facilities.

6. Insurance required for liveboards

ISSUE: With an increased intensity of use of a liveboard vessel, there may be an increased risk of those issues and incidents that insurance is used to protect against.

CURRENT RULE/CODE: As previously stated, there currently is no rule or code addressing insurance requirements for any vessels, liveboard or otherwise, using City facilities.

STAFF-PROVIDED INFORMATION: As previously noted in Item #1.

RECOMMENDATIONS: Board consideration of insurance for liveboards follow a similar and concurrent path with the insurance discussion as above.

11. Specific reference to City slips for owners/crew/guests only

ISSUE: There are safety and security risks of various sorts to our City slips and slipholders because there is no enforceable restriction to access to our City slips by the general public or others not related to slip use.

CURRENT RULE/CODE: Currently there is no specific reference in our MBMC or Rules and Regulations that City slips are for the use of vessel owners, crew or guests only, and not accessible to the general public.

CURRENT RULE/CODE: None.

STAFF-PROVIDED INFORMATION: In addition to slipholders, owners of moorings in the bay are allowed access to our City slips for securing their rowing skiffs and dinghies for access to their vessels. In the predominance of harbors and marinas up and down the coast, there is some level of managed security to slips and docks, including gated and keyed access, on both public and private facilities. Although we do have moveable restricted access chains and signs across our gangways, it is unenforceable as previously stated, and while ungated or uncontrolled access will continue to limit security, enacting access restriction could enable possible future gated or other more secure access.

RECOMMENDATIONS: Enact a restriction in the Rules and Regulations to access to City slips to slipholder owners, crew, guests and mooring owners/renters requiring skiff access to their moorings.

15. Cleaning up the section that mentions Associated Pacific and Jim Entwisle

ISSUE: There is reference to private entities regarding the disposition of two moorings (A2-0-21A and A1-2-7A) that resulted from the removal of previously sited floating docks in those locations.

CURRENT RULE/CODE: This reference is in Paragraph 3 of the Rules and Regulations.

STAFF-PROVIDED INFORMATION: When the floating docks referenced were removed, the mooring owners were allowed to create an additional "new" mooring out of the floating docks as they were both moored at two points. The stipulation in allowing those "new" moorings was that the owners could never sell, transfer or assign them to another party, and if they no longer wished use of them they shall be removed.

RECOMMENDATIONS: The stipulation on the mooring ownership remain but the Rules and Regulations be amended to eliminate the reference to private individuals or entities.

16. A defined appeal process

ISSUE: There is no defined appeals process in the Harbor Department Rules and Regulations or MBMC Chapter 15 to appeal certain administrative decisions of the Harbor Department.

CURRENT RULE/CODE: There currently exists no defined harbor-related appeals process other than in Resolution 23-91 that defines an appeal process when the Harbor Director denies a commercial fisherman’s request for slip qualification waiver. In MBMC Chapter 1.03 an appeal or hearing process is defined for resolution of Administrative Citation contests.

STAFF-PROVIDED INFORMATION: “Administrative” decisions could include but are not limited to denial of use of City facilities, lien-processing a vessel for nonpayment of fees, assignment of slips, or operability/seaworthiness determinations.

RECOMMENDATIONS: A defined appeals process for certain administrative decisions of the department be enacted that follows an ascending "chain of command" as to the route of an appeal as follows: Harbor Director, City Manager, Harbor Advisory Board (recommendation to City Council), City Council.

CONCLUSION

Staff are seeking public and Advisory Board input on the issues outlined for possible revision of the applicable Harbor Department Rules and Regulations and/or MBMC pertaining to them. Any proposed revisions will be brought to the City Council for consideration at a future date. A copy of the Rules and Regulations, MBMC sections quoted herein and Resolution 23-91 are included with this staff report.

EXHIBIT "A"

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

INTRODUCTION

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

1. MORRO BAY HARBOR DEPARTMENT - GENERAL REGULATIONS

No person shall anchor, moor or secure a vessel or any object within the City of Morro Bay except in designated areas and locations set by the Morro Bay Harbor Department and the Morro Bay Municipal Code. Any vessel or object moored, anchored or secured in violation of this section may be declared a hazard pursuant to California Harbor and Navigations Code Section 523 and shall be relocated to a safe anchorage or berthing location by the Harbor Patrol. The owner will be charged for all costs associated with such relocation and may be subject to impoundment at the fee shown in the Master Fee Schedule. No vessel may exceed 5 MPH speed limit within the Morro Bay City limits with the exception of governmental agencies in the performance of duties. Discharge of sewage is strictly prohibited. No person may liveaboard a non-transient vessel in excess of 4 days without first obtaining a permit as provided for in Morro Bay Municipal Code, Section 15.40.

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

2. CITY SLIPS

A: General

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

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

second owner or owners. *(Resoluiton 60-13)*

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

B: Waiting List Procedures And Assignment Of Vacant Slips

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

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

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

C: Temporary Cancellation Of City Slips And Slip Subleasing

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

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

3. OFFSHORE MOORINGS

A: Moorings - General

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

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

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

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

B: Moorings - Tackle And Gear Privately Owned

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

C: Moorings - Tackle And Gear City Owned

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

The City may set up a waiting list for City moorings with no fee or deposit required. It is the responsibility of the person on the waiting list to provide the City with a current

mailing address and phone number at all times. If a phone number is disconnected and/or the mail comes back as undeliverable, the person shall be removed from the waiting list. If a person is offered a mooring and refuses it, they shall be removed from the waiting list.

D: Mooring Tackle And Gear Maintenance

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

4. T-PIERS, FLOATING DOCK OR ANCHORAGE AREA

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

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

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

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

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

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

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

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

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

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

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

6. FEES

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

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

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

7. DAMAGE TO CITY PROPERTY

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

8. EMERGENCY MEASURES, CITY HELD HARMLESS

In the event of severe storm or tidal wave, the vessel owner, operator and/or agreement holder will provide preparation and damage prevention protection for their property. The vessel owner or their agent is solely responsible to take all emergency measures possible, and the City does not assume any responsibility for said protection and or damages to the vessel from storm or tidal wave action. The City assumes no responsibility for the safety of any vessel using City-

managed facilities, and will not be liable for fires, theft, loss or damage to said vessel, its equipment, or any property in or on said vessel.

Tenant expressly and by their use of City-managed facilities agrees to hold City and its officers and employees harmless from any claim tenant or any of tenant's crew, guests or agents have against City for damage to the vessel or other property or for personal injury arising from tenant's use of City property or facilities.

9. STORAGE AND SECURING OF VESSELS

Tenders and skiffs will be stored on board larger vessels when possible and are not allowed at City slips and docks except as designated by the Harbor Department personnel. The water space between the shore and City docks shall be used primarily for the storage of tenders, skiffs or dinghies used to serve vessels occupying moorings in a non-commercial mooring zone. Each City mooring holder may berth one tender or skiff (as defined by the Harbor Department) in this manner at no charge. Other users may store tenders skiffs or dinghies on City docks at designated locations with the prior approval of the Harbor Department at a fee of \$1.00 per day. No dock boxes, steps or any other installations may be made to City slips, moorings or other facilities without prior permission from the City. No rafting or storage of more than one vessel on any slip, mooring or anchorage is allowed without the permission of the Harbor Department. Temporary storage of crab or fish receivers may be allowed with the prior written permission of the City. It is the responsibility of each vessel owner or operator to safely secure that vessel to its berthing. Vessels shall be secured in their berths, moorings or anchorage in a manner acceptable to the City or the Harbor Department personnel may adequately secure the vessel and assess a service fee.

10. FISH UNLOADING OR SALES

Fish may be unloaded off City piers and slips only by the owner or operator of the commercial fishing vessel which caught the fish. Operations including commercial truck loading by fish processors or fish buyers are prohibited from City piers and docks, including the boat launch ramp. Commercial unloading of any cargo or materials (including kelp) requiring special heavy vehicles (such as crane, boom or stake bed trucks) is prohibited without the prior permission of the Harbor Department. Permission by the Harbor Department may be contingent on provision of an insurance certificate and payment of a fee.

Commercial fishermen may sell their catch only from their vessels at city slips and docks provided they are in conformance with these rules and regulations, State and Federal law, providing that such sales shall not negatively impact the safe or efficient operation of the harbor, at the discretion of the Harbor Department. Signage shall be minimal and fish sold from vessels must be fish that was caught by the vessel owner.

11. VIOLATIONS OF THE MORRO BAY MUNICIPAL CODE OR OF THE RULES AND REGULATIONS

Violations of Chapter 15 of the Morro Bay Municipal Code, the Harbor and Navigations Code or these Rules and Regulations are punishable by fines as follows:

1. Violation of MBMC 15.12.010, prohibiting operation of a vessel in excesses of 5 MPH, or in a manner which causes damaging wake within Morro Bay Harbor. \$100 first offense, \$200 second offense and each offense thereafter.

2. Violation of MBMC 15.24.010, prohibiting discharge of waste or refuse from vessels and prohibiting allowing vessels materials waste or refuse to remain on shorelines within City limits. \$200 first offense, \$500 second offense and each offense thereafter.
3. Violation of MBMC, 15.32.010, establishing rules and regulations for City wharves, piers and docks by resolution of the City Council. Violation of Harbor Rules and Regulations: first offense \$100 second offense and each offense thereafter \$200.
4. Violation of MBMC 15.40.030, requiring a permit for occupying or owning a liveaboard vessel in Morro Bay Harbor. First offense \$100, second offense and each offense thereafter \$200.
5. Violation of Harbor and Navigations Code Section 525, prohibiting abandoning a vessel without the facility owner's permission: \$500 first offense, \$1500 second offense and each offense thereafter.

For any violation of the Morro Bay Municipal Code or these Rules and Regulations for which a citation is not issued, or for which a vessel is not impounded, the City may provide written notice to tenant to correct such violation. Failure to comply with such written notice may subject the tenant or violator to suspension of future use of City-managed facilities and or termination or cancellation of a mooring or berthing agreement. For example: use of sub standard electrical cords or equipment after one warning may result, at a minimum, in suspension from use of City-managed facilities for 30 days.

12. STORAGE AND ELECTRICAL SERVICE

No storage of supplies, materials, accessories, fishing gear or debris will be allowed on piers or slips. No charcoal fires or open fires of any kind will be allowed on any City-managed facility. Electrical power cords must meet the standards of NFPA and the National Electric Code as determined by the Harbor Department. The Harbor Department may make exceptions during temporary supervised projects. No doubling off a unit is allowed.

13. OPERATIONS FROM CITY FACILITIES

No sport fishing, tour boat, charter boat or rental business operation shall be conducted from any City slip, pier, street end dock, mooring, anchorage or other City facility or beach except as specifically allowed under a lease or license agreement. Occasional charters for environmental research or commercial fishing research related purposes by qualified commercial fishing vessels in an assigned City slip may be allowed only by prior approval of the Harbor Department and at the Harbor Department's sole discretion.

14. SOUTH T-PIER HOIST

A. No fish, shellfish or seafood products are to be unloaded with the hoist except in the following cases:

1. All other commercial fish unloading facilities in the Morro Bay area are closed, overloaded, or unable to off-load the boat of the requesting party.
2. That the unloading by one of the commercial unloaders, in the Morro Bay area, would be untimely and cause extreme hardship or loss to the requesting party.

B. A key deposit of \$20 or a valid driver's license may be required.

C. A fee set by the Master Fee Schedule shall be by the hour for any part of an hour with a one-hour minimum.

D. No overweight use of the hoist is allowed and the Harbor Department may refuse use of the hoist to any party for any reason to insure proper safe and efficient use of Harbor facilities.

15. TIDELANDS PARK SIDE TIE DOCK, STREET END DOCKS AND BOAT LAUNCH RAMP

The Launch Ramp boarding floats are for temporary tie-up while launching and retrieving a vessel only. The Tidelands Park side tie dock shall be a 3 hour maximum tie up in any 24 hour period facility and may not be used for tie up from 10:00 p.m. through 4:00 a.m.. Vessels which exceed the three hour tie up limit in any 24 hour period, or are tied up to the Tidelands Park side tie dock between the hours of 10:00 p.m. through 4:00 a.m., shall be in violation of these Rules and Regulations and subject to citation and fines as outlined in Section 11 hereof. Tenders and skiffs assigned the inside portion of the Tidelands Park side tie dock under Section 9 hereof shall be exempt from the time limits above.

In an emergency or when all other available facilities are occupied, the City may, at the sole discretion of the Harbor Department, waive the 3-hour time limit on the Tidelands Park side tie dock. In that case, the Harbor Department shall issue a special permit at fees established in the City Master Fee Schedule for a period not to exceed 7 continuous days and said permit shall be displayed in open view on the permitted vessel.

No vehicle shall park or use any parking space in the boat Launch Ramp in excess of 72 hours. The Harbor Patrol shall monitor and enforce rules and regulation for the boat Launch Ramp parking lot to ensure that it is available for boaters. No storage or haul out is allowed in the Launch Ramp parking lot. Repairs and mechanical work are not allowed in the Launch Ramp parking lot except those minor immediately necessary jobs which will not result in any discharge or disposal of contaminants, as approved by the Harbor Patrol. Double stalls at the boat Launch Ramp are for trailers and towing vehicles only. Single vehicles without trailers attached using the double stalls shall be in violation of these Rules and Regulations. Double stalls shall be painted yellow. Parking time limits and regulations within the parking lot shall be appropriately signed and designated.

Use of floating docks at the end of Morro Bay Blvd., Harbor St. and Anchor St. and the Launch Ramp shall be limited to transient tie-ups by recreational boats. No overnight tie-ups will be permitted. Maximum duration of tie-ups at these docks shall be for a period not to exceed 3 hours per day. Shore fishing and angling shall not be permitted from the viewing platforms or the floating dock at the ends of Harbor St., Morro Bay Blvd., Marina St. and Anchor St.

The launch ramp docks are for temporary tie-up while launching and retrieving a vessel only. No vehicle shall park or use any parking space in the boat launch ramp in excess of 72 hours. The Harbor Patrol shall monitor and enforce rules and regulations in the boat launch ramp parking lot to ensure it is available for boaters. No storage or haul out is allowed.

16. PRIOR CITY RESOLUTIONS

A. Incorporation of Prior Resolutions:

City of Morro Bay Resolutions #112-89, 23-91 and 60-13 are incorporated into these rules and regulations by reference.

B. Rescinding of Prior City Resolutions:

Adoption of these rules and regulations shall serve to rescind City of Morro Bay Resolutions # 115-67, #30-74, #1-75, #66-78, #85-80, #86-80, #09-81, #27-82, #72-82, #123-82 #124-82, #19-83, #58-83, #59-83, #60-83, #95-83, #122-83, #8-84, #125-84, #90-85, #61-86, #85-87, #11-89, #76-89, #104-92, #83-97, #115-98.

RESOLUTION NO. 23-91

RESOLUTION ESTABLISHING PROCEDURE TO QUALIFY AS A
COMMERCIAL VESSEL FOR THE PURPOSE OF
LEASING CITY DOCKING FACILITIES

T H E C I T Y C O U N C I L
City of Morro Bay, California

WHEREAS, Morro Bay Municipal Code Section 15.04.150 defines vessels of a commercial nature; and

WHEREAS, Morro Bay Municipal Code Section 15.32.010 establishes the policy that the City shall rent or lease all City facilities at docks, wharfs and piers primarily to those vessels of a commercial nature; and

WHEREAS, City Council wishes to rescind Resolution No. 90-85 of the City of Morro Bay.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that Resolution No. 90-85 is rescinded in its entirety and replaced with the following. Any vessel attempting to qualify as a commercial vessel under the criteria of having fished ninety (90) days during the calendar year shall submit proof of having actually fished for ninety (90) calendar days in the following manner:

1. By fuel receipts clearly indicating the date of purchase and the owner's name and/or vessel's name and/or registration number of the vessel, or
2. By presenting Fish and Game tickets for the sale of fish which will be credited on the basis of one ticket for every two days' fishing credit, or
3. Any combination of the above proof of fishing statement, provided there is sufficient proof of separate incidents.

The Harbor Director, or his appointee, shall be responsible for evaluating the proof of fishing and making the determination as to whether or not this proof indicates that the vessel has been actively worked for ninety (90) days during the preceding calendar year.

A waiver from the requirement to qualify as a commercial vessel for a given calendar year may be granted by the Harbor Director upon filing of an official written request by the lessee. The Harbor Director shall evaluate the request and determine whether or not the waiver shall be approved. Not more than two (2) waivers shall be granted in any ten (10) year period.

Any person who wishes to appeal the decision of the Harbor Director regarding the waiver may do so to the Morro Bay Harbor Advisory Board by filing an official written statement with the Harbor Director not later than fifteen (15) days after the Harbor Director's determination. The Harbor Advisory Board shall review the appeal within thirty (30) days of the date of filing, and shall render a recommendation regarding the appeal within fifteen (15) days following close of the appeal hearing. The Harbor Director may administratively carry out the recommendation of the Harbor Advisory Board or may schedule the appeal for City Council consideration.

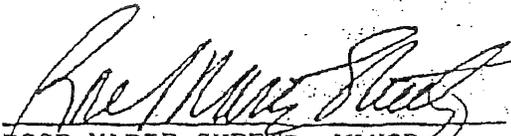
Any person who wishes to have the City Council review the hearing record of the Harbor Advisory Board recommendation regarding an appeal may do so by submitting a request to the Harbor Director within fifteen (15) days following receipt of the Harbor Advisory Board's findings.

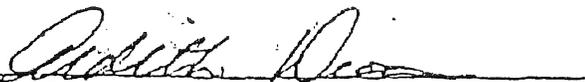
PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 25th day of February, 1991, by the following vote:

AYES: Baker, Luna, Mullen, Wuriu, Sheetz.

NOES: None

ABSENT: None


ROSE MARIE SHEETZ, MAYOR


ARDITH DAVIS, CITY CLERK

Chapter 15.56 - IMPOUNDMENT OF VESSELS FOR NONPAYMENT OF FEES

Sections:

15.56.010 - Nonpayment of fees.

All fees for mooring at city facilities shall be due in advance. In the case of fees for daily slip use, daily pier use, floating city dock use, and the A1-5 mooring area use (all hereinafter known as transient fees) the harbor director may allow forty-eight hours after the commencement of use for payment to be made for use of facilities. Vessels subject to transient fees which fail to make payment within forty-eight hours of commencement of use of the facility or which continue to use facilities without payment in advance may be denied further use of city mooring facilities and are subject to impoundment as described in Section 15.56.020 of this chapter.

(Ord. 397 (part), 1991)

15.56.020 - Impoundment.

- A. Any vessel which fails to pay transient fees as required by Section 15.56.010 hereof within forty-eight hours after mooring may be impounded by the harbor director. Any vessel which has incurred mooring fees, any other fees or charges that remain unpaid for a period in excess of ninety days that shall moor or remain moored to any city facility may be impounded by the harbor director. To impound any vessel, the harbor director may relocate or secure to prevent the vessel from leaving that location until such time as all fees or charges are paid in full, including the impound fees, past due charges, penalties, interest, legal fees and charges accruing for mooring, storage or maintenance of the vessel during impoundment at the direction of the harbor director. The harbor director may authorize the vessel to be removed from the water, stored, and/or moved to more appropriate mooring facilities for security of the vessel or convenience during such impoundment period. After a period of sixty days the vessel may be destroyed or sold at public auction in accordance with the provisions of Article 4 of Chapter 2, Division 3 of the Harbors and Navigation Code.
- B. All fees and charges incurred on behalf of the vessel shall continue to be associated with the vessel and/or the vessel's owner and/or operator at the time charges were incurred until paid in full regardless of changes of ownership or operator of the vessel.
- C. Any individual who, or vessel which, has incurred fees or charges to the city of Morro Bay which shall remain unpaid for a period in excess of ninety days may be denied use of any city vessel mooring facilities.

(Ord. 397 (part), 1991)

1.03.070 - Hearing request.

- A. Any recipient of an administrative citation may contest that there was a violation or that he or she is the responsible party by filing in writing with the police department, within thirty calendar days from the date of the administrative citation, a request for a hearing.
- B. The person requesting the hearing shall be notified in writing of the time and place set for the hearing at least thirty calendar days prior to the date of the hearing.
- C. If the enforcement officer submits a written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall be served by certified mail, return receipt requested, on the person requesting the hearing no less than ten calendar days prior to the date of the hearing.

(Ord. 530 § 1 (part), 2007)

1.03.080 - Administrative citation hearing.

- A. An administrative citation hearing shall be held by the hearing officer in the manner and form set forth in this section.
- B. The city of Morro Bay city manager shall designate the hearing officer for the administrative citation hearing. The hearing officer shall not be a city of Morro Bay employee. The employment, performance evaluation, compensation, and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.
- C. No hearing to contest an administrative citation before a hearing officer shall be held unless and until a request for hearing form has been completed and submitted and the fine has been deposited in advance.
- D. The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s) of the municipal code on the date(s) specified in the administrative citation.
- E. The person contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.
- F. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.
- G. The administrative citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- H. At least ten calendar days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted. Formal rules of evidence shall not apply.
- I. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.

(Ord. 530 § 1 (part), 2007)

1.03.090 - Hearing officer decision.

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall state in the decision the reasons for that decision. The decision of the hearing officer shall be final.
- B. If the hearing officer determines that the administrative citation should be upheld, the hearing officer shall determine the amount of the fine to be imposed, and shall specify a date by which the fine is to be paid to the city.
- C. The recipient of the administrative citation shall be served a copy of the hearing officer's written decision by certified mail, return receipt requested.

(Ord. 530 § 1 (part), 2007)



AGENDA NO: C-2

MEETING DATE: March 5, 2015

Staff Report

TO: Harbor Advisory Board

DATE: February 24, 2015

FROM: Eric Endersby, Harbor Director

SUBJECT: Update from the Marine Services Facility/Boatyard Ad-Hoc Committee on Committee's Recent Activities, Findings and Recommendations with Regard to the Draft Work Products Received to Date from Lisa Wise Consulting

RECOMMENDATION

Receive and file.

DISCUSSION

The Marine Services Facility/Boatyard Ad-Hoc Committee and staff will be presenting an oral update on their activities and progress, if any. This is a standing committee report agenda item.

Prepared By: EE

Dept. Review: EE



AGENDA NO: C-3

MEETING DATE: March 5, 2015

Staff Report

TO: Harbor Advisory Board

DATE: February 24, 2015

FROM: Eric Endersby, Harbor Director

SUBJECT: Update from the Capital Improvement Planning Ad-Hoc Committee on Committee's Recent Activities

RECOMMENDATION

Receive and file.

DISCUSSION

The Capital Improvement Planning Ad-Hoc Committee will be presenting an oral update on their activities, if any. This is a standing committee report agenda item.

Prepared By: EE

Dept. Review: EE



AGENDA NO: D-1

MEETING DATE: March 5, 2015

Staff Report

TO: Harbor Advisory Board

DATE: February 26, 2015

FROM: Eric Endersby, Harbor Director

SUBJECT: Review of Harbor Lease Sites with Construction or Other Lease/Lease Site Activity Currently Underway

RECOMMENDATION

Receive and file.

BACKGROUND

The Harbor Advisory Board is traditionally presented with an annual update report of current and recently completed lease site activity such as construction, negotiations, redevelopment proposals, or other lease or site activity.

DISCUSSION

A brief oral report will be given on the following leases/lease site activity:

- 30W-33W Bay Front Marina (Foster/Marchant)
- 37W Morro Bay Marina/Boatyard (Meyer)
- 62/62W, Kayak Horizons (Krueger)
- 63-64/63W-64W, Gray's Inn and Gallery (Gray)
- 65-66/65W-66W, Salt Building (Imani)
- 68/68W (Viole)
- 82-85/82W-85W, Rose's Landing (Redican)
- 86/86W, 801 Embarcadero LLC (Caldwell)
- 87/87W, Off the Hook (V. Leage)
- 93-95/93W-95W, The Harbor Center (Held)
- 96/96W, Rocca's (Van Beurden)
- 102/102W & 105.1W-105.2W, Central Coast Seafoods (Degarimore)
- 110W-112W, Great American Fish Co. (G. Leage)
- 122-123/122W-123W, Harbor Hut (T. Leage)
- 124-128/124W-128W & 113, Morro Bay Landing (Fowler)

Prepared By: EE

Dept. Review: EE

- 129W-131W, Morro Bay Fish Co. (Santa Monica Seafood)
- 144/144W Morro Bay Oyster Company (Maloney)