

HARBOR ADVISORY BOARD MEETING

**August 6, 2009
7:00 PM
Morro Bay Veteran's Hall
209 Surf Street
Morro Bay CA 93442**

AGENDA



- I. ROLL CALL**
- II. APPROVAL OF MINUTES**
 - II-1. Joint Harbor Advisory Board/Recreation and Parks Commission 6/4/09**
 - II-2. Harbor Advisory Board 6/4/09**
- III. ORAL COMMUNICATIONS**

Members of the audience wishing to address the Board on City business matters other than those on the agenda may do so now.
- IV. PRESENTATIONS AND ACTION ITEMS**
 - IV-1. Presentation by Drew Jacobson, Eco Marine Solutions (Continued)**
 - IV-2. Review of Rules & Regulations on Berthing of Boats and Harbor Policies**
 - IV-3. Discussion on Recommending a Public Input Process for Developing North Embarcadero Projects**
- V. INFORMATION ITEMS**
 - V-1. Harbor Department Status Report**
- VI. ADDITIONAL COMMENTS**
- VII. FUTURE AGENDA ITEMS**
- VIII. ADJOURNMENT**



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JOINT HARBOR ADVISORY BOARD - RECREATION AND PARKS COMMISSION**SYNOPSIS MINUTES**

The joint meeting of the City of Morro Bay Harbor Advisory Board and the Recreation and Parks Commission was held Thursday, June 4, 2009 at 6:00 PM in the Veteran's Hall, 209 Surf Street, Morro Bay, California.

I. ROLL CALL

Present:

Harbor Advisory Board Members

Brett Cunningham

Gene Doughty

Michele Leary

Bill Luffee

Lynn Meissen

Chair: Jim Phillips

Barbara Strassel

Recreation & Parks Commissioners

Christi Hale

Marla Hagle

Johnny Munoz

Chair: Joan Solu

Absent: Karen Croley

Jeff Hensley

Judy Mahan

Staff: Rick Algert, Harbor Director
Polly Curtis, Office Assistant

Joe Woods, Rec. & Parks Director
Rob Schultz, City Attorney

II. ORAL COMMUNICATIONS

Mr. Phil Hill commented on the history of the Cannery.

III. PRESENTATIONS AND ACTION ITEMS**III-1. Presentation on the Brown Act**

Mr. Rob Schultz, City Attorney made a presentation to the Board and the Commission on the Brown Act and Closed Session policies.

III-2. Presentation on Coleman/Embarcadero Area Capital Improvement Study

Mr. Algert and Mr. Woods reviewed the project on a PowerPoint format, giving the history of the process and further development of the conceptual planning by RRM Design Group. Mr. Algert said RRM has completed additional design work specifically for the boatyard. Mr. Woods added that the Central Coast Women for Fisheries has begun fund raising and design work for a memorial to fishermen they proposed to place at Morro Rock near the channel entrance. He said a goal for the design of the recreational area is for the public to be more engaged with the environment through different elements.

Mr. Woods said the next step is for the City Council to establish a committee of community members, Harbor Advisory Board members, Recreation and Parks Commission members, National Estuary Program representatives and other non-profit groups to envision a design for the area and formulate a Master Plan.

VIII. ADJOURNMENT

This meeting was adjourned at 7:00 PM

Submitted by,

Polly Curtis
Harbor Department

CITY OF MORRO BAY
HARBOR ADVISORY BOARD
SYNOPSIS MINUTES

The regular meeting of the City of Morro Bay Harbor Advisory Board was held Thursday, June 4, 2009 at 7:00 PM in the Veteran's Hall, 209 Surf ST, Morro Bay, California.

I. ROLL CALL

Present: Members: Brett Cunningham
 Gene Doughty
 Michele Leary
 Bill Luffee
 Lynn Meissen
 Jim Phillips
 Barbara Strassel
 Staff: Rick Algert, Harbor Director
 Polly Curtis, Office Assistant

II. MINUTES

Mr. Doughty said that the word "not" needs to be added to Page 2, Paragraph 2, first sentence in the following location: "...especially with the boat owner **not** on board." Mr. Luffee moved the May 7, 2009 Harbor Advisory Board minutes be approved as corrected. The motion was seconded by Mr. Cunningham and carried unanimously.

III. ORAL COMMUNICATIONS

Mr. Doughty said he is glad Mr. Algert is working out an arrangement with the Chablis owners. Mr. Bill Martony explained his intention to use his property for mariculture.

IV. PRESENTATIONS AND ACTION ITEMS

IV-1. Presentation by Maritime Logistics on Proposal for Reuse of Lease Site 35W-36W

Mr. Algert reviewed the Presentation Item for the Board, and introduced Mr. Frank Loving. Mr. Loving, owner of Maritime Logistics, reviewed the documents on his company and his vessels, and discussed his application to the City for berthing of his tug and maritime service vessels at Lease Site 35W-36W. He told the Board he applied to the City Planning Department for a Conditional Use Permit (CUP) to repair and reuse the existing wooden wharf on the sites, but the CUP is on hold while the City continues to review the policies to determine if the use is permitted in this area.

Mr. Loving told the Board he is asking for approximately 100-130 feet of pier space to dock his vessels, but he clarified that his vessels work while out at sea, not on the docks. He said if he is not allowed to use the dock on Lease Site 35W-36W, the City should take over the dock, repair it, and put it back to use, allowing other vessels to berth there for City revenue.

The Board asked Mr. Loving several questions and then opened the Item up to the public. Mr. Jim Wood, citizen of Morro Bay and former Harbor Advisory Board member for 8 years said the priority of the Coastal Commission is for waterfront-dependent uses and a working waterfront. He said dredging is currently funded for the navigational channel, but if there are no longer workboats in Morro Bay in the future, there will not be funding for dredging. He said the income from commercial vessels just buying fuel is significant and helps keep local businesses open.

Mr. Bill Martony and Mr. Kim Kolb made statements opposing the use of the docks at Lease Site 35W-36W for commercial vessels.

Chairman Phillips thanked the public for their comments, and thanked Mr. Loving for his presentation, saying no action is required on this Item, but he hoped the zoning for Lease Site 35W-36W will be decided by City Council and the Planning Commission in a timely fashion.

IV-2. Cancellation of July 2, 2009 Harbor Advisory Board Meeting

Ms. Meissen moved that the July 2, 2009 Harbor Advisory Board Meeting be cancelled. The Motion was seconded by Mr. Cunningham and carried unanimously.

V. INFORMATION ITEMS

V-1. Harbor Department Status Report

Mr. Algert referred the Board to the Harbor Newsletter included in their packet and also available to the public. He said the Dredge Yaquina will arrive on June 21, 2009 to begin dredging the entrance channel.

VI. ADDITIONAL COMMENTS

Chairman Phillips said the Morro Bay Music Festival will be held on Saturday, June 7th on the Embarcadero.

VII. FUTURE AGENDA ITEMS

AUG Presentation by Drew Jacobson, Eco Marine Solutions (Continued)
Review of Rules & Regulations on Berthing of Boats and Harbor Policies
Discussion on Recommending City Council Form a Board and Commission Sub-Committee to Review North Embarcadero Projects

VIII. ADJOURNMENT

This meeting was adjourned at 8:15 PM

Submitted by,

Polly Curtis
Harbor Department

TO: HARBOR ADVISORY BOARD **DATE: 7/30/09**
FROM: HARBOR DIRECTOR
SUBJECT: PRESENTATION BY DREW JACOBSON, ECO MARINE SOLUTIONS
(continued)

RECOMMENDATION: None

BACKGROUND and DISCUSSION:

At your May meeting the Harbor Advisory Board heard a presentation from Drew and Denise Jacobson/Eco Marine Solutions on vessel sanitation and proposing that the City consider a broader vessel inspection program in Morro Bay harbor.

The Harbor Advisory Board passed a motion at your May meeting to re-agendize the item and requested that some additional details on their proposal be provided to the Board. In response we received the attached submittal.

In a quick analysis, even if the inspections were contracted out, there would still be significant administrative costs such as ordinances to set-up the program, fee establishment and collection, enforcement for non-compliance, etc. It would essentially be recommending a new level of service in the Harbor Department at a time when the City is generally cutting costs and specifically reviewing a number of recommendations in the Management Partners Report to contract out, consolidate, reduce or eliminate City personnel and services.

Currently the City has in our Harbor billing system vessels that are tied up at City moorings, City slips or the City T-Piers, but not individual boats on privately operated slips or moorings. Tracking recreational vessels on a global basis would be a much bigger job than current practice, and would require a lot of administrative time to set up and keep up-to-date. If a private contractor were to collect the fee on a required inspection (similar to our current mooring inspection requirement) it would be less of a direct City workload, but there would still be substantial tracking and enforcement work, as there is with our mooring inspection program. As a comparison, the mooring inspection program covers approximately 90 moorings and mooring holders, while there are an estimated 250+ recreational vessels in the harbor.

If the Harbor Advisory Board feels the City should consider such a proposal, Staff would convey that recommendation to the City Council and then the City Council would have to provide direction to prepare a program analysis and agenda reports for future decision making.

The Question:

If the Harbor Department inspects 10% of the recreational boats on the bay for proper and lawful marine sanitation devices and operability requirements in order to protect the health and safety of the bay, should we not begin to expand the program to include the remaining 90% of recreational boats?

Drew Jacobson
(805) 441-5723



This question first was asked at one of the Harbor Advisory Boards Sub-committee meetings reviewing the liveaboard ordinance. At this meeting, the Harbor Department was asked 'whether all recreational boats could be inspected'. The attending harbor personnel suggested that they do not have the staff to initiate an expanded inspection program. At the June Harbor Advisory Board meeting, I suggested that one possible solution to this problem is to follow the example of the city's current 'Mooring Inspection' program that utilizes private contractor(s) (Mooring Inspectors) to pull, inspect and repair moorings as required by ordinance every two years. As suggested, having a private contractor cooperating with the Harbor Department in bringing all recreational boats into compliance with Federal, State and local ordinances for 'Marine Sanitation Devices' (See Attachment 'B') and 'Operability' requirements, just as the private mooring contractor(s) do in bringing all moorings into safety compliance, is one possible solution to a successful program.

Another possible solution to the question of 'how' to undertake an expanded boat inspection program is to have the Harbor Department randomly choose 20 or 25 recreational boats a year to inspect – They currently inspect this number of liveaboard boats without strain on staff - and by randomly choosing these boats from among the entire recreational bay fleet the Harbor Department will not be inspecting the same liveaboard boats over and over again. Instead, they will begin to develop a program that will eventually bring **all** recreational boats on the bay into health and safety ordinance compliance without undue strain on the Harbor Patrol staff.

Adding new language to the current liveaboard inspection ordinance to include all recreational vessels is all that is necessary to begin to expand the program. The current inspection ordinance already includes a provision authorizing an 'independent marine surveyor' with the 'approval of the Harbor Department' to conduct such inspections (See attachment 'A').

Again, less than 10% of the recreational boats on the bay are required to be inspected to ensure they do not present a health or safety issue on the bay – This same 10% are inspected year after year, over and over again with the same results – while 90% of the recreational boats on the bay are never inspected. Just as the Harbor Department requires **all** moorings to undergo safety inspections... It does not make much sense if only 10% of the moorings on the bay were required to be pulled and inspected, and it makes even less sense if those 10% were the same moorings pulled and inspected year after year...

The liveaboard fleet is required to be inspected for health and safety issues, this is to be commended. However, it is the remaining, un-inspected 90% of the recreational bay fleet that represent an unknown and potential problem to the health and safety of the bay. As the popular saying goes - 'The definition of insanity is doing the same thing over and over again and expecting a different outcome' -

Conclusion:

I am not asking you to consider 'who' should do the inspections or 'how' the inspections will be done... I have presented several possible options including private and in-house solutions - perhaps the 'who' and 'how' questions might be better left to the harbor staff and/or another sub- committee to decide. I am only asking you to consider taking the first step in deciding whether or not the health and safety of the bay is best served by inspecting the same 10% of recreational boats for compliance, year after year, or would the bay be better served if all recreational boats were to participate in an expanded inspection program?

I am asking that you recommend to the Morro Bay City Council the expansion of the 'Liveaboard Inspection Ordinance' to include all recreational boats on the bay.

The new 'Liveaboard Ordinance' will soon be presented at a City Council meeting for its first public comments hearing... This is an excellent opportunity for the Harbor Advisory Board to show it's support for the goal of inspecting all recreational boats on Morro Bay.

Mooring Inspections

100% of the moorings on the bay are inspected. Under the authority of the Harbor Department all moorings are required to undergo visual inspections for safety every two years. This is an important requirement that has a direct impact on the safety of both public and private property. This duty is carried out by private 'Mooring Inspectors'. The 'Inspector(s)' and the Harbor Department cooperate on inspection findings and share owner information.

This appears to be an efficient and effective program that has a history on the bay. However, when boats do "break away" in the winter and early spring gales, owner neglected lines or cleats are usually the weak link - If all recreational boats on the bay were required to undergo periodic inspection, it is reasonable to assume that the owner is far more likely to be aware of the condition of his/her boat's mooring gear, take corrective action and make the bay safer for all.

Proper and Legal Marine Sanitation Device

As outlined in our June presentation: All recreational boats that have an on-board toilet (called a 'head') must have one of three types of 'marine sanitation devices' to be considered legal (see Attached Information Sheet).

Type-1). A marine toilet and an on-board coast guard certified waste treatment device for a single toilet..

Type-2). An on-board coast guard certified waste treatment device for multiple toilets.

Type-3). Toilet with an on-board holding tank or porta-potty (this is the most common system used on boats)..

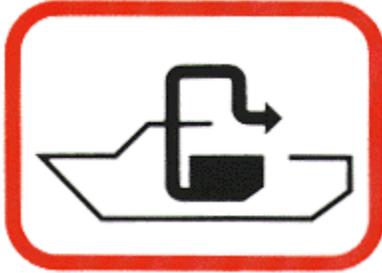
Although 'ALL' boats that have a toilet onboard are required by law to have one of these three systems onboard and in operating condition, only liveaboards (less than 10%) are currently inspected for compliance.

Most boats that were manufactured prior to 1978 were not equipped with any of the three types of required marine sanitation devices listed above and had little more than direct overboard flushing of raw sewage. If the owner of an older boat has not updated their systems; they are dumping raw untreated sewage into the bay. They are in violation of Federal, State and local laws.

15.40.040 PERMIT ISSUANCE

A. *Issuance of a Liveaboard Permit: Upon receipt of the original Liveaboard Permit Application, or any renewal thereof, the Harbor Director shall notify applicant that the applicant must make arrangements within a specified period with the Harbor Department to have the liveaboard vessel, under its own power, make way to the Harbor Patrol docks or other facility designated by the Harbor Patrol to submit to an inspection to insure the liveaboard vessel is in compliance with the conditions of this Ordinance. The inspection shall be accomplished by a City of Morro Bay Harbor Patrol Officer or a qualified marine surveyor acceptable to the City provided that if applicant chooses to have an inspection completed by a marine surveyor, then applicant will bear all costs thereof and provide City a copy of the inspection report.*

Sewage Holding Tank Systems for Recreational Boats



KEEP OUR WATER CLEAN - USE PUMPOUTS

- System Design
- Equipment Selection
- Installation
- Maintenance

Boat owners and repairers...

This booklet will help you install or upgrade sewage holding tank systems to be in compliance with existing laws governing marine sanitation devices (MSD's). You will find information on how to choose a system, sewage system design and the selection of system components, plus helpful tips for installation and maintenance.

What is the law?

In response to growing fears of the "death" of our nation's bodies of water, Congress enacted the Clean Water Act of 1972 (amended in 1987). This law addresses a wide spectrum of water pollution problems, including marine sewage from boats in navigable U.S. waters including coastal waters from a distance of 3 miles offshore. The law further provides for "no discharge" by boats operated in enclosed lakes and reservoirs or in rivers not capable of interstate navigation. States may apply to the EPA to have certain other waters declared "no discharge zones" if discharge of treated sewage would be harmful. In short, boats with installed toilets must have an operable Coast Guard approved MSD designed to either hold sewage for pump out ashore or for discharge in the ocean beyond the three mile limit, or to treat the sewage to Federal standards prior to discharge.

Attachment B

Why should you act now to comply with this law?

First of all, it is the law! All boats built since 1977 with installed toilets must have an operable approved type MSD. Since 1980, all boats (including those built before 1977) with installed toilets must have an operable MSD. Nevertheless, boaters often bypass these systems and discharge untreated sewage directly overboard. If you flush your boat's toilet in violation of the law, you can assume others do too.

The basis for arguments that boat sewage is "peanuts" compared to other sources of pollution, that holding tanks "stink," that there's no place to pump out, and that the law isn't being enforced anyway, is weakening fast in these changing times. These facts are clear:

- Growth in boating is placing an additional environmental on crowded recreational waters.
- Government and citizens' groups are working aggressively to contain and prevent all forms of water pollution.
- Government grant money is funding a tremendous increase in the number of pump out facilities.
- Advancing technology has given a wide range of "user friendly" sanitation system options.

Against this backdrop, it is not surprising that congress is considering proposals that would increase fines for flushing raw sewage and provide states with incentives for enforcing current laws. Clearly, it's time for all boaters to "do the right thing."

What can you do now to comply with the law?

Boaters share a common desire to play in and on sparkling clean waters. We can choose to pollute or not to pollute. We can do the right thing now, take action, and obey the law! Good environmental citizenship will help ensure our continued delight in clean waters. Use this information in choosing a marine sanitation device that best fits your needs.

Attachment B

What are your choices for compliance?

There are three types of Coast Guard approved marine sanitation devices (MSDs):

- Type I MSDs treat sewage so that the discharged effluent meets specified standards for bacteria content and contains no visible floating solids.
- Type II MSDs are similar, but must meet a higher standard of sewage treatment.
- Type III MSDs retain sewage for shore based disposal or discharge beyond the three mile offshore limit.

Boats 65 feet in length or less may install a type I, II, or III device. Vessels over 65 feet must install a type II or III MSD.

An approved system (Type I or II) will have a label verifying that it meets the Coast Guard regulations for design and construction and the Environmental Protection Agency (EPA) regulations and standards as required by the Clean Water Act. Holding tanks (Type III) do not require a certification label if they simply store sewage at ambient temperatures and pressures.

What system should you install?

If the boat is operated in waters designated for "No Discharge," you only have one choice...you must retain all sewage, treated or not, for disposal ashore. Choosing the system that works best will depend on several factors. The answer to a few questions about how the boat is used should help you narrow the choices and determine optimal holding tank capacity:

- How many people are usually on board for a trip?
- Is the boat usually used for day trips or for longer periods and overnight cruises? Usually day trips do not generate much solid waste. Overnighting virtually guarantees it.
- Does the boat anchor out overnight or tie up at a marina? When dockside, will you use the marina toilets?
- Are pump out facilities located nearby?
- What are the boats design and space limitations for MSD installation?
- Is the electric power supply adequate for an electrically operated system?



Federal Aid Project
funded by your purchase
of fishing equipment
and motor boat fuels

AGENDA NO. IV-2

DATE: 8/6/09 Action: _____

TO: HARBOR ADVISORY BOARD

DATE: 7/30/09

FROM: HARBOR DIRECTOR

SUBJECT: REVIEW OF RULES & REGULATIONS ON BERTHING OF BOATS AND HARBOR POLICIES

RECOMMENDATION: Review the City Harbor Department Rules and Regulations and make recommendations to the City Council if desired for revisions or changes.

BACKGROUND and DISCUSSION

At your May meeting the Harbor Advisory Board heard a member of the public complain about derelict and non-commercial fishing vessels tied up at the T-Piers. Board members asked questions about the basis for Harbor Department management policies and decisions at the T-Piers. This item is on your agenda by consensus of the Board at your May meeting.

Many larger/commercial vessels are federally documented (registered) and fall under federal maritime law when we are faced with a derelict or non-paying vessel. The documentation system in federal maritime law was designed to protect lien holders to facilitate commerce and financing in the maritime industry. Dealing with derelict or non-paying federally documented vessels requires filing an action in federal court to seize the vessels and clear liens, which is a very costly and time-consuming process. The best outcome is that after approximately 1 year the vessel is turned over to the agency and we can attempt to recover past due fees and costs through sale of the vessel (need I say anything here?) or pursuing the owner if they have any resources and can be located.

Vessels that are state registered (CF) fall under State Harbors and Navigations Code (HNC) when dealing with liens for non-payment or abandonment. This is a substantially quicker and less costly process. The City can adopt local ordinances in other areas where we are not preempted by state and federal law, and can establish our Harbor Department Rules and Regulations by Resolution through authority in Chapter 15 of the Municipal Code. For the most part this does not include pursuing past-due dockage fees or dealing with derelict/abandoned vessels as this is covered under state and federal law. Thus the City's areas of flexibility in policy and management of assigning berthing at any City facilities lies with our Harbor Department Rules and Regulations, a copy of which is attached for your review.

EXHIBIT "A"

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

INTRODUCTION

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

1. MORRO BAY HARBOR DEPARTMENT - GENERAL REGULATIONS

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

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

2. CITY SLIPS

A: General

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

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

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

C: Moorings - Tackle And Gear City Owned

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

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

D: Mooring Tackle And Gear Maintenance

The offshore mooring holder shall maintain the tackle and gear to the specifications set by the Harbor Department including biennial inspections meeting the requirements set by the Chief Harbor Patrol Officer. The City will maintain and inspect City owned

moorings. Moorings leased to the Morro Bay Yacht Club and Morro Bay Marina will be maintained and inspected by those lessees to meet the specifications set by the Harbor Department.

4. T-PIERS, FLOATING DOCK OR ANCHORAGE AREA

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

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

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

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

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

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

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

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

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

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

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

6. FEES

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

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

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

7. DAMAGE TO CITY PROPERTY

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

8. EMERGENCY MEASURES, CITY HELD HARMLESS

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

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

9. STORAGE AND SECURING OF VESSELS

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

10. FISH UNLOADING OR SALES

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

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

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

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

1. Violation of MBMC 15.12.010, prohibiting operation of a vessel in excesses of 5 MPH, or in a manner which causes damaging wake within Morro Bay Harbor. \$100 first offense, \$200 second offense and each offense thereafter.
2. Violation of MBMC 15.24.010, prohibiting discharge of waste or refuse from vessels and prohibiting allowing vessels materials waste or refuse to remain on shorelines within City limits. \$200 first offense, \$500 second offense and each offense thereafter.
3. Violation of MBMC, 15.32.010, establishing rules and regulations for City wharves, piers and docks by resolution of the City Council. Violation of Harbor Rules and Regulations: first offense \$100 second offense and each offense thereafter \$200.

4. Violation of MBMC 15.40.030, requiring a permit for occupying or owning a liveaboard vessel in Morro Bay Harbor. First offense \$100, second offense and each offense thereafter \$200.
5. Violation of Harbor and Navigations Code Section 525, prohibiting abandoning a vessel without the facility owner's permission: \$500 first offense, \$1500 second offense and each offense thereafter.

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

12. STORAGE AND ELECTRICAL SERVICE

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

13. OPERATIONS FROM CITY FACILITIES

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

14. SOUTH T-PIER HOIST

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

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

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

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

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

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

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

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

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

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

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

16. PRIOR CITY RESOLUTIONS

A. Incorporation of Prior Resolutions:

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

B. Rescinding of Prior City Resolutions:

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

TO: HARBOR ADVISORY BOARD **DATE: 7/30/09**
FROM: HARBOR DIRECTOR
SUBJECT: DISCUSSION ON RECOMMENDING A PUBLIC INPUT PROCESS FOR DEVELOPING NORTH EMBARCADERO PROJECTS

RECOMMENDATION: None

BACKGROUND AND DISCUSSION: In June the Harbor Advisory Board held a joint meeting with the Recreation and Parks Commission, and heard a presentation on Recreation and Parks/Harbor capital project planning in the North Embarcadero. After that discussion at your regular June Harbor Advisory Board meeting, the Board consensus requested a future agenda item on forming a committee to review/support these projects. It was not totally clear to me where you wanted to go with this; so I broadened the title of this agenda item. If the Harbor Advisory Board wants to have a more formal process for giving input and review of these projects, you can:

- 1) Recommend the City Council form a joint Board and common Sub-committee;
- 2) Form an Ad Hoc Sub-committee of the Harbor Advisory Board;
- 3) Request annual or bi-annual joint meetings with Recreation and Parks Commission on this topic;
- 4) Other ideas?

MARINE MAMMALS: This summer scores of sea lions have decided to enter and stay inside Morro Bay harbor. The sea lions are beginning to cause damage at several locations by hauling out on docks and boats in numbers large enough to cause structural damage and possibly sink vessels. The potential damage they can cause by their sheer weight as well as the public health threat that their feces can pose to humans is real.

Right now we are assessing our options of how to keep them off of the docks that we operate with minimal impact. The primary concern is that we will adhere to the guidelines administered by NOAA and the National Marine Fisheries Service. These measures may consist of physical barriers, water spray, or electric cattle fencing.

JESSE KING MEMORIAL

On July 1, 2009 Morro Bay Lifeguard and ex-Coast Guardsman Jesse King died in a diving accident off of Cambria. On July 5, 2009 the Harbor Department assisted the family in organizing and conducting a memorial service in the shadow of the Rock inside the bay. The service was well attended by friends and family, and Jesse was given a proper water-borne send-off under clear skies and calm seas.