

# City of Morro Bay

## City Council Agenda

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### *Mission Statement*

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

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**REGULAR MEETING – AUGUST 24, 2009**

**CLOSED SESSION – AUGUST 24, 2009  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

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

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

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

**PUBLIC SESSION – AUGUST 24, 2009  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

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

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

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

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

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

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR REGULAR CITY COUNCIL MEETINGS OF JULY 13, 2009 AND AUGUST 10, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 46-09 ADOPTING AMENDMENTS TO THE 2009/10 MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 46-09.**

A-3 CREATION OF THE WATER SYSTEM OPERATOR II AND WATER SYSTEM OPERATOR III POSITIONS AND AUTHORIZATION TO FILL THE WATER SYSTEM OPERATOR II POSITION; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION:** Authorize the creation of the Water System Operator II and Water System Operator III positions, authorize hiring to fill the Water System Operator II position, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process.

A-4 AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO GRANT AGREEMENT #08-101-102 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA DREDGING STUDIES, PERMITS AND MONITORING AND AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH ANCHOR ENVIRONMENTAL TO ACQUIRE STATE PARK MARINA DREDGING PERMITS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 45-09.**

A-5 ADOPTION OF ORDINANCE NO. 551 TO AMEND THE MORRO BAY MUNICIPAL CODE CHAPTER 10.54 TO INCLUDE A NEW SECTION 10.54.065 REQUIRING ANY PERSON RIDING A PERMITTED COASTING DEVICE AT THE MORRO BAY SKATE PARK TO WEAR A HELMET, ELBOW PADS, AND KNEE PADS; (RECREATION & PARKS)

**RECOMMENDATION: Adopt Ordinance No. 551.**

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 PUBLIC HEARING ON CLOSE-OUT OF COMMUNITY DEVELOPMENT BLOCK GRANT PLANNING AND TECHNICAL ASSISTANCE ECONOMIC DEVELOPMENT GRANT 08-PTAE-5411; (PUBLIC SERVICES)

**RECOMMENDATION: Hold a public hearing on the “Redevelopment Feasibility Study Prepared for the City of Morro Bay”, which is the CDBG Planning and Technical Assistance Economic Development Grant Final Product, and authorize staff to submit the Study with a final closeout letter to CDBG to close out the grant.**

B-2 ORDINANCE NO. 552 REQUIRING THE FIRE CHIEF TO DESIGNATE VERY HIGH HAZARD SEVERITY ZONES AND THE BUILDING OFFICIAL TO ENFORCE THE REQUIREMENTS OF CHAPTER 7A AND CHAPTER 47, TITLE 24 CALIFORNIA CODE OF REGULATIONS; (FIRST READING/INTRODUCTION)

**RECOMMENDATION: Approve the first reading/introduction of Ordinance No. 552.**

C. UNFINISHED BUSINESS

C-1 CONSIDERATION OF THE COUNCIL'S POSITION REGARDING THE TWO PROPOSED RESOLUTIONS SUBMITTED FOR CONSIDERATION AT THE LEAGUE OF CALIFORNIA CITIES' ANNUAL CONFERENCE; (CITY ATTORNEY)

**RECOMMENDATION: Discuss and give direction to the voting delegates on Council's position regarding the two proposed resolutions submitted for consideration at the League of California Cities Annual Conference Business Meeting.**

D. NEW BUSINESS

D-1 DISCUSSION ON STATE WATER RESOURCES CONTROL BOARD ONCE THROUGH COOLING STATEWIDE POLICY; (PUBLIC SERVICES)

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

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

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

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

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

**AGENDA NO: A-1**

**MEETING DATE: 8/24/09**

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

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	Aileen Nygaard	Associate Planner
	Mike Pond	Fire Chief
	Christine Rogers	Housing Programs Coordinator
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

CLOSED SESSION REPORT – there was no Closed Session Meeting.

PUBLIC COMMENT

Gary Hixson referred to an article in the *New Times* regarding proposed plans for the Dynegy Power Plant property. He also suggested holding next year's fireworks at El Chorro Regional Park. Mr. Hixson gave a pitch for Charter Cable Channel 2.

Avery Henderson referred to the laser light show and encouraged the return of a firework display in Morro Bay next year.

James Henry stated he was disappointed there were no fireworks this year in Morro Bay, and he and his guests went to Cayucos to enjoy their fireworks. He also shared negative comments made that he found on the Internet regarding the laser light show held on the 4<sup>th</sup> of July.

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REGULAR MEETING – JULY 13, 2009

Dorothy Cutter stated she was not able to see the laser light show from her usual spot where she is usually able to see the fireworks, and she hopes the fireworks are back next year. She referred to Item C-1 (Presentation on Implementation on Goals A & B from the Management Partners Goal Setting Workshop) and recommended the City Council look at the Harbor Department before considering long-range strategies.

Phil Hill discussed various issues with waterfront lease sites.

Bill Martony stated he had planned to maintain his lease site as a mariculture use, which is allowed in this zoned area.

Samantha Rocky stated she is from Fresno and her family spends most of the summer in Morro Bay. She said they found an increase in black flies on the beach this summer and the beach should be groomed. She also expressed concern that kites cannot be flown on the beach due to the snowy plovers.

John Barta remembered Charlie Palmer and the facts he brought to the City regarding water. He also suggested that fireworks are brought back next 4<sup>th</sup> of July.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF THE MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF JULY 29, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 40-09 AUTHORIZING THE ISSUANCE OF CREDIT CARDS THROUGH RABOBANK

**RECOMMENDATION: Adopt Resolution No. 40-09.**

A-3 RESOLUTION NO. 42-09 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2009/10

**RECOMMENDATION: Adopt Resolution No. 42-09.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – JULY 13, 2009

A-4 AUTHORIZATION TO ENTER INTO A FINANCIAL ASSISTANCE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR PHASE I CONSTRUCTION OF A LOW IMPACT DEVELOPMENT BOAT REPAIR YARD AND DESIGNATION OF A REPRESENTATIVE TO SIGN THE FINANCIAL ASSISTANCE AGREEMENT, AND ANY AMENDMENTS THERETO

**RECOMMENDATION: Adopt Resolution No. 43-09.**

A-5 ADOPTION OF RESOLUTION NO. 39-09 CONSENTING TO THE RESTRUCTURING OF CHARTER COMMUNICATIONS

**RECOMMENDATION: Adopt Resolution No. 39-09.**

A-6 REQUEST TO USE PARK IN-LIEU FUNDS FOR THE ENHANCEMENT OF MARINER PARK AND CENTENNIAL PARKWAY

**RECOMMENDATION: Approve the use of up to \$50,000 of Park-in-lieu funds for the enhancement of Mariner Park and Centennial Parkway.**

A-7 RESOLUTION NO. 41-09 AUTHORIZING THE CITY TO PARTICIPATE IN THE CALIFORNIA ENERGY COMMISSION'S ENERGY PARTNERSHIP PROGRAM

**RECOMMENDATION: Adopt Resolution No. 41-09.**

A-8 PROCLAMATION DECLARING JULY AS "RECREATION & PARKS MONTH"

**RECOMMENDATION: Adopt Proclamation.**

A-9 PROCLAMATION DECLARING AUGUST 2009 AS "MONTH OF THE DAHLIA"

**RECOMMENDATION: Adopt Proclamation.**

Councilmember Winholtz pulled Items A-3 and A-4 from the Consent Calendar; Councilmember Smukler pulled Items A-6 and A-7.

**MOTION:** Councilmember Grantham moved the City Council approve Items A-1, A-2, A-5, A-8 and A-9 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – JULY 13, 2009

A-3 RESOLUTION NO. 42-09 ESTABLISHING THE ANNUAL PROPOSITION 4  
APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2009/10

Councilmember Winholtz stated she was going to be voting in opposition to this Resolution because we use the County's numbers instead of the City's numbers.

MOTION: Councilmember Grantham moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Mayor Peters and carried with Councilmember Winholtz voting no. (4-1)

A-4 AUTHORIZATION TO ENTER INTO A FINANCIAL ASSISTANCE  
AGREEMENT WITH THE STATE WATER RESOURCES CONTROL  
BOARD FOR PHASE I CONSTRUCTION OF A LOW IMPACT  
DEVELOPMENT BOAT REPAIR YARD AND DESIGNATION OF A  
REPRESENTATIVE TO SIGN THE FINANCIAL ASSISTANCE  
AGREEMENT, AND ANY AMENDMENTS THERETO

Councilmember Winholtz requested staff clarification on where the City is in the process of this project. Harbor Director Rick Algert reviewed the process and future timeframe of the Low Impact Development Boat Repair Yard.

MOTION: Councilmember Winholtz moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-6 REQUEST TO USE PARK IN-LIEU FUNDS FOR THE ENHANCEMENT OF  
MARINER PARK AND CENTENNIAL PARKWAY

Councilmember Smukler requested staff clarification on the \$5,000 expense to replace the site trash receptacle with a solar powered trash compactor. Recreation & Parks Director Joe Woods explained the solar powered trash compactor is a double unit that handles twice the amount of trash, will last twice as long, along with other beneficial amenities.

Councilmember Winholtz stated the gangways at Mariner Park should be paid out of Harbor fees instead of Recreation & Parks fees.

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

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A-7 RESOLUTION NO. 41-09 AUTHORIZING THE CITY TO PARTICIPATE IN  
THE CALIFORNIA ENERGY COMMISSION'S ENERGY PARTNERSHIP  
PROGRAM

Councilmember Smukler requested the City inquire on the merging of AB 811 in with the Energy Commission's program.

Councilmember Winholtz recommended amending the Resolution as follows:

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the City of Morro Bay may seek funding, if necessary, to implement, **if feasible**, ....

**BE IT FURTHER RESOLVED**, that the ~~Mayor~~ **City Manager** of the City of Morro Bay, California ...

MOTION: Councilmember Winholtz moved the City Council approve Item A-7 of the Consent Calendar as amended by the City Council. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF PLANNING COMMISSION APPROVAL OF CONDITIONAL  
USE PERMIT FOR A SECOND STORY ADDITION TO A SINGLE FAMILY  
RESIDENCE LOCATED AT 560 BERNARDO AVENUE TO TOTAL OVER  
2,500 SQUARE FEET

Associate Planner Aileen Nygaard stated on May 4, 2009, the Planning Commission reviewed and approved a Conditional Use Permit for an addition to a single family residence that would allow a residential structure in excess of 2,500 square feet with a condition to redesign the north/south ridgeline to have a hip roof in order to improve the view corridor at the second story level. A parking exception to allow a tandem garage was also approved. The appellant proposes an appeal based upon the impact of the bulk of the structure on the neighborhood and the impact on neighbors' views due to its size. The applicant proposes an alternative proposal to reduce the size of the second story and overall house size to less than 2,500 square feet, and to reorient the roof ridgeline in order to create view corridors. Ms. Nygaard recommended the City Council consider the appeal for the Conditional Use Permit by adding conditions to address the appellants requests

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Gypsy Rose, appellant, stated she and Theda Hammond live directly behind the residence that is proposing a second story addition, and they would be one of those most adversely affected by the size of this project. Citing one of the principles of the City's Local Coastal Plan, she believes "large single-family dwellings could substantially reduce the overall amount of open space in the neighborhood and have a significant detrimental impact on adjacent neighbors' access to light, air, and privacy". Ms. Rose stated their grounds for the appeal are: 1) the proposed project exceeds the single-family dwelling size of 2,500 square feet. It dominates and towers over neighboring properties on that side of the block. It is not compatible with adjacent structures and it is out of scale with the community; and 2) the proposed roofline covers the width of the lot. The second story infringes on other residential views. The north-south orientation of the rear roofline substantially reduces aesthetically pleasing views. It obstructs view corridors and degrades scenic views of ocean and coastline and consequently impacts property values of neighboring homes. Ms. Rose stated their requested relief of action is: 1) redesign the proposed project to conform to single-family dwelling size of 2,500 square foot maximum by reducing the size and scale of the second story with setbacks or roofline reorientation; and 2) redesign the proposed rear roofline by reorientation or second story setbacks to preserve view corridors and reduce view obstruction of neighboring homes.

Steve Staley, applicant, stated property owners have the right to improve their property while following the guidelines and codes of the City. He outlined the Planning Commission's review and decision on approving the Conditional Use Permit for this second story addition. Mr. Staley stated he purchased this home eight years ago with the intention of adding a second story for retirement and becoming a full-time resident.

Mayor Peters opened the hearing for public comment.

Don Doubledee, architect for applicant, reviewed several issues within the staff report, and with the City process that he found to be incorrect. He said the proposed addition has been redesigned and will not greatly affect the appellants' view.

Dorothy Cutter stated the City Council adopted the 2,500 square foot floor-area-ratio (FAR) maximum building requirements two years ago. She said the City Council should direct the Planning Commission to come up with zoning regulations that include the far requirements.

Sandy Owen shared a PowerPoint presentation on information gathered on the proposed addition. She requested the City Council direct the architect to redesign the addition to meet the 2,500 square foot maximum standard and second-story setbacks, and design the roofline so it will articulate east and west.

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Tom Keland expressed opposition to the proposed project stating this second story addition would be larger than his house.

Joy Chambers stated she once considered adding a second story to a neighboring home on Bernardo Street, and decided to not block a neighboring view. She said view shed is not a property owner's right.

John Barta stated there are no private property view corridors; the only view corridors are at street ends.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated he is not a proponent of FAR because many of the lots in the City are too small, and property taxes stay stagnant, which is one of the large contributions to the City's General Fund. He said personal property rights are important to him, and people that play by the rules and work hard should be able to expand in order to make room for their family. Councilmember Grantham stated he supports approval of this project with conditions as stated in staff report.

Mayor Peters stated the purpose of FAR is for bulk, scale and neighborhood compatibility issues, which would improve property values. She said the City's amended zoning ordinance is still awaiting the approval of the Coastal Commission.

Councilmember Winholtz stated the protection of character and compatibility of neighborhoods are documented in the City's General Plan and Local Coastal Plan. She said the neighbors are not requesting to eliminate the second story, but are requesting a reduction in size, which are a compromise and a fair issue. Councilmember Winholtz stated she appreciates that the roofline has been adjusted; she would like the square footage to be reduced to 2,500 square feet; and, there may be an issue with the tandem parking.

Councilmember Smukler stated he supports maintaining the 2,500 square feet. He discussed the tandem parking space concept as being used as a workshop area and not being used as parking area.

Councilmember Borchard stated she agreed with Councilmember Grantham's comments regarding property rights. She said she appreciates the change in the roofline; however, she also supports the Planning Commission's approval of this project. Councilmember Borchard stated there are second-story additions all around this area.

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MOTION: Councilmember Winholtz moved the City Council uphold the appeal with the condition to remove 135 square feet from the second floor of the proposed addition to the single-family residence located at 560 Bernardo Avenue. The motion was seconded by Mayor Peters and carried with Councilmember Borchard and Councilmember Grantham voting no. (3-2)

B-2 ADOPTION OF ORDINANCE NO. 550 AMENDING TITLE 15 HARBOR AND OCEAN REGULATIONS, CHAPTER 15.40 REGARDING VESSEL HABITATION; INTRODUCTION AND FIRST READING

Harbor Director Rick Algert stated in 1993, the City Council adopted comprehensive regulations regarding vessel habitation in the harbor known as the Liveaboard Ordinance. In June 2008, the Harbor Advisory Board heard a status report on enforcement of the Ordinance and requested a more detailed review of the Ordinance. In October 2008, the Harbor Advisory Board formed a subcommittee to review the existing Liveaboard Ordinance who met and proposed a revised Ordinance to the Harbor Advisory Board at their April 2009 meeting. Mr. Algert stated the Harbor Advisory Board recommends the City Council approve the proposed revisions to Chapter 15.40 Vessel Habitation by approving the first reading and introduction of Ordinance No. 550.

Mayor Peters opened the hearing for public comment.

Bill Martony stated there have been past violations of pollution in the bay by some liveaboards. He said he supports this Ordinance, and recommended the Harbor Patrol monitor the water quality in the bay.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz requested the following amendments to Ordinance No. 550: 1) page 1 (remove ad-hoc from paragraphs 3 and 4; and, 2) page 6 - Section 15.40.090 USE OF PUMPOUT FACILITIES: ~~Where permittees are required to have adequate vessel-sanitation facilities~~ permittees shall use pumpout facilities on a regular basis or otherwise discharge greywater, human waste and sewage in a legal manner.

MOTION: Councilmember Grantham moved the City Council approve as amended by the City Council, the first reading and introduction of Ordinance No. 550 - Title 15, Harbor and Ocean Regulations, Chapter 15.40 regarding Vessel Habitation. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 550 by number and title only.

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Mayor Peters called for a break at 8:45 p.m.; the meeting resumed at 8:56 p.m.

B-3 CONSIDERATION OF ACTIVATING THE MORRO BAY  
REDEVELOPMENT AGENCY AND INITIATION OF PLANS TO BEGIN  
THE FORMAL REDEVELOPMENT PLAN ADOPTION PROCESS

Public Services Director Bruce Ambo stated at the June 22, 2009 City Council meeting, staff was directed to return to Council for further consideration of the operational expenses in forming and implementing the Redevelopment Agency, potential Redevelopment Plan components and Agency activities, opportunities for community involvement and potential project area boundaries. It is recommended the City Council activate the Morro Bay Redevelopment Agency, begin the Redevelopment Plan Adoption process, and allocate an estimated total of \$210,000 for the expenses in forming the Agency out of a combination of funding sources including the CDBG Loan Repayment Fund, Affordable Housing In-Lieu Fund, and an interest-bearing loan from the Risk Management Fund. In order to be successful, the City Council will need to focus on increasing the assessed property values in the project area and growing the tax increment for further redevelopment projects that stimulate investment within the community. The potential benefits to the community and Agency can be substantial, and equate to approximately \$45 million in general redevelopment activities, and an additional \$14 million in affordable housing projects and programs for the life of the Agency. Mr. Ambo recommended the City Council initiate plans to activate the City's Redevelopment Agency; begin the formal Redevelopment Plan adoption process; authorize the Public Services Director to execute a contract with Urban Futures, Inc. in the amount of \$160,000 to provide turn-key professional services in preparing the Redevelopment Agency formation materials; and allocate an additional \$50,000 Redevelopment Agency special counsel and incidental expenses.

Mayor Peters opened the hearing for public comment.

Jack McCurdy stated the City's planned action on the Redevelopment Feasibility Study is grossly ill advised based on the consistent record of failure to adequately inform residents about their opportunities to become aware of and understand at a minimal level the Redevelopment Plan, which affects every property owner in Morro Bay. He said the Study contains numerous inadequately substantiated statements, inconsistencies, omissions and misleading conclusions, which likely would have raised many questions among residents, had they been availed of opportunities to review the Study before this meeting and to engage in discussions about its contents and effects on individual properties. Mr. McCurdy reviewed the record of City actions to publicly notice workshops and public hearings on the Redevelopment Feasibility Study; he also reviewed

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the deficiencies in the Study. Mr. McCurdy stated given the failures of the process to inform residents about the matter, it seems clear that it would be a travesty and irresponsible for the Council to act on the Redevelopment Plan at this meeting. Instead, it should oversee the design of a credible and effective program to do its utmost to inform residents about redevelopment and engage them in a series of properly and widely noticed meetings.

Dorothy Cutter stated she does not understand how the Redevelopment Agency works and is concerned with the amount of money that it would cost the City.

Rubin Barrios expressed concern with the concept of this proposal.

Peter Risley requested Council hold off on a Redevelopment Agency until all sectors in the City are allowed to educate and discuss fully, and until a full consensus arises from all the people. He said it is of his opinion that the majority of redevelopment schemes have been used by small elite groups to move out, exclude and profit from the illumination of any one the local elite decides that it is in their interest to remove. Mr. Risley requested no allocation is made until a full consensus is reached with all sectors of Morro Bay.

John Barta stated he is concerned that the City is moving too fast on this Study; however, if approved, the City should add the power plant to the Study.

Andy Hampp stated he is apprehensive with the Study, noting he is not sure if his property is in the project area. He said there have not been enough comparative case studies, and eminent domain is another important issue.

Mayor Peters closed the public comment hearing.

Mayor Peters stated she was on the City Council in 2005 when the Redevelopment Agency was first considered, and if it were established then, the City would be reaping the benefits now. She said there are 417 Community Redevelopment Agencies and 772 project areas in the State of California; 80% of all cities and 45% of all counties have Redevelopment Agencies; Redevelopment Agencies as a group are the largest provider of affordable housing for California's low to moderate income families next to the federal government. Mayor Peters stated the City is interested in developing its business corridor and the areas that are low income and blighted; they are not interested in using eminent domain in taking someone's home to make a profit.

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Councilmember Grantham agreed with Mayor Peters' statement, and noted the City will benefit from a Redevelopment Agency. He said he supports moving forward with the Redevelopment Plan Adoption process.

Councilmember Winholtz stated timing seems to be an issue, and she does not see the benefit of moving forward now; she would like to take the time to hold more community workshops. She said if the Redevelopment Agency were approved, she would want the power plant included. Councilmember Winholtz expressed concern with the housing issue wherein low-income housing is purchased and replaced with moderate housing. She said she is also concerned with staff workload.

Councilmember Borchard also expressed concern with staff workload. She said if the Redevelopment Agency were approved, she would want to include the power plant property. Councilmember Borchard stated most of the concerns she has received from the public are that this is happening too fast and they have not had enough time to feel comfortable with the process. She said she would like another community workshop.

Councilmember Smukler agreed that if approved, the power plant would need to be included. He said it is not a question of if, but when, the City adopts a Redevelopment Agency. Councilmember Smukler stated he would like to take more time to build the public trust and hold another community workshop with a PowerPoint presentation.

MOTION: Mayor Peters moved the City Council activate the Morro Bay Redevelopment Agency, begin the Redevelopment Plan Adoption process, and allocate a total of \$210,000 for the expenses in forming the Agency. The motion was seconded by Councilmember Grantham and failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

MOTION: Councilmember Smukler moved the City Council continue this public hearing to the August 10, 2009 City Council meeting from 5:00-6:00 p.m. with a call to vote on the establishment of a Redevelopment Agency as a part of that hearing. The motion was seconded by Councilmember Winholtz and carried with Councilmember Grantham voting no. (4-1)

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C. UNFINISHED BUSINESS

- C-1 PRESENTATION ON IMPLEMENTATION ON GOALS A & B FROM THE  
MANAGEMENT PARTNERS GOAL SETTING WORKSHOP;  
(ADMINISTRATION)

This item was continued to the August 10, 2009 City Council meeting.

D. NEW BUSINESS

- D-1 STATUS REPORT ON WATERFRONT DEVELOPMENT FEES; (PUBLIC  
SERVICES)

MOTION: Councilmember Winholtz moved the City Council continue to track projects on the Embarcadero in order to have a legitimate basis for maintaining the Waterfront Development Fees. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

- E. DECLARATION OF FUTURE AGENDA ITEMS – None.

ADJOURNMENT

The meeting adjourned at 10:55 p.m.

Recorded by:

Bridgett Bauer  
City Clerk

AGENDA NO: A-1

MEETING DATE: 8/24/09

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – AUGUST 10, 2009  
CITY HALL CONFERENCE ROOM - 4:00 P.M.

Mayor Peters called the meeting to order at 4:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

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

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

The meeting adjourned to Closed Session at 4:00 p.m. and returned to a special meeting at 4:50 p.m.

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

The meeting adjourned at 4:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING – AUGUST 10, 2009  
VETERANS MEMORIAL HALL - 5:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	Christine Rogers	Housing Programs Coordinator
	Joe Woods	Recreation & Parks Director

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

PUBLIC HEARINGS, REPORTS & APPEARANCES

PH-1 DISCUSSION ON ACTIVATING THE MORRO BAY RDA AND  
INITIATION OF PLANS TO BEGIN THE FORMAL  
REDEVELOPMENT PLAN ADOPTION PROCESS; (PUBLIC  
SERVICES)

City Manager Andrea Lueker reviewed the hearings held on activating a Redevelopment Agency (RDA) in the City of Morro Bay.

Public Services Director Bruce Ambo stated redevelopment is a process, and at this stage the only thing that has been done is a feasibility study. He strongly recommended the City Council follow through with the expert opinions in the feasibility study and actually begin the year-long formal formation process, which includes among many other components activating the RDA, identifying a project area, discussing an eminent domain policy, and formulating a Redevelopment Plan. Urban Futures Incorporated, Inc. has indicated there is enough time to capture the fiscal year 2009/10 base year, complete the formal formation process, and have the adopting ordinance effective by August 20, 2010 if the City Council in effect starts the process now in the beginning of August. Fundamentally, redevelopment is a municipal revenue source devoted almost solely for the purpose of stimulating economic development, providing affordable housing, and

eliminating blighting influences. The concept of redevelopment only works if property tax values grow. As that happens as expected and encouraged, so will the property tax increment, which in turn funds redevelopment activities. Therefore, redevelopment is not a mechanism to “devalue” property in any way, and in fact is more of a tool for revitalization. Mr. Ambo stated quite a bit of confusion and concern amongst some of the residents in the community has been raised by a flyer that was handed out in opposition to redevelopment, and in particular the “blight” weighting factors and “eminent domain”. He recommended the City Council open the hearing for public comment; discuss the activation of the RDA, and direct staff accordingly.

Housing Programs Coordinator Christine Rogers reviewed the affordable housing requirements through the RDA.

City Attorney Robert Schultz reviewed the law on eminent domain.

Mayor Peters opened the hearing for public comment.

The following people expressed opposition to forming a RDA in the City of Morro Bay: Marvin Victor, Steven Marketello, Royal Marten, Shari McKelvy, Del Clegg, Bonnie Blacklidge, Kathy Franks, Robert Griffith, Joe Wallich, Mike Barrios, Bernadette Pekarek, Ric Deschler, Nancy Bast, Larry Burke (read a letter for Michael Durick), Susan Heinemann (read a letter for Wanda Durick), Dorothy Cutter, Steve Griffith, Jack McCurdy, Lynda Merrill, Dolly Curaza and Christine Holdstock.

Steve Eckis stated he served as General Counsel for a RDA in Southern California for 22 years and reinforced what the City Attorney said about eminent domain. He said it was his experience that eminent domain that covered commercial properties, but not residential properties, together with a RDA can be very successful and can be the engine for economic development in a community on a voluntary basis working with the agency and with willing property owners.

Joan Solu stated if the City Council moves forward with the RDA, that they consider including the Morro Bay Power Plant from the start, exclude residential areas from any eminent domain, and include businesses and commercial areas only.

John Barta gave an example of how a RDA works; such as, the City would have to invest money to start and years to come it will pay huge dividends as other cities have shown. He said if the City Council moves forward with the RDA, that they consider including the Morro Bay Power Plant. Mr. Barta stated the City does not need to rush into this program.

Bill Martony stated the City Council should move slowly on this proposal. He said the original study found the downtown area did not qualify, and the only areas that did qualify were the residential areas. Mr. Martony stated eminent domain is a real issue and should be used for both residential and commercial properties. He noted it would be approximately twelve years before the City would see a return on its investment.

Alise Griffin expressed concern with the lack of enthusiasm in promoting the workshops and public hearings on the RDA.

Preston McElvy stated he is not opposed to the creation of an RDA he is opposed to forming it at this time. He said if the City moves forward with an RDA, he is opposed to eminent domain for private development. Mr. McElvy stated this is a poor way to spend the City's money and the City should instead hire a Code Enforcement Officer.

Ed Valentine, Superintendent for San Luis Coastal Unified School District, stated discussions of an RDA is a topic of mutual interest and the District should be a part of the conversation and be allowed to provide input at a time prior to the ultimate decision of the City Council.

Pamela Craig reviewed State Housing and Community Development regulations that describe blighted areas. She said a feasibility plan must be adopted in order to receive government funding. Ms. Craig stated once an RDA is adopted, the voters are not allowed to vote and the City Council can do what they want.

Andy Hampp recommended Council review the eminent domain policy for residential and commercial properties, and what are the scope and scale of the areas involved before a decision is made. He also recommended placing this on the ballot and putting it to a vote of the people.

Jenny Brantlee expressed support for the activation of an RDA, and said it would be a positive plan for the City. She said she understands that change can be a concern to some, and the word "blight" may not be positive but it can be turned around into something that would be an upgrade to a house or a neighborhood or commercial area.

Bill Todd expressed concern with the lack of communication and stated he would like more information, especially on eminent domain.

Mayor Peters closed the public comment hearing.

Councilmember Smukler stated through his research he finds it is essential for an RDA to be successful that there is full-scale public support from the beginning and that this is not a process to be rushed. He said he feels the process is moving too quickly using the fiscal year 2009/10 as the base year. Councilmember Smukler stated he would like to have more informal discussions with the stakeholders, such as Cuesta College, the County of San Luis Obispo, San Luis Coastal Unified School District and Dynegy Power Plant before proceeding.

Councilmember Winholtz stated she agrees with Councilmember Smukler that more homework should be done prior to any decision is made. She said if the City Council moves forward with the RDA, they should commit to increasing assessed property values

in the project areas. Councilmember Winholtz stated if Council is not willing to make that commitment, then it is not a prudent idea to move forward at this time.

Councilmember Grantham stated he would not support an RDA that entails eminent domain, except for the Power Plant property. He said he would prefer an RDA that would exclude residential at this time because there is too much commercial property that could be upgraded. Councilmember Grantham stated he would want to require a 4/5 vote from any future Council to make any changes that are agreed upon by this Council.

Councilmember Borchard stated she was surprised that Urban Futures, Inc. did not find more of the Downtown area would be suitable for the RDA. She said the RDA would have a huge effect on how the schools would be funded because this is not a basic aide district. Councilmember Borchard expressed concern about the staff hours that it would take to work on the RDA that was not budgeted for and would come out of the City's General Fund. She said she has questions on the value of the return over the 45-year period and how that breaks down and what it would cost up front.

Mayor Peters stated the Power Plant and fishing industry are not bringing in revenue, and tourism has dropped due to the economy. She said without the residential areas, there might not be enough blight area in the City for an RDA. Mayor Peters stated sometimes it could be an advantage to be in a blighted area due to the redevelopment funds that are used for improvements. She said she is not in support of eminent domain; she supports improvements and not removal of buildings.

Councilmember Winholtz stated the City has sales and property taxes along with tourism as revenue. She said she likes the character of the City as it is now.

Councilmember Smukler stated the future of discussing redevelopment again is realistically one year off.

**MOTION:** Councilmember Winholtz moved the City Council table discussion on activating the Morro Bay Redevelopment Agency and initiation of plans to begin the formal Redevelopment Plan adoption process. The motion was seconded by Councilmember Borchard and carried with Councilmember Grantham and Mayor Peters voting no. (3-2)

Mayor Peters called for a break at 7:13 p.m.; the meeting resumed at 7:26 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009  
VETERANS MEMORIAL HALL – 7:26 P.M.

Mayor Peters called the meeting to order at 7:26 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	Janeen Burlingame	Management Analyst
	John DeRohan	Police Chief
	Steve Knuckles	Fire Captain
	Joe Woods	Recreation & Parks Director

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

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

PUBLIC COMMENT

Marilyn Glessman announced Dahlia Daze would be held on Saturday, August 15, 2009 at the Morro Bay Community Center.

Virginia Hiramatsu reported approximately \$11,758.25 was raised at last weekend's Relay for Life that was held at Morro Bay High School. She said more contributions could be made until August 31<sup>st</sup> that would go strictly for cancer research.

Marlise McPherson, Chair for the Winter Bird Festival addressed Item D-1 (Consideration of the City's Co-Sponsorship of Events) stating the City has been a co-sponsor of the Winter Bird Festival for the past 13 years, and it has been a mutually beneficial relationship. She said the Winter Bird Festival benefits the City by tourists staying in the hotels, eating at the restaurants and shopping locally during the Martin Luther King weekend. Ms. McPherson requested the City Council approve the continuation of co-sponsorship of the Winter Bird Festival.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

Maggie Higgins, Treasurer for the Winter Bird Festival, also addressed Item D-1 and said they do not have much funding and have a very tight budget due to lower attendance at this year's Bird Festival. She requested Council's support in co-sponsorship of this event.

Cathy Wells referred to the proposed conference center at 833 Embarcadero, which is to go before the Coastal Commission in September or October. She encouraged people write to the Coastal Commission in opposition to this conference center project.

Dan Andres, Principal of Morro Bay High School, requested Council's support on Item A-5 (Approval of the San Luis Coastal Unified School District Request for City Public, Education and Government Access Funds in Support of Educational Access Programming/Video Production Curricular at Del Mar Elementary and Morro Bay High Schools).

Bill Martony referred to the water lease site in front of the Whales Tail Restaurant, and suggested keeping it a working waterfront, noting it would be a good location for docking boats such as the Chablis or Lynx or working tugboats. He addressed the sanitation standards in the Liveaboard Ordinance and said the City should consider inspecting more than the liveaboard boats for sanitation purposes to clean up the bay.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE SPECIAL CITY COUNCIL MEETING OF JULY 13, 2009, AND THE REGULAR CITY COUNCIL MEETING OF JULY 13, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF THE SERVICE RETIREMENT INCENTIVE PROGRAM; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Approve the Service Retirement Incentive Program.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

A-3 APPROVAL OF A LANDLORD'S ESTOPPEL ON LEASE SITE 122-123/122W-123W, EXT. 122W-123W, LOCATED AT 1205 EMBARCADERO - HARBOR HUT; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 44-09.**

A-4 ORDINANCE NO. 550 AMENDING TITLE 15 HARBOR AND OCEAN REGULATIONS, CHAPTER 15.40 REGARDING VESSEL HABITATION; SECOND READING/ADOPTION; (HARBOR)

**RECOMMENDATION: Adopt Ordinance No. 550.**

A-5 APPROVAL OF THE SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT REQUEST FOR CITY PUBLIC, EDUCATION AND GOVERNMENT ACCESS FUNDS IN SUPPORT OF EDUCATIONAL ACCESS PROGRAMMING/VIDEO PRODUCTION CURRICULAR AT DEL MAR ELEMENTARY AND MORRO BAY HIGH SCHOOLS; (PUBLIC SERVICES)

**RECOMMENDATION: Approve the San Luis Coastal Unified School District's request for PEG access funds in support of educational access programming/video production curricular at Del Mar Elementary and Morro Bay High Schools; and, authorize the release of PEG access funds in an amount up to \$54,579 to San Luis Coastal Unified School District on a reimbursement basis based on actual costs incurred.**

A-6 ENTERING INTO A MEMORANDUM OF UNDERSTANDING WITH SAN LUIS OBISPO COUNTY FOR THE PREPARATION OF AN INTEGRATED REGIONAL WATER MANAGEMENT PLAN; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize the Utilities/Capital Projects Manager to enter into a MOU with San Luis Obispo County and to represent the City in preparing the Integrated Regional Water Management Plan.**

A-7 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

**RECOMMENDATION: Receive report for information.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

A-8 APPROVAL OF SETTLEMENT AGREEMENT IN WALLICK V. CITY OF MORRO BAY; (CITY ATTORNEY)

**RECOMMENDATION: Approve the settlement agreement between the City and Joseph Wallick.**

A-9 ACCEPTANCE OF LETTER OF RESIGNATION FROM PLANNING COMMISSIONER; (ADMINISTRATION)

**RECOMMENDATION: Accept letter of resignation from Planning Commissioner Bill Woodson.**

A-10 AUTHORIZATION TO FILL THE ASSOCIATE PLANNER POSITION; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize the hiring of the recently vacated position of the Associate Planner.**

Councilmember Smukler pulled Item A-4 from the Consent Calendar; Councilmember Winholtz pulled Items A-5 and A-10; and Councilmember Grantham pulled Item A-9.

**MOTION:** Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-4, A-5, A-9 and A-10. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-4 ORDINANCE NO. 550 AMENDING TITLE 15 HARBOR AND OCEAN REGULATIONS, CHAPTER 15.40 REGARDING VESSEL HABITATION; SECOND READING/ADOPTION; (HARBOR)

Councilmember Smukler stated he would like to eventually include recreational boats in the Liveaboard Inspection Program, and asked when that discussion may be considered. Harbor Director Rick Algert responded the Harbor Advisory Board did not approve expanding the Liveaboard Inspection Program that is presently before the City Council, so that is probably a process issue that could be a future revision of this Ordinance to broaden the inspection regulations of all vessels.

**MOTION:** Councilmember Grantham moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

A-5 APPROVAL OF THE SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT REQUEST FOR CITY PUBLIC, EDUCATION AND GOVERNMENT (PEG) ACCESS FUNDS IN SUPPORT OF EDUCATIONAL ACCESS PROGRAMMING/VIDEO PRODUCTION CURRICULAR AT DEL MAR ELEMENTARY AND MORRO BAY HIGH SCHOOLS; (PUBLIC SERVICES)

Councilmember Winholtz requested staff clarification on the PEG access funds for Council information. Management Analyst Janeen Burlingame reviewed the funding program.

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

A-9 ACCEPTANCE OF LETTER OF RESIGNATION FROM PLANNING COMMISSIONER; (ADMINISTRATION)

Councilmember Grantham thanked Bill Woodson for his service to the City.

MOTION: Councilmember Borchard moved the City Council approve Item A-9 of the Consent Calendar, and direct staff to fill the position to the end of this term. The motion was seconded by Mayor Peters.

Councilmember Smukler requested to include the Recreation & Parks Commission position if it is longer than a four-month term; Councilmember Borchard and Mayor Peters included this amendment in their motion.

VOTE: The motion carried unanimously. (5-0)

A-10 AUTHORIZATION TO FILL THE ASSOCIATE PLANNER POSITION; (PUBLIC SERVICES)

Councilmember Winholtz stated she would vote in opposition to filling this position because it is not a justifiable expense.

Councilmember Smukler stated this is why he is interested in future discussion of two-tiered benefits.

MOTION: Councilmember Borchard moved the City Council approve Item A-10 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

Mayor Peters called for a break at 8:29 p.m.; the meeting resumed at 8:35 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION OF ORDINANCE NO. 551 TO AMEND THE MORRO BAY MUNICIPAL CODE CHAPTER 10.54 TO INCLUDE A NEW SECTION 10.54.065 REQUIRING ANY PERSON RIDING A PERMITTED COASTING DEVICE AT THE MORRO BAY SKATE PARK TO WEAR A HELMET, ELBOW PADS, AND KNEE PADS; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated it is the City's intent to relocate the Skate Park from the current location at Coleman Park to the Teen Center and to operate as an unsupervised park. As an incorporated City, Morro Bay is mandated to adhere to California Health and Safety Code, Section 115800, which prohibits any operator of a skateboard park to permit any person to ride a skateboard in its skate park, unless that person is wearing a helmet, elbow pads, and knee pads. The code allows cities operating unsupervised facilities to comply with its obligation to enforce the helmet, elbow pads, and knee pads requirements by adopting an ordinance requiring the use of such safety equipment and posting signage advising users of the safety requirements. Mr. Woods recommended the City Council approve for first reading and introduction Ordinance No. 551 to amend the Morro Bay Municipal Code Chapter 10.54 to include Section 10.54.065 requiring any person riding a permitted coasting device at Morro Bay Skate Park to wear a helmet, elbow pads and knee pads.

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

MOTION: Councilmember Grantham moved the City Council approve for first reading and introduction Ordinance No. 551 to amend the Morro Bay Municipal Code Chapter 10.54 to include Section 10.54.065 requiring any person riding a permitted coasting device at Morro Bay Skate Park to wear a helmet, elbow pads and knee pads. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 551 by number and title only.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

C. UNFINISHED BUSINESS

C-1 STATUS REPORT ON APPEAL FEES; (PUBLIC SERVICES)

Public Services Director Bruce Ambo stated the City Council lowered the appeal fees to a set amount of \$250.00 in October 2007. Prior to that, the Council established a policy where the appeal fee would be returned to the appellant if they were successful in reversing the decision and the decision was upheld by the City Council. The last update on appeal fees was provided to the Council on April 14, 2008, and Council directed that another annual update be provided. Mr. Ambo recommended the City Council receive this report for information.

MOTION: Councilmember Winholtz moved the City Council receive this report for information and file, and no further reports are necessary. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

C-2 PRESENTATION ON IMPLEMENTATION ON GOALS A&B FROM THE  
MANAGEMENT PARTNERS GOAL SETTING WORKSHOP;  
(ADMINISTRATION)

City Manager Andrea Lueker stated during the Goal Setting Workshop held in February, staff and the City Council discussed the items the City Council indicated they were interested in exploring in the “What Success Looks Like” section of the Goal Outcomes document. During the workshop, staff indicated any research or information provided would be completed following the 2009/10-budget adoption. At that time, the City Council asked staff to come back with time lines for completion of the tasks. The time lines were based on the parameters established by the City Council at the Goal Setting Workshop, divided into short-term, medium-term, long-term and on-going time lines. In late April, staff provided to the City Council a document entitled “Goal Setting Workshop Outcomes for 2009” that outlined details to accomplish the “What Success Looks Like” section as well as proposed time lines for completion. In the document “Goal Setting Workshop Outcomes for 2009” staff identified tasks as “Goal A: Develop and Maintain a Structurally Sustainable Budget” and “Goal B: Reduce Overall Administrative Costs.” Ms. Lueker recommended the City Council review Goals A and B as well as the “What Success Looks Like” and “Timeline” sections from the “Goal Setting Workshop Outcomes for 2009” document, and provide further direction to staff.

Councilmember Borchard stated she would like to evaluate the Harbor Department closer with the Fire Department and perhaps see if they could work together. She said she would also like to consider maintaining an in-house or out-sourcing the IT Department.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

Councilmember Smukler agreed with the adjustments with the Harbor Department working closer with the Fire Department. He said the maintenance consolidation should be a top priority because of the influence it would have on the other departments. Councilmember Smukler stated he would hope the City would address items that give the best options for finding potential savings by the mid-year or the end of the year.

Councilmember Grantham stated the Fire and Harbor Departments are potentially bigger savings but will take more staff time, and the Recreation and Parks Department would take less staff time; he said he could go either way.

Councilmember Winholtz referred to the moving of the Fire and Harbor Departments, and thought perhaps staff should have flexibility with that decision. She expressed concern with the type of assessment that is being done, and thought Goal B was reducing administrative costs by restructuring (eliminating positions, combining departments, etc.)

Mayor Peters stated the Police and Fire Departments are with minimal staff; in fact they need more staff. She suggested placing maintenance consolidation as a priority, then the consolidation of Harbor and Fire Departments.

MOTION: Councilmember Borchard moved the City Council approve Goals A and B along with the “Timeline” section from the “Goal Setting Workshop Outcomes for 2009” document, as amended by the City Council. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 CONSIDERATION OF THE CITY’S CO-SPONSORSHIP OF EVENTS;  
(RECREATION & PARKS)

Mayor Peters stepped down from the City Council due to a conflict of interest.

Recreation and Parks Director Joe Woods stated in the mid-1990’s, the City Manager approved the co-sponsorship of three events held in City facilities. Those events included the Morro Bay Winter Bird Festival, the Morro Bay Jazz Festival and the Teach Foundation Telethon Fundraiser. The co-sponsorship conditions varied from event to event. This practice was changed in mid-2000 with the City no longer able to extend their liability coverage. The initial thought with co-sponsorship was to help start annual events and attract visitors to Morro Bay during the slower months of the year. There has been success with the Morro Bay Winter Bird Festival as the event attracts visitors from out of the area, during the winter months, and for multiple nights stays. Currently, the

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

Winter Bird Festival and the Teach Foundation Telethon Fundraiser are the only two events that continue to be co-sponsored by the City. In recent months the City has received two additional requests for co-sponsorship of events including the Dahlia Daze event, which was not approved by the City Council, and the Morro Bay Photo Expo. In consideration of the May 2008 Management Partners Report, the February 2009 Goal Setting Workshop and based on the current economic conditions, City staff felt it important to bring forward the existing co-sponsorships for discussion. Staff is asking Council to make a determination on the continuation and the possibility of co-sponsoring additional events, which will include a subsidy from the City. Mr. Woods recommended the City Council discuss this issue and direct staff accordingly.

Councilmember Grantham stated he would like Council to direct the Recreation & Parks Commission to write some guidelines for co-sponsorship of events. He said he would like to leave things status quo until this is done.

Councilmember Borchard agreed with Councilmember Grantham to direct this issue to the Recreation & Parks Commission for their review, and that the fees stay intact through this upcoming year's events. She addressed maintaining equitable fees for the various events held in the City.

Councilmember Smukler stated he is supportive of proceeding with co-sponsorship of these events for the year due to the benefits they bring to the City. He said he would like the Recreation & Parks Commission to look at the future and be sure the City has a policy that is fair across the board for all groups that may apply for co-sponsorship with the City.

Councilmember Winholtz suggested the Recreation & Parks Commission consider issues such as: 1) is it a first time program; 2) the number of days of the event; 3) is it a local event; 4) is it a profit or non-profit event. She said she might want the Commission to also look at percentages as well.

**MOTION:** Councilmember Borchard moved the City Council direct the Recreation & Parks Commission to review the City's Co-Sponsorship of Events and return to Council with a recommendation by October. The motion was seconded by Councilmember Grantham and carried with Mayor Peters abstaining. (4-0-1)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – AUGUST 10, 2009

D-2 DESIGNATION OF VOTING DELEGATE AND ALTERNATE VOTING DELEGATE AT LEAGUE OF CALIFORNIA CITIES 2009 ANNUAL CONFERENCE BUSINESS MEETING; (ADMINISTRATION)

MOTION: Mayor Peters moved the City Council appoint Councilmember Winholtz to serve as the City's voting delegate, and appoint Councilmember Grantham to serve as alternate voting delegate at the 2009 League of California Cities Annual Conference Business Meeting. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendaize a discussion on the State Water Resources Control Board Once Through Cooling Statewide Policy at the August 24, 2009 City Council meeting; Council concurred.

Councilmember Winholtz requested to agendaize the status on State Park closures as a pending agenda item; Council concurred.

ADJOURNMENT

The meeting adjourned at 9:38 p.m.

Recorded by:

Bridgett Bauer  
City Clerk



# Staff Report

AGENDA NO:   A-2  

MEETING DATE: 08/24/09

**TO:**           Honorable Mayor and City Council           **DATE:**   August 17, 2009

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

**SUBJECT:**    **Resolution No. 46-09 Adopting Amendments to the 2009/10 Master Fee Schedule**

**RECOMMENDATION:**

Council to approve Resolution No. 46-09.

**MOTION:** I move that the City Council approve Resolution No. 46-09, which adopts the amendments to the 2009/10 Master Fee Schedule for liveboard applications and parking citations.

**FISCAL IMPACT:**

Decreased staff time involved in the liveboard application/inspection process justifies the decrease in Harbor Fund revenue of approximately \$800 annually. There is no impact with the change to the parking fines, as the additional money is sent to San Luis Obispo County.

**SUMMARY:**

Staff is presenting Resolution No. 46-09, which amends the liveboard application fee based on Council action taken August 10, 2009. The adjustment to the parking fines is mandated by the State of California.

**DISCUSSION:**

On June 22, 2009, staff presented the 2009/10 Master Fee Schedule to Council, which was adopted with Resolution No. 34-09. Since then, legislative changes require that two fees be adjusted as follows:

**Liveboard Annual Application Fee**

On August 10, 2009, the City Council approved amendments to the existing liveboard ordinance that will become effective September 10, 2009. One of the changes will convert the program to a

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

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

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

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

biennial (two fiscal years) permit system. Currently, the application fee for a liveaboard permit is “yearly” at \$111. This fee must be adjusted to consider the new two year permit cycle. A quick analysis of the estimated direct time spent in processing an average liveaboard application through the inspection and approval process is:

.50 hours	Clerical/Business Coordinator, fully-burdened rates, rounded	\$ 19.00
.40 hours	Harbor Operations Manager, fully-burdened rate, rounded	30.00
.75 hours	One Patrol Officer and Boat (see page 27 of Master Fee Schedule)	<u>122.25</u>
	TOTAL	\$ 171.25

It is recommended that the new biennial Liveaboard Application fee be rounded to \$170.

The biennial application fee is good for the fiscal year in which it is applied for and the following fiscal year. This means that that applications/permits processing will not be going on throughout the year, as is currently the case. Focusing the permitting and inspection effort in mid-summer should allow for better management of the program; however for equity, it is further recommended that a note be added to the Harbor Department Master Fee Schedule Notes section as follows:

“Any liveaboard application submitted during the period January 1 through June 30 is good only for that fiscal year and the following fiscal year, but will be prorated by reducing the liveaboard application fee stated herein by 25%.”

### **Parking Fines**

With the adoption of the 2009/10 Master Fee Schedule, all parking citation fines were increased by \$5.00 to reflect the state surcharge fees, per SB 1407. The surcharge was \$4.50, but to round off the parking penalties, they were increased by \$5.00. The purpose of the surcharge was to help fund Courthouse construction, per Government Code section 76000.

Since then, staff has been notified that the total surcharge fee is \$9.50. The breakdown is as follows:

Criminal Justice Facilities Fund: GC 76000 (76101)	\$ 1.50
Courthouse Construction Fund: GC 76000 (GC76100)	1.50
County General Fund: GC 76000	2.00
SB 1407 Immediate and Critical Needs Account: GC 70372	3.00
SB 1407 State Court Facilities Fund: GC 70372	<u>1.50</u>
TOTAL	\$ 9.50

As such, staff is requesting that all the parking citation fines be additionally increased by \$5.00 to cover the total surcharge costs that have to be paid for each parking citation issued. The previous \$5.00 increase plus the proposed \$5.00 increase will cover those added surcharges.

The affected pages are attached with the corrections red-lined and bolded.

**RESOLUTION NO. 46-09**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MORRO BAY, CALIFORNIA,  
AMENDING THE 2009/10 MASTER FEE SCHEDULE**

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

**WHEREAS**, on June 22, 2009, the City Council adopted Resolution No. 34-09, which adopted the 2009/10 Master Fee Schedule; and

**WHEREAS**, legislative changes have occurred that require amendments to that Schedule.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the Master Fee Schedule be amended as follows:

FEE DESCRIPTION	OLD FEE	NEW FEE
Liveaboard application	Annually - \$111	Biennially - \$170
Parking fines:		
Parking within a Parkway	\$45.00	\$50.00
No Parking Areas	\$45.00	\$50.00
Posted Restricted Parking	\$45.00	\$50.00
72-Hour Parking	\$55.00	\$60.00
Vehicle Repair on Public Street	\$45.00	\$50.00
Parking on Grade without Turning Wheels	\$45.00	\$50.00
Parking within Space Marking	\$45.00	\$50.00
Curb Markings (red, yellow, etc.)	\$45.00	\$50.00
Parking in Passenger Loading Zone	\$45.00	\$50.00
Parking in Alley	\$45.00	\$50.00
Limited Time Parking	\$45.00	\$50.00
Violating Diagonal Parking	\$45.00	\$50.00
No Stopping in Designated Area	\$45.00	\$50.00
Overnight Camping	\$101.00	\$106.00
Expired registration	\$45.00	\$50.00
Parking in Fire Lane	\$155.00	\$160.00
Blocking Driveway	\$45.00	\$50.00
Blocking Wheelchair Access	\$98.00	\$103.00
Parking within 15' of Fire Hydrant	\$105.00	\$110.00
Blocking Sidewalk	\$45.00	\$50.00
Blocking a Bus Stop	\$80.00	\$85.00
Blocking Intersection Gridlock	\$170.00	\$175.00
Curb Parking 18" or Wrong Way	\$45.00	\$50.00
Parking in a Fire Lane	\$45.00	\$50.00
Vehicle Abandonment on Street	\$305.00	\$310.00

Handicap		\$280.00	\$285.00
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**PASSED, AND ADOPTED**, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 24<sup>th</sup> day of August 2009, by the following vote:

AYES:

NOES:

ABSENT:

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Janice Peters, Mayor

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Bridgett Bauer, City Clerk



AGENDA NO:   A-3  

Meeting Date: 08/24/09 Action: \_\_\_\_\_

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 18, 2009

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

**SUBJECT:** Creation of the Water System Operator II and Water System Operator III Positions and Authorization to fill the Water System Operator II Position.

### **RECOMMENDATION:**

It is recommended that the City Council authorize the creation of the Water System Operator II and Water System Operator III positions, authorize hiring to fill the Water System Operator II position, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process.

### **FISCAL IMPACT:**

The recommended salary levels for these positions are being increased due to the added responsibility and requirements implemented by the State. These positions have been reclassified to be consistent with the equivalent positions in the Wastewater Treatment Plant. The Water System Operator III pay scale will be increased \$7,744 annually at the top step; but will remain unfilled until the proper certifications are obtained by current staff. The Water System Operator II pay scale will be increased \$8,237 annually at the top step. We currently have 1 staff member that meets the requirements, and can be reclassified at this time. We are requesting authorization to fill a second vacant spot. The third staff member will remain at his current pay scale until the proper certifications are obtained. These pay increases were anticipated in the adopted budget for the 2009/10 fiscal year in the Water Fund. There is no impact to the General Fund.

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

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

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

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

Page 1 of 3

**BACKGROUND:**

The California Department of Public Health (CDPH) classifies water treatment and distribution systems based on both the size of their system, and the complexity of their operations. Periodically, these classifications are reviewed, and a system’s classification may be revised depending on its evolving water production and distribution circumstances.

The water system in the City of Morro Bay has been historically classified as a Treatment 1 and Distribution 3 system by the California Department of Public Health. With the onset of the nitrate pollution and/or the installation of the desal plant, this designation should have been modified to a Treatment 2 and Distribution 3 system.

During the 2009 annual inspection, these classifications for the City were reviewed and modified by CDPH. Our system is a Treatment 2 and Distribution 3 system, and as such, we have the regulatory requirement that anyone who serves as a Shift Operator (Water System Operator II) of our system have at least T1 and D2 designations (22 CCR, Sections 63770.a and 63775.a). Anyone who will serve as the Chief Operator (Water System Operator III) of our system has to have, at least, T2 and D3 designations (22 CCR, Sections 63770.a and 63775.a). The current Distribution Operator II and III job descriptions were last revised before these requirements were clarified, and need to be changed to be in alignment with the requirements of the California Code of Regulations.

**DISCUSSION:**

This requirement from CDPH, that the Shift Operators of our system (Water System Operator II’s) have both Distribution 2 and Treatment 1 designations, is a substantial change from the requirements of the Distribution Operator II position. This change requires higher levels of certification than the City currently requires of its employees. In addition to changing the treatment designation, some other minor changes have been made to the job description to clarify and modernize the duties of this position. Please see the attached revised job description. We currently have one employee that meets these qualifications, and are asking Council to approve his reclassification into this new job description and salary range. We have another employee that we are asking Council to approve his reclassification into this new job description and salary range once he meets these qualifications. We are also asking to fill a water department vacancy at this new classification.

This requirement from CDPH, that the Chief Operators of our system (Water System Operator III) have both Distribution 3 and Treatment 2 designations, is a substantial change from the requirements of the Distribution Operator III position. This change will require higher levels of certification than the City currently requires of its employee. In addition to changing the treatment designation, some other minor changes have been made to the job description to clarify and

modernize the duties of this position. Please see the attached revised job description. We have an employee that we are asking Council to approve his reclassification into this new job description and salary range once he meets these qualifications.

Only some of our current water department employees meet the certification requirements of these new positions. Therefore this action will need to be subject to the meet and confer process with the employee bargaining unit. Rather than remaining out of compliance during the time necessary to open the current employment contracts, while we attempt to require our existing workforce to acquire these higher levels of certification, staff believes it would be most appropriate to incentivize the workforce into acquiring the higher levels of certification by creating new positions with higher pay and certification requirements. The existing Water Distribution Operator II and III positions will be retired as the Water System Operator II and III positions are filled, resulting in no net change to the historic staffing levels of the organization.

Having our workforce obtain the required higher levels of certification will create opportunities to cost effectively expand the operation of both the desal and brackish water treatment trains. As our staff are trained and become adept at the operation of this facility, we will be able to move away from using contract plant operators and will thereby reduce that portion of the operating expenses of this facility.

**CONCLUSION:**

It is recommended that the City Council authorize the creation of the Water System Operator II and Water System Operator III positions, authorize hiring to fill the vacant Water System Operator II position, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process.

## CITY OF MORRO BAY

### **WATER SYSTEM OPERATOR II**

#### **DEFINITION**

Under general supervision to perform a variety of semi-skilled and skilled tasks in the construction, repair, installation, and maintenance of water treatment and distribution works; maintain and repair buildings, facilities, and equipment; and to do related work as required.

#### **DISTINGUISHING CHARACTERISTICS**

This is the journey level class in this series where incumbents perform a variety of semi-skilled and skilled tasks as a member of a water crew. An incumbent operates power driven equipment regularly but not as a major assignment. Positions allocated to this class are assigned more difficult work involving independent responsibility and may assist in the training of less experienced personnel.

#### **ESSENTIAL DUTIES & RESPONSIBILITIES**

1. Reads water meters, recording readings.
2. Excavates and exposes water lines and mains.
3. Cuts and replaces broken water lines
4. Repairs leaks in water mains and water service lines and replaces broken lines with proper sized pipe.
5. Measures, cuts and threads pipe.
6. Taps into water main lines to install new service lines.
7. Uses premix asphalt to repair streets and gutters following water and sewer line repair.
8. Removes and replaces road material, such as asphalt.
9. Turns water service on or off.
10. Installs, removes, replaces and repairs water meters.
11. Operates loader, tractor, or backhoe to excavate or backfill trenches or to remove dirt and debris.
12. Checks and maintains fire hydrants.
13. Patrols for drainage problems and cleans clogged storm drain basins.
14. Cleans and maintains equipment used in the course of work.
15. Assists in the operation and maintenance of water treatment and water distribution facilities.
16. Serves as shift operator of the City's Water Treatment Plant and Distribution System.
17. Plans, supervises and participates in repairs, construction, and routine preventative maintenance work related to system lines, pumps, equipment, and

- computerized telemetry system.
18. Utilizes a variety of computerized programs in the maintenance, monitoring, and analysis of the system; records preventative maintenance, trouble areas, and history.
19. Keeps records and prepares reports. 20. Performs related duties as required.

**QUALIFICATIONS**

Knowledge of:

Construction and maintenance material, procedures, and equipment with particular reference to water operations; methods, tools, techniques and supplies used in water work; safe work practices.

Ability to:

Perform semi-skilled or skilled maintenance tasks in the construction, maintenance and repair of public works; operate trucks and moderately heavy power driven equipment when assigned; perform heavy manual labor; perform mathematical and chemical computations associated with water systems; read and write at the level required for successful job performance. Use hand and small power tools; work without close supervision; understand, communicate, and follow oral and written instructions; establish and maintain effective work relationships with employees and public; take turn at 24-hour standby duty and live within a 20 minute response time.

Education and Experience:

High school diploma or equivalent.

One year of experience performing duties comparable to that of a Maintenance Worker in a municipal water department.

Must possess and maintain a valid D-2 Water Distribution Operator Certification issued by the State of California and a Grade I Water Treatment Certificate issued by the State of California. Possession of a D-3 Water Distribution Operator Certificate and/or a T-2 Water Treatment Certificate are desired.

Residency permitting a 20 minute response time to callbacks.

Possession of a Class B or above California Driver's License with required endorsements.

**TOOLS & EQUIPMENT USED**

Motorized vehicles and equipment, including backhoes, excavators, dump truck, pickup truck,

## WATER SYSTEM OPERATOR II

utility truck, street sweeper, street roller, manlift, tamper, plate compactor, saws, pumps, compressors, sanders, generators, common hand and power tools, shovels, wrenches, leak and chemical detection devices, variety of lab equipment, personal computer including word processing and other software; copy and fax machine, mobile radio, telephone.

### **PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to use hands to finger, handle, feel or operate objects, tools, or controls and reach with hands and arms. The employee frequently is required to stand and talk or hear. The employee is occasionally required to walk; sit; climb or balance; stoop, kneel, crouch, or crawl; and smell.

The employee must frequently lift and/or move up to 25 pounds and occasionally lift and/or move up to 100 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

### **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee regularly works in outside weather conditions. The employee frequently works near moving mechanical parts and is frequently exposed to wet and/or humid conditions and vibration. The employee occasionally works in confined, high, or precarious places and is occasionally exposed to fumes or airborne particles, toxic or caustic chemicals, and risk of electrical shock.

The noise level in the work environment is usually loud.

### **SELECTION GUIDELINES**

Formal application, rating of education and experience, oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be

## WATER SYSTEM OPERATOR II

performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approved by the Morro Bay City Council on May 28, 1996.

Revised by the Morro Bay City Council on May 13, 2002

Revised by the Morro Bay City Council on January 26, 2009

Revised by the Morro Bay City Council on August 24, 2009

JobDescriptions/mwII water.doc

## CITY OF MORRO BAY

### **WATER SYSTEM OPERATOR III**

#### **DEFINITION**

Under general supervision to perform a wide variety of skilled and semi-skilled work in the construction, repair, maintenance, and installation of water treatment and distribution works; maintain and repair buildings, facilities, and equipment; and, to do related work as required.

#### **DISTINGUISHING CHARACTERISTICS**

This is the leadworker class in the water operator series where incumbents perform a variety of skilled tasks as a senior member of a water crew. An incumbent operates power driven equipment regularly but not as a major assignment. Positions allocated to this class are assigned more difficult work involving independent responsibility and will assist in the training of less experienced personnel. When the Water System Supervisor is unavailable, this person will have responsible charge for all water treatment and operating issues.

#### **ESSENTIAL DUTIES & RESPONSIBILITIES**

1. Plans, lays out, assigns and supervises the work of City personnel engaged in maintaining and repairing the City water treatment and water distribution system.
2. Serves as the Chief Operator of the City's Water Treatment Plant and Distribution System.
3. Performs the more difficult work in digging ditches and excavations and in backfilling trenches and excavations by hand and equipment.
4. Performs the cutting, laying and installation of pipe lines.
5. Performs the installation of couplings, castings, and fittings.
6. Performs the tapping of water mains and installation of new services, hydrants, valves, and meters; disinfect and pressure test waterlines.
7. Reads meters and responds to customer service calls; tests meters for accuracy.
8. Operates trucks, light and heavy construction equipment including motor graders and backhoes as required.
9. Operates a variety of hand and power tools including jackhammers, air compressors, building machines, cutters, welders, grinding machines, and boring and tapping machines.
10. As necessary, performs unskilled and manual tasks on assigned maintenance projects.
11. Maintains chlorinators, metering pumps, distribution pumps and handles CL2 and other related chemicals fed into the water supply.
12. Locates underground pipe.
13. Operates and maintains water treatment and distribution facilities.

14. Investigates water quality complaints, determines the cause, and takes appropriate remedial action.
15. Plans, supervises and participates in repairs, construction, and routine preventative maintenance work related to system lines, pumps, equipment, and computerized telemetry system.
16. Utilizes a variety of computerized programs in the maintenance, monitoring, and analysis of the system; records preventative maintenance, trouble areas, and history.
17. Supervises, performs and prepares records-keeping for monitoring the City's water quality program, including sampling of the municipal water system, for compliance with Department of Health and Safety standards, and prepares DOHS, DWR, NPDES, and County required reports.
18. Performs related duties as required.

## **QUALIFICATIONS**

### Knowledge of:

General maintenance and repair materials, procedures, and equipment with particular reference to water operations; use, operation, and maintenance of heavy and light power driven equipment; tools, materials, procedures and equipment such as leak and chemical detection devices, variety of lab equipment and personal computer software; safe work practices.

## WATER DISTRIBUTION SYSTEM OPERATOR III

### Ability to:

Perform the more skilled public works maintenance and repair assignments; operate a variety of heavy and light power driven equipment, including graders, loaders and dozers as required; assign crew in the performance of general maintenance and repair work; perform heavy manual labor; provide training to less experienced maintenance employees; read and write at the level required for successful job performance; read and interpret work plans and blueprints; perform mathematical and chemical computations associated with water systems; understand and carry out oral and written direction; maintain cooperation working relationships; take turn being on 24 hour standby duty and live within a 20 minute response time.

### Education and Experience:

High school diploma or its equivalent.

Must possess and maintain a D-3 Water Distribution Operator Certificate issued by the State of California and a T-2 Water Treatment Certificate issued by the State of California. Possession of a D-4 Distribution and/or a T-3 Treatment Certificate are desired.

Three (3) years of increasingly responsible experience including at least two (2) years of experience performing duties comparable to that of a Maintenance Worker II in the City of Morro Bay.

Possession of Class B or above California Driver's License with required endorsements.

Residency permitting a 20 minute response time to callbacks.

### **TOOLS & EQUIPMENT USED**

Motorized vehicles and equipment, including dump truck, pickup truck, utility truck, backhoes, excavators, street roller, manlift, tamper, plate compactor, saws, pumps, compressors, sanders, generators, common hand and power tools, shovels, wrenches, leak and chemical detection devices, variety of lab equipment, personal computer including word processing and other software; copy and fax machine, mobile radio, telephone.

### **PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an

## WATER DISTRIBUTION SYSTEM OPERATOR III

employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to use hands to finger, handle, feel or operate objects, tools, or controls and reach with hands and arms. The employee frequently is required to stand and talk or hear. The employee is occasionally required to walk, sit, climb or balance; stoop, kneel, crouch, or crawl; and smell.

The employee must frequently lift and/or move up to 25 pounds and occasionally lift and/or move up to 100 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

### **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee regularly works in outside weather conditions. The employee frequently works near moving mechanical parts and is frequently exposed to wet and/or humid conditions and vibration. The employee occasionally works in confined, high, or precarious places and is occasionally exposed to fumes or airborne particles, toxic or caustic chemicals, and risk of electrical shock.

The noise level in the work environment is usually loud.

### **SELECTION GUIDELINES**

Formal application, rating of education and experience, oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approved by the Morro Bay City Council on May 28, 1996.

## WATER DISTRIBUTION SYSTEM OPERATOR III

Revised by the Morro Bay City Council on May 13, 2002

Revised by the Morro Bay City Council on January 26, 2009

Revised by the Morro Bay City Council on August 24, 2009



AGENDA NO:           A-4          

MEETING DATE:           8/24/2009          

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** August 24, 2009

**FROM:** Harbor Director

**SUBJECT:** Authorization for the City of Morro Bay to Enter Into Grant Agreement #08-101-102 with the Department of Boating and Waterways for State Park Marina Dredging Studies, Permits and Monitoring and Authorization for the City of Morro Bay to Enter Into a Consulting Services Agreement with Anchor Environmental to Acquire State Park Marina Dredging Permits

**RECOMMENDATION:**

Staff recommends that the Council adopt Resolution No. 45-09 authorizing the City to enter into the grant agreement with the Department of Boating and Waterways (DBW) for State Park Marina Dredging studies, permits and monitoring and authorizing the City to enter into a consulting services agreement with Anchor Environmental to obtain the dredging permits.

**MOTION:** I move that the City Council adopt Resolution No. 45-09 authorizing the City of Morro Bay to Enter into Grant Agreement #08-101-102 with the Department of Boating and Waterways for State Park Marina Dredging studies, permits and monitoring and authorization for the City of Morro Bay to enter into a consulting services agreement with Anchor Environmental to acquire State Park Marina dredging permits.

**FISCAL IMPACT:**

Approval of this \$297,000 grant will enable the City to complete the dredge studies and obtain permits for the State Park Marina rehabilitation project without fiscal impact to the City.

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

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

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

**BACKGROUND:**

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

In July 2006, the City entered into grant agreement #05-128-980 with the DBW for planning activities associated with the State Park Marina Project. The grant agreement was amended twice to include funding for preliminary design, engineering and planning efforts associated with the project.

This new grant agreement with the DBW will provide \$297,000 in funding for completion of the permitting and associated studies and for monitoring which will be required during the construction phase. Anchor Environmental has the capability and expertise to complete the complex permitting and associated studies within a short time-frame and has proposed an agreement for this project (see attachment) that the City feels is both cost effective and expeditious.

**DISCUSSION:**

This grant will hopefully take the City another step closer towards rehabilitation of the State Park Marina, by permitting an interim maintenance dredging project, leaving the existing docks and pilings in place. The amount of maintenance dredging will be determined by the funds that could be made available once permits are obtained and by the unit cost of actual dredging. A unique opportunity for lower cost dredging may be available over the next year as the Army Corps of Engineers has awarded a contract to have all the federally designated channels (this does not include the State Park Marina Area) dredged this fall and winter, with the federal government paying the substantial mobilization and demobilization costs of the contractor locating dredging equipment here. The City had a similar opportunity after the last federal contractor was here approximately 10 years ago and we negotiated with that contractor to do some maintenance dredging in our Mooring Area at a very favorable unit cost. This grant will allow us to see if we can obtain maintenance dredging permits and potentially fund some lower cost dredging in the State Park Marina over the next year.

**CONCLUSION:**

Staff recommends that the Council adopt Resolution No. 45-09 authorizing the City to enter into the grant agreement with the Department of Boating and Waterways (DBW) for State Park Marina dredging studies, permits and monitoring and authorizing the City to enter into a consulting services agreement with Anchor Environmental to obtain the dredging permits.

**RESOLUTION NO. 45-09**

**AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO GRANT AGREEMENT #08-101-102 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA DREDGING STUDIES, PERMITS AND MONITORING AND AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH ANCHOR ENVIRONMENTAL TO ACQUIRE STATE PARK MARINA DREDGING PERMITS**

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

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

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

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

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

**WHEREAS**, the DBW has agreed to enter into Grant Agreement #08-101-102 with the City of Morro Bay to provide funding for acquiring dredging permits and associated studies, for the State Park Marina Rehabilitation project to maintain and improve operations at the existing marina while long-term improvements are evaluated; and,

**WHEREAS**, the City has identified Anchor Environmental as a consultant to provide the permitting and associated studies for said maintenance dredging.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay that the City of Morro Bay is hereby authorized to enter into a Planning Grant for the State Park Marina Rehabilitation Project in the amount of \$297,000, and that the Harbor Director is hereby authorized to act as the City's agent in regards to all aspects of the grant agreement.

**BE IT FURTHER RESOLVED**, that the Harbor Director is hereby authorized to enter into the consulting services agreement with Anchor Environmental and that the Harbor Director is hereby authorized to act as the City's agent in regards to all aspects of the consulting services agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting held thereof on the 24<sup>th</sup> day of August 2009, by the following vote:

AYES:

NOES:

ABSENT:

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Janice Peters, Mayor

ATTEST:

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Bridgett Bauer, City Clerk



AGENDA NO: A-5

MEETING DATE: August 24, 2009

## Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** August 24, 2009

**FROM:** Joe Woods, Recreation and Parks Director

**SUBJECT:** Adoption of Ordinance 551 to amend Morro Bay Municipal Code Chapter 10.54 to include a new Section 10.54.065 requiring any person riding a permitted coasting device at the Morro Bay Skate Park to wear a helmet, elbow pads, and knee pads.

**RECOMMENDATION:**

Staff recommends City Council adopt Ordinance 551 which amends Morro Bay Municipal Code Chapter 10.54 to include a new Section 10.54.065 requiring any person riding a permitted coasting device at Morro Bay Skate Park to wear a helmet, elbow pads, and knee pads.

**MOTION:** I move for the adoption of Ordinance No. 551.

**FISCAL IMPACT:**

As previously stated, by eliminating direct supervision at the Morro Bay Skate Park, the City will save \$19,900 annually. Some revenues may be realized if citations are administered; the exact amount is unknown at this time.

**BACKGROUND:**

City Council reviewed the staff report and the recommended changes to MBMC Chapter 10.54 at the regularly scheduled meeting of August 10, 2009. Please find August 10, 2009 Staff Report and proposed changes to MBMC 10.54 attached for your review. No objections were received prior to the first reading or during the public hearing process.

Prepared By:   JMW  

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

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

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

**ORDINANCE NO. 551**

**AN ORDINANCE OF THE CITY OF MORRO BAY, CALIFORNIA  
REQUIRING ANY PERSON RIDING A PERMITTED COASTING DEVICE AT MORRO  
BAY SKATEBOARD PARK TO WEAR A HELMET, ELBOW PADS, AND KNEE PADS**

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

**WHEREAS**, the City of Morro Bay owns and operates a skateboard park available for the use by the public at the Morro Bay Teen Center; and

**WHEREAS**, the City of Morro Bay lacks the financial resources to provide staff supervision of the use of the skateboard park during its hours of operation; and

**WHEREAS**, California Health and Safety Code Section 115800 prohibits any operator of a skateboard park from permitting any person to ride a skateboard in its skateboard park unless that person is wearing a helmet, elbow pads, and knee pads; and

**WHEREAS**, Section 115800 allows cities operating unsupervised facilities to comply with their obligation to enforce the helmet, elbow pads, and knee pads requirement by adopting an ordinance requiring the use of such safety equipment and posting of signage advising users of the safety requirements.

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

**SECTION 1.** That new Section 10.54.065 of the Morro Bay Municipal Code is hereby added and shall be coded and found to read as follows:

**10.54.065 Rules and regulations applicable to the Morro Bay Skate Park.**

A. It shall be unlawful and a violation of this section for any person to engage in, or for any adult responsible for the supervision of a minor child to permit a minor child to engage in, any activity prohibited under this section.

B. The Morro Bay Skate Park is an unsupervised facility. Riding or otherwise using a skateboard or any other permitted coasting device in the skate park, or entering into the skate park for the purpose of engaging in such activity, without wearing a helmet, elbow pads, and knee pads is prohibited.

C. Use or occupation of the skate park during non-open hours is prohibited and constitutes trespassing.

D. Use of alcoholic beverages, tobacco, and/or drugs at the skate park is strictly prohibited.

E. The use of coasting devices, including skateboards and in-line skates, is considered a hazardous recreational activity that creates a substantial risk of serious injury or death to participants, those assisting participants, and spectators of such activities. All users of the skate park voluntarily assume the risk of serious injury or death in use of the skate park facility.

**SECTION 2.** Prior to the Morro Bay Skate Park becoming an unsupervised facility, the City shall cause signs to be posted at the Skate Park at 231 Atascadero Road providing notice that any person riding permitted coasting devices in the facility must wear a helmet, elbow pads, and knee pads and that any person failing to do so will be subject to citation and/or prosecution pursuant to Morro Bay Municipal Code Section 10.54.070.

**INTRODUCED** at a regular meeting the of the City Council of Morro Bay, held on the 10th day of August, 2009 by motion of Councilmember Grantham, seconded by Councilmember Winholtz.

**PASSED AND ADOPTED** on the 24<sup>th</sup> day of August 2009, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JANICE PETERS, Mayor

ATTEST:

\_\_\_\_\_  
BRIDGETT BAUER, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT SCHULTZ, City Attorney



AGENDA NO:     B-1      
Meeting Date:     August 24, 2009      
Action: \_\_\_\_\_

## Staff Report

**TO:** HONORABLE MAYOR AND CITY COUNCIL      **DATE:** August 5, 2009

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

**SUBJECT:** Public Hearing on Closeout of Community Development Block Grant (CDBG) Planning and Technical Assistance Economic Development Grant (08-PTAE-5411).

### **RECOMMENDATION:**

Hold a public hearing to take input on the “Redevelopment Feasibility Study Prepared for the City of Morro Bay” which is the CDBG Planning and Technical Assistance (PT/A) Economic Development Grant (08-PTAE-5411) Final Product, and authorize staff to submit the study with a final closeout letter to CDBG to close out the grant. Note: A copy of the study and grant closeout documentation are available for public review at the Public Services Department.

### **BACKGROUND:**

CDBG Planning and Technical Assistance Economic Development grant funds are provided for the purpose of meeting the National Objectives of generating jobs for Targeted Income Group persons (of low to moderate income), and the elimination of slums and blight.

In 2009 the City received a CDBG Planning and Technical Assistance (P/TA) grant to conduct a Redevelopment Feasibility Study to identify areas within Morro Bay that are either physically or economically blighted or represent blighting influences and to estimate the potential tax increment that could be generated in those areas to eliminate blight, provide affordable housing and stimulate economic development and redevelopment.

### **FISCAL IMPACT:**

\$10,150 in matching Loan Repayment Funds were set aside from past CDBG program income activities.

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

## **DISCUSSION:**

The Redevelopment Feasibility Study prepared by Urban Futures, Inc. (UFI) in association with Alfred Gobar Associates (AGA), was submitted to Staff in May 2009. The following are the public hearings, workshops and presentations have occurred in review of the final product:

- January 12 – Approval for Partial Grant Funding for the Redevelopment Feasibility Study
- June 10 – Redevelopment Feasibility Study released for Public Review
- June 17 – RDA Workshop  
(Basics of Redevelopment, Findings/Conclusions of Redevelopment Feasibility Study)
- June 22 – City Council Workshop  
(Questions and Answers on Redevelopment Feasibility Study)
- June 26 – Biaginni Business Forum Presentation
- July 3rd – Announcement of July 13th City Council meeting issued in Water Bills
- July 6 – Planning Commission Workshop  
(Questions and Answers on Redevelopment Feasibility Study)
- July 13 – City Council considers activating the Morro Bay Redevelopment Agency and initiating plans to begin the formal Redevelopment Plan adoption process. Continued to the August 10th City Council meeting.
- August 3<sup>rd</sup> – Announcement of August 10, 2009 City Council meeting issued in Water Bills along with general Question and Answer information regarding redevelopment.

The report provides survey findings and discussion regarding blight and urbanization, addresses considerations of necessity, project area delineation, financial feasibility of Redevelopment Plan adoption, and provides recommendations regarding a potential project area, timing and next steps should the City elect to pursue a redevelopment program.

## **CONCLUSION:**

The City has completed work on the Planning and Technical Assistance grant from CDBG. The purpose of this agenda item is to hold the required public hearing and have the City Council authorize final submittal to CDBG to close out 08-PTAE-5411.



AGENDA NO: B-2

MEETING DATE: 8/24/09

## Staff Report

**TO:** Honorable Mayor and Council

**DATE:** August 17, 2009

**FROM:** Michael Pond, Fire Chief

**SUBJECT:** Ordinance No. 552 Requiring the Fire Chief to Designate Very High Hazard Severity Zones and the Building Official to Enforce the Requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations.

**RECOMMENDATION:**

Approval of first reading and introduction of Ordinance No. 552 requiring the Fire Chief to designate Very High Hazard Severity Zones and the Building Official to enforce the requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations.

**MOTION:** I move the City Council approve Ordinance No. 552 for first reading and introduction.

**FISCAL IMPACT:**

There is no fiscal impact to the city with the adoption of Ordinance No. 552 and the acceptance of the recommended Very High Hazard Severity Zone in LRA map.

**SUMMARY:**

The California Department of Forestry and Fire Protection (CAL FIRE) Director is recommending that the area designated as very high fire hazard severity zones (VHFHSZ) in Morro Bay be reduced. The previous map produced in 1985, identified Cerro Cabrillo, Black Hill, and residential and business districts bordering Black Hill as being Very High Fire Hazard Severity Zones.

The new proposed map eliminates most VHFHSZ from the City of Morro Bay. Only the portion of Cerro Cabrillo within the city limits, located on the southeast side of South Bay Blvd in the State Park, is recommended as a VHFHSZ.

For comparison with another coastal community, consider that no properties in Cambria are designated as a very high fire hazard severity zone.

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

Acceptance of the new map and approval of the proposed ordinance allows the Fire Chief to designate other fire hazard properties with findings supported by substantial evidence and allow enforcement of wildland-urban interface codes found in Chapter 7A and Chapter 47 of Title 24, California Code of Regulations.

**BACKGROUND:**

Fire threat is a state issue as well as a local issue. The California Department of Forestry and Fire Protection (CAL FIRE) Director is required to make recommendations for very high fire hazard severity zones in the City of Morro Bay pursuant to Government Code Sections 51178, 51179 and 51181. Local agencies must take action on his recommendations according to Government Code Sections 51178.5 and 51179.

Structures built within the wildland urban interface zone create opportunities for fire to move into developed areas. The large loss of property and life from wildfires in California during the last two decades has been significant. These losses motivated the development of new codes that affect properties located in designated VHFHSZ.

**DISCUSSION:**

Code driven impacts to properties located within very high fire hazard zones established in 1985 until recently were minimal. Today, code requirements for structures located within VHFHSZ present significant impacts. These impacts focus on preventing the spread of fire from the wildland to urban structures. Specifically, building standards are more stringent and more defensible space is required around structures. The California Building Code, Chapters 7A and 47, Title 24, address methods to reduce ignition factors related to structures constructed in very high fire hazard severity zones. Specific standards for roofing material, siding, eaves, decking, windows, and vents are all addressed in these code and would apply to structures constructed in VHFHSZ. A structure located in a VHFHSZ is a mandatory disclosure when the property is being sold and insurance rates may be affected.

No structures are currently located in the proposed VHFHSZ. It is all on State Park property. See the recommended map provided as Attachment #1 and the 1985 map provided as Attachment #2.

Black Hill has been eliminated as a very high fire hazard severity zone on the proposed map. The Fire Chief plans to designate Black Hill and bordering properties as a fire hazard zone through findings supported by substantial evidence in the record. Making this designation locally will allow the city to be more specific where the previous map identified a broad area. Cambria went through this process since no properties in Cambria were identified as being a very high fire hazard severity zone. Cambria had substantial evidence that wildland codes should be enforced in certain areas and they now enforce these codes where appropriate.

The map changes proposed by the CAL FIRE Director are supported by the Morro Bay Fire Chief. The Fire Chief believes stringent wildland standards are appropriate for some areas of Morro Bay even though coastal influences on fuels help to reduce our risk much of the year. Such areas can and should be addressed locally with substantial evidence. The adoption of this ordinance and acceptance of the recommended Very High Hazard Severity Zone in LRA map provides the authority for designation of fire hazard areas to the Fire Chief and code enforcement under to the Building Official. Control over property designation and enforcement is local.

**CONCLUSION:**

The reduction of the area designated as a very high hazard severity zone within the City of Morro Bay does little to change current practices. The reduction does eliminate the mandatory disclosure when selling property and puts the burden on the Fire Chief to designate other fire hazard areas supported by substantial evidence in the record. The City of Morro Bay maintains authority to identify specific areas where wildland codes should be enforced instead of using the broad swath identified by the state in the previous map. Staff is recommending Council adopt Resolution No. 552, which allows the Fire Chief to accept the recommended map, which significantly reduces the size of the VHFHSZ in the city. Staff believes that this is the best way to provide for needed fire safety in structures constructed in or around wildland urban interface areas while not adversely affecting the large area of the community previously identified as very high fire hazard severity zones.

**ORDINANCE NO. 552**

**AN ORDINANCE OF THE CITY OF MORRO BAY ADDING CHAPTER 14.65 TO THE MORRO BAY MUNICIPAL CODE AND THEREBY REQUIRING THE FIRE CHIEF TO DESIGNATE VERY HIGH FIRE HAZARD SEVERITY ZONES AND THE BUILDING OFFICIAL TO ENFORCE THE REQUIREMENTS OF CHAPTER 7A AND CHAPTER 47, TITLE 24 CALIFORNIA CODE OF REGULATIONS.**

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

**WHEREAS**, wildland properties bordering urban areas of the City of Morro Bay present a fire threat: and

**WHEREAS**, the City of Morro Bay must limit the threat of fire moving into the community from wildland urban interface areas and provide authority for identifying fire hazard zones and enforcement in order to reduce the threat of property and life loss due to fire; and

**WHEREAS**, Government Code Sections 51178 and 51181 define the CAL FIRE Director's responsibility to identify very high fire hazard severity zones, transmit this information to local agencies, and to periodically review the recommendations; and

**WHEREAS**, Government Code Section 51178.5 and 51179 defines the local agency's responsibility to make the recommendations available for public review and to designate, by ordinance, authority for identifying very high fire hazard severity zones in its jurisdiction; and

**WHEREAS**, CAL FIRE has provided an updated Very High Fire Hazard Zone In LRA map indicating that only Cerro Cabrillo should receive the very high fire hazard severity zone designation; and

**WHEREAS**, the City of Morro Bay has constitutional authority to adopt local fire hazard severity zones and identify other wildland urban interface areas within the local jurisdiction with support of substantial evidence; and

**NOW, THEREFORE**, the City Council of the City of Morro Bay amends the City of Morro Bay Municipal Code and ordains a new chapter as follows:

## **Chapter 14.65 Fire Hazard Severity Zones**

### **14.65.010 Purpose and Intent**

The purpose of this chapter is to provide authority for the identification of local fire hazard severity zones and provide authority for enforcement of state and local codes in these zones. The intent of this chapter is to reduce the potential for fire losses by providing minimum requirements for the protection of properties constructed in Very High Hazard Severity Zones and other wildland/urban interface areas designated by the Fire Chief and supported by substantial evidence.

**14.65.020** The Fire Chief is hereby authorized to designate Very High Fire Hazard Severity Zones within 120 days of receiving recommendations from the California Department of Forestry and Fire Protection.

**14.65.030** The Fire Chief may designate areas not identified as Very High Fire Hazard Severity Zones by the California Department of Forestry and Fire Protection following a finding supported by substantial evidence in the record that the requirements for Very High Fire Hazard Severity Zones are necessary for effective fire protection within the area(s).

**14.65.040** The Fire Chief may decline to designate areas identified by the California Department of Forestry and Fire Protection as Very High Fire Hazard Severity Zones following a finding supported by substantial evidence in the record that the requirements for Very High Fire Hazard Severity Zones are not necessary for effective fire protection with the area(s).

**14.65.050** The Building Official shall enforce the provisions of Chapter 7A and Chapter 47, Title 24 California Code of Regulations, in all Very High Fire Hazard Severity Zones and other areas designated by the Fire Chief and supported by substantial evidence in the record.

**14.65.060** All submittals for subdivision, entitlement, or building permits shall demonstrate that the proposed project allows for compliance with the provisions of Government Code Section 51182 and Public Resource Code Section 4291, except where otherwise allowed by law, to the satisfaction of the Fire Chief and the Building Official.

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

Ordinance No. 552

Page Three

**INTRODUCED** at a regular meeting the of the City Council of Morro Bay, held on the 24th day of August, 2009 by motion of Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_.

**PASSED AND ADOPTED** on the 14<sup>th</sup> day of September 2009, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JANICE PETERS, Mayor

ATTEST:

\_\_\_\_\_  
BRIDGETT BAUER, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT SCHULTZ, City Attorney



AGENDA NO:     C-1    

Meeting Date: 08/24/09 Action:         

# Staff Report

**TO: Mayor and Council** **DATE: August 18, 2009**  
**FROM: Rob Schultz, City Attorney**  
**SUBJECT: Consideration of the Council's Position Regarding the Two Proposed Resolutions Submitted for Consideration at the League of California Cities' Annual Conference.**

## **RECOMMENDATION:**

Staff recommends that the City Council discuss and give direction to the voting delegates on Council's position regarding the two proposed resolutions submitted for consideration at the League of California Cities' Annual Conference.

## **FISCAL IMPACT:**

The registration fee to attend the Annual League Conference is \$250 a day or \$500 for the entire conference. In order to participate as a voting delegate, you must be registered for at least the Friday session.

## **BACKGROUND:**

This year's League of California Cities' Annual Conference is scheduled for September 16-18 in San Jose. One important aspect of the conference is the Annual Business Meeting, scheduled for Friday afternoon, September 18th, when the membership will consider and take action on resolutions that establish League policy.

According to League bylaws, each Member City may, with the approval of the City Council, designate a Voting Delegate for the Annual Business Meeting. The designated Voting Delegates (or their Alternates) constitute the League's General Assembly. Each Member City may appoint up to two alternate Voting Delegates.

On August 10, the City Council designated Councilmember Winholtz as the Voting Delegate and Councilmember Grantham as the Alternate.

## **DISCUSSION:**

Each League Member City has the right to cast its vote on Annual Conference resolutions. The

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

Voting Delegate and Alternate(s) are appointed by the City Council prior to the Annual Conference. To cast the City’s vote the Voting Delegate or Alternate must:

1. Be registered to attend the conference.
2. Be present at the Annual Business Meeting and in possession of the City’s Voting Delegate card in order to cast a vote.
3. Pick up her/his conference badge before signing in and picking up the voting delegate card at the Voting Delegates Desk.

Two resolutions are under consideration for adoption at the Annual Business Meeting. The first resolution titled “Resolution Relating to Social Host Liability” is to consider the League’s support of a policy that holds social hosts responsible for underage drinking, and opposition to policies that make it easy for those who are underage to access alcohol through adults and on private property. The second resolution titled “Resolution Urging City Governments and others to Divest from Banks that Fail to Cooperate with Foreclosure Prevention Efforts” is to consider the League’s support of the City of Los Angeles and other member cities in exploring the potential divestiture of all deposits in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts; the support of City retirement programs and other similar organizations which adopt a similar divestiture policy; and, the request to the National League of Cities to consider adoption of a similar resolution. Attached hereto is the 2009 Annual Conference Resolutions Packet.

**CONCLUSION:**

Staff recommends that the City Council discuss and give direction to the Voting Delegates on Council’s position regarding the two proposed resolutions submitted for consideration at the League of California Cities’ Annual Conference.



AGENDA NO: D-1

Meeting Date: 08/24/09 Action: \_\_\_\_\_

## Staff Report

**TO:** Mayor and City Council **DATE:** August 21, 2009  
**FROM:** Rob Schultz, City Attorney  
**SUBJECT:** Discussion on State Water Resources Control Board Draft Once Through Cooling Statewide Policy for Power Plants

### **RECOMMENDATION:**

Staff recommends that the City Council discuss and give direction to Staff to attend the September 8 and 16 hearings and to bring back a written report and draft comments at the September 28, City Council meeting.

### **FISCAL IMPACT:**

The attendant time and cost to attend hearings in Sacramento and formulate written comments to the State Water Resources Control Board. Such costs are within the current budget.

### **BACKGROUND:**

The State Water Board has issued a notice of public hearing to receive comments on the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. The hearing has been scheduled for September 16, 2009 in Sacramento. Final comments must be submitted by September 30, 2009.

The Notice of Public Hearing and the draft Policy are attached hereto. The proposed Policy establishes technology-based standards to implement the Federal Clean Water Act section 316(b) and reduce the harmful effects associated with cooling water intake structures on marine and estuarine life. The proposed policy would apply to the 19 existing power plants (including Morro Bay) that currently have the ability to withdraw over 15 billion gallons per day from the State's coastal and estuarine waters using a single-pass system, also known as once-through cooling. According to the State Water Board Staff, the intent of the proposed Policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the

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

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

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

State's electrical generation and transmission system. This latest Board draft continues to require the phaseout of once-through cooling systems in existing plants, despite a recent U.S. Supreme Court decision permitting regulators to compare the costs of replacing the systems against the environmental and other benefits resulting from such replacements. The new draft, however, does permit a very limited cost-benefit analysis for operators of nuclear plants and small fossil-fueled plants.

Staff has also just learned, that there will also be a special stakeholder meeting on September 8, 2009. The purpose of the stakeholder meeting is to provide an informal question and answer session for interested parties in advance of the Board's planned public hearing on September 16, 2009. The September 8, 2009 meeting will be a Staff-level meeting, Board members will not be present and comments made at the September 8, 2009 meeting will not be part of the administrative record for the Policy. Nothing stakeholders or staff say at that meeting will appear in the record and no comments made that day will be included in the response to comments.

Staff is looking for direction on whether it should attend and participate in the September 8 and 16 meetings in Sacramento and then whether you want staff to bring back a draft written response to your Council meeting on September 28, 2009.

## **DISCUSSION:**

Section 316(b) of the Federal Clean Water Act [33 USC section 1251(b)] requires that NPDES permits issued to facilities that take in water for cooling purposes (intake structures) reflect the best Technology Available (BTA) for minimizing adverse environmental impact. California's Porter-Cologne Act includes similar requirements [Water Code section 13142.5].

In order to carry out a 1993 settlement with environmental groups, U.S. EPA agreed to adopt new regulations implementing section 316(b). Those regulations were issued in three phases. Phase I, covering intake structures for new power plants, was adopted in November of 2001. In July 2004, EPA promulgated Phase II of the regulations, which covers existing power plants. In [sic] June 1 of 2006 EPA adopted Phase III of the rule, which governs intake structures for new offshore oil and gas extraction facilities.

EPA's Phase II rule established a performance standard for existing facilities that would have effectively required them to replace once-through cooling systems. However, the EPA rule authorized regulators to provide a variance from the performance standard, if the affected facility could demonstrate that its costs to comply with the standard were significantly greater than the benefits of compliance.

The 2<sup>nd</sup> Circuit Court of Appeals overturned the EPA rule concluding that section 316(b) does not permit the use of a cost-benefit standard. The U.S. Supreme Court agreed to review the 2<sup>nd</sup> Circuit decision. On April 1, 2009, the United States Supreme Court issued the much-awaited *Riverkeeper* decision. Although early newspaper reports have been declaring the decision a victory for power plants over fish, it is still premature to make that call, especially because the Obama administration

is now responsible for issuing new federal regulations in the wake of the decision, and because in California, momentum has been lining up against once-through cooling. The bottom line is that the *Riverkeeper* decision merely grants EPA the permission to use a cost-benefit analysis. The Supreme Court's ruling does not mandate application of the cost-benefit test anywhere, much less in California.

Since 2006, there has been a growing movement in California to eliminate once-through cooling. Such efforts began when the California Ocean Protection Council and State Lands Commission both issued resolutions promoting the elimination of once-through cooling, and the State Board began working on a statewide policy to address once through cooling permitting issues. The California Ocean Protection Council adopted a resolution in 2006 encouraging state agencies to work together to find alternatives to once-through cooling. The State Lands Commission then took up the cause, and issued a resolution declaring that the Commission shall not approve or renew leases for existing power facilities using once-through cooling. Although that resolution was determined to be an unlawful, underground regulation, the State Lands Commission has continued to press the policy. In 2006, the State Board also began work on a state-wide policy for once-through cooling, which was intended to supplement the EPA Phase II Rule. In March 2007, after the EPA withdrew the Phase II Rule, the State Board revised its policy and released a new proposal. That proposed policy essentially required the installation of closed-cycle cooling and phased out once-through facilities over roughly the next ten years. The proposed policy looked at whether retrofitting once-through cooled power plants in California was “technologically and logistically” feasible and did not take into account other factors such as economic feasibility. Notably, while the State Board followed EPA's lead and carved out some degree of flexibility for California's nuclear power plants, neither version of the State Board's proposed policy would have allowed cost-benefit analysis in determining 316(b) compliance for the rest of California's once through cooled facilities. The public comment period on the proposed policy closed in May 2008, and no further action has occurred on it until now.

Meanwhile, the California Public Utilities Commission and California Energy Commission have both incorporated the retirement of once-through cooling power plants in their electricity needs projections, and in the current California legislative session, Senator Corbett has introduced SB 42, which would, on and after January 1, 2015, prohibit a power plant from using once-through cooling. The permissibility of cost-benefit analysis may reduce the likelihood of forced plant shutdowns in the immediate term, but California policymakers appear to be marching in step to achieve the gradual phase-out of once-through cooling, irrespective of how once-through cooling policy evolves at the national level in the wake of the *Riverkeeper* decision.

Operators of the affected California facilities have urged the State Board to wait for the new EPA Phase II rules before acting on its own. However, the State Board appears ready to proceed prompted in part by the views of other the other state agencies.

The State Board's draft policy continues to require power plants to upgrade their cooling systems so that they meet a performance standard that is the equivalent to what would be achieved with a closed-cycle system. The latest draft of the permit establishes a lengthy process for existing facility upgrades that tie in with the PUC's planning process. The ultimate compliance date for each of the

19 facilities ranges from one year to December 31, 2022.

**CONCLUSION:**

Staff recommends that the City Council discuss and give direction to Staff to attend the September 8 and 15 hearings and to bring back a written report and draft comments at the September 28, City Council meeting.