

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING – FEBRUARY 8, 2010

**CLOSED SESSION – FEBRUARY 8, 2010
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.

- Property: Lease Site 86/86W; 801 Embarcadero
Negotiating Parties: City and Caldwell
Negotiations: Lease Terms and Conditions
- Property Lease Site 71-77/71W-77W; 601 and 699 Embarcadero
Negotiating Parties: City and Trapp
Negotiations: Lease Terms and Conditions

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

**PUBLIC SESSION – FEBRUARY 8, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

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

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

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

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

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

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF JANUARY 11, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 06-10 CALLING A PRIMARY MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 8, 2010 FOR THE PURPOSE OF ELECTING CERTAIN OFFICERS OF SAID CITY; AND REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID ELECTION WITH THE CONSOLIDATED DISTRICTS ELECTION TO BE HELD IN THE COUNTY ON TUESDAY, JUNE 8, 2010; AND OTHER ELECTION MATTERS AS REQUIRED BY LAW; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 06-10.

A-3 RESOLUTION NO. 05-10 ADOPTING THE MID-YEAR BUDGET AMENDMENTS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 05-10.

A-4 RESOLUTION NO. 07-10 AUTHORIZING STAFF TO USE ENERGY CONSERVATION ASSISTANCE ACCOUNT LOAN FUNDING FROM THE CALIFORNIA ENERGY COMMISSION TO SUPPLEMENT THE ENERGY EFFICIENCY COMMUNITY BLOCK GRANT FUNDS ALLOCATED FOR THE CITY OF MORRO BAY; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution No. 07-10.

A-5 PROCLAMATION DECLARING FEBRUARY 2010 AS “GRAND JURY AWARENESS MONTH”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONSIDERATION OF AN AMENDMENT TO MORRO BAY MUNICIPAL CODE TITLE 5 ADDING CHAPTER 5.50 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED “MEDICAL MARIJUANA COLLECTIVES; (CITY ATTORNEY)

RECOMMENDATION: Review the Staff Report and attached draft Regulations and Procedures entitled “Medical Marijuana Collectives”, and direct staff to return with this item for Introduction and First Reading with any changes suggested by Council.

C. UNFINISHED BUSINESS

- C-1 APPROVAL OF THE 2010/11 BUDGET CALENDAR; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Discuss and set a date for the Goals/Council Budget Workshop, and review the remaining schedule of events leading to adoption of the 2010/11 annual budget.

D. NEW BUSINESS

- D-1 PRESENTATION FROM MIKE MANCHAK OF THE ECONOMIC VITALITY CORPORATION REGARDING THE SAN LUIS OBISPO REGIONAL AIRPORT

RECOMMENDATION: Receive presentation for information.

- D-2 CONSIDERATION OF RECOMMENDATIONS FROM THE CITIZENS OVERSIGHT COMMITTEE; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Review recommendations 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: 02/08/10

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – JANUARY 11, 2010
CITY HALL CONFERENCE ROOM - 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

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.

Discussions regarding Personnel Issues related to the reorganization of City Maintenance.

CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY

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

- Property: Lease Site 86/86W; 801 Embarcadero
Negotiating Parties: City and Caldwell
Negotiations: Lease Terms and Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

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

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JANUARY 11, 2010
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
	Robert Schultz	City Attorney
	Jamie Boucher	Deputy City Clerk
	Bruce Ambo	Public Services Director
	Mike Pond	Fire Chief
	John DeRohan	Police Chief
	Joe Woods	Recreation & Parks Director
	Kathleen Wold	Senior Planner
	Dylan Wade	Utilities/Capital Projects Manager
	Janeen Burlingame	Management Analyst

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

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

PUBLIC COMMENT

David Nelson expressed concern that Dynegy is not abiding by their lease agreement by demolishing the tank farm at the power plant. He also encouraged green wastewater treatment plants.

Jack McCurdy stated there are articles in the website www.slocoastjournal.com that address the questions of what happened to the new Morro Bay Power Plant that was planned to replace the existing plant.

Mike Burton, Central Coast Little League President, announced the upcoming registration dates for Little League as well as their need for volunteers to help with umpiring, team parents, snack bar and coaching. He also expressed his thanks to Del Mar Elementary School for their generous donation that will fund scholarships for local kids who can't afford the Little League registration fees.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JANUARY 11, 2010

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 DECEMBER 14, 2009 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 CITY COUNCIL ANNUAL REGULAR MEETING SCHEDULE FOR 2010; (ADMINISTRATION)

RECOMMENDATION: Receive for information.

A-3 REVIEW AND APPROVE RESOLUTION NO. 01-10 AUTHORIZING THE APPLICATION FOR PROPOSITION 84, STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM OF 2008 AND NATURE EDUCATION FACILITIES GRANT PROGRAM FUNDS FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution No. 01-10.

A-4 RESOLUTION DECREASING THE PARKING IN-LIEU FEES FOR 600 MORRO BAY BOULEVARD TO \$4,000 PER SPACE; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 02-10.

A-5 AUTHORIZATION TO FILL THE ADMINISTRATIVE/HOUSING PROGRAMS COORDINATOR POSITION; (PUBLIC SERVICES)

RECOMMENDATION: Authorize Staff to fill the Administrative/Housing Programs Coordinator vacancy.

Mayor Peters pulled Item A-1 from the Consent Calendar; Councilmember Borchard pulled Items A-2 and A-3; Councilmember Winholtz pulled Item A-4; and Councilmember Smukler pulled Item A-5.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JANUARY 11, 2010

A-1 APPROVAL OF MINUTES FOR THE DECEMBER 14, 2009 CITY COUNCIL MEETING; (ADMINISTRATION)

Mayor Peters requested the following amendments to the minutes of December 14, 2009:

- page 8 – add “...forward to the Public Works Advisory Board for **discussion on Dial-a-Ride services, future funding, and how to increase ridership.**”
- page 16 – (Councilmember Winholtz requested following amendments):

Councilmember Winholtz stated she is not willing to reduce the fee ~~by~~ to \$2,000 at this time.

Councilmember Winholtz stated that is outrageously low; she would ~~approve~~ reduce the amount by \$2,000 per space.

MOTION: Councilmember Winholtz moved the City Council approve the minutes of December 14, 2009 as amended by Council. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-2 CITY COUNCIL ANNUAL REGULAR MEETING SCHEDULE FOR 2010; (ADMINISTRATION)

Councilmember Borchard recommended amending the joint City Council/Planning Commission meeting dates to March 15th and November 15th; Council concurred.

MOTION: Councilmember Borchard moved the City Council approve Item A-2 of the Consent Calendar as amended. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-3 REVIEW AND APPROVE RESOLUTION NO. 01-10 AUTHORIZING THE APPLICATION FOR PROPOSITION 84, STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM OF 2008 AND NATURE EDUCATION FACILITIES GRANT PROGRAM FUNDS FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

Councilmember Borchard requested staff clarification on the timeline and grant funding for the Teen Center Master Plan. Recreation & Parks Director Joe Woods responded the City is seeking 100% funding for this project, and the project will not start without full funding.

MOTION: Councilmember Borchard moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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REGULAR MEETING – JANUARY 11, 2010

A-4 RESOLUTION DECREASING THE PARKING IN-LIEU FEES FOR 600
MORRO BAY BOULEVARD TO \$4,000 PER SPACE; (CITY ATTORNEY)

Councilmember Winholtz requested to remove the words “in the Downtown Area for five years” at the end of the NOW, THEREFORE, BE IT RESOLVED paragraph. She also said she would be voting in opposition of this item because it is in the spirit of a gift of public funds, and the City will be out over \$120,000 by approving this.

Councilmember Smukler agreed stating his concern is the City does not have the ability to control how these funds are reinvested.

MOTION: Mayor Peters moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

A-5 AUTHORIZATION TO FILL THE ADMINISTRATIVE/HOUSING
PROGRAMS COORDINATOR POSITION; (PUBLIC SERVICES)

Councilmember Smukler expressed concern with new hires since the City has not yet identified a two-tiered system relating to benefits. He requested clarification on the duties that go along with this position. Public Services Director Bruce Ambo reviewed the duties and responsibilities of the Administrative/Housing Programs Coordinator position.

MOTION: Councilmember Smukler moved the City Council approve Item A-5 of the Consent Calendar. The motion was seconded by Councilmember Grantham 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 ADOPTION OF ORDINANCE NO. 553 ADDING SECTION 3.08.105 TO THE
MORRO BAY MUNICIPAL CODE ESTABLISHING A LOCAL BUSINESS
PREFERENCE PROGRAM; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City Council has expressed interest in implementing a local vendor program as a way to help stimulate the local economy and support the formation/retention of local jobs. On November 9, 2009, the City Council reviewed a draft Ordinance that would provide further clarification and importance on giving competitive preference to local industries and businesses doing business with the City. The City Council suggested minor changes which have been incorporated into

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Ordinance 553. Mr. Schultz recommended the City Council accept public comment and then move for introduction and first reading of Ordinance No. 553, by number and title only, adding Morro Bay Municipal Code Section 3.08.105 entitled “Local Business Preference Program.”

Mayor Peters opened the hearing for public comment; there being no public comment, Mayor Peters closed the public comment hearing.

Council discussed amendments to the Ordinance.

MOTION: Councilmember Winholtz moved the City Council amend Ordinance No. 553, page 1, (C): ...”the City Council or the purchasing agency ~~may~~ **shall** give a preference ...”; and, added to (H) “Local business” means a vendor or contractor who has paid its local business tax to the City of Morro Bay at least 6 months prior to bid or proposal opening date; does business in the Morro Bay community by providing goods, services, or construction; and maintains a physical business address located within 5 miles of the jurisdictional limits of the City of Morro Bay and performs business on a day-to-day basis. Post office boxes shall not be used for the purpose of establishing said physical address”. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 553 by number and title only.

B-2 2009 ANNUAL WATER REPORT; (PUBLIC SERVICES)

Senior Planner Kathleen Wold stated this report summarizes building activity for 2009, and provides a recommendation on the maximum number of water equivalency units (WEU) which should be granted for 2010. Due to recent changes in state water deliveries, staff also recommends the Water Supply Portfolio be reviewed as part of the 2010 Urban Water Management Plan update. This review will address both the decrease in the amount of state water being delivered and the reliability of those deliveries. Documentation substantiates that there are sufficient water resources to grant the recommendations while ensuring compliance with all requirements within Ordinance 266. In 2010, the City is facing a short term water challenge due to greatly reduced State Water Project deliveries coupled with the nitrate contamination of both the Morro and Chorro groundwater basins. The timing of these events has caused a short term impact to the City's ability to supply water. As the projects designed to alleviate these issues are implemented these impacts will be ameliorated. Ms. Wold recommended the City Council grant the following allocations for 2010 and key subsequent actions on water supply issues to the forthcoming Urban Water Management Plan update: 1) allocate the mix of residential units at 60 percent single-family and 40 percent multi-family units; and

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authorize the corresponding water equivalency allocation for residential uses at 50 WEU; 2) process residential allocation limits on a first-come first-serve basis, based on the priorities contained in the current General Plan and Local Coastal Plan policies; 3) authorize allocation of 130% of the residential WEU (65 WEUs) to commercial and industrial projects, within the priority categories consistent with the current Local Coastal Plan and General Plan policies; and 4) review the Water Supply Portfolio in light of recent decreases in the reliability of the State Water Project water deliveries as part of the 2010 Urban Water Management Plan update.

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

Mayor Peters thanked the community for the reported savings in water last year.

Councilmember Smukler stated he is uncomfortable with the assumption that this is a short-term issue, especially given the challenges with the local water supply portfolio.

MOTION: Councilmember Borchard moved the City Council grant the following allocations for 2010 and key subsequent actions on water supply issues to the forthcoming Urban Water Management Plan update: 1) allocate the mix of residential units at 60 percent single-family and 40 percent multi-family units; and authorize the corresponding water equivalency allocation for residential uses at 50 WEU; 2) process residential allocation limits on a first-come first-serve basis, based on the priorities contained in the current General Plan and Local Coastal Plan policies; 3) authorize allocation of 130% of the residential WEU (65 WEUs) to commercial and industrial projects, within the priority categories consistent with the current Local Coastal Plan and General Plan policies; and 4) review the Water Supply Portfolio in light of recent decreases in the reliability of the State Water Project water deliveries as part of the 2010 Urban Water Management Plan update. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 8:15 p.m.; the meeting resumed at 8:25 p.m.

B-3 TERMINATION OF AGREEMENT BETWEEN ROANDOAK AND THE CITY OF MORRO BAY; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City entered into an agreement with Roandoak of God in 1982. Because of the degradation to the water quality and the changes in regulations, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal

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standards to customers in the basin. In order to both provide water to the customers outside the City limits and maintain the Chorro Groundwater resource for the benefit of the customers within the City limits, major modifications to the City's infrastructure would be required. These modifications would be needed to effectively deal with the nitrate contamination while also providing disinfection of the occasional bacteriological contamination events that impact the Chorro Groundwater Basin. In December of 2008, the California Department of Public Health inactivated all of the wells in the Ashurst well field including Well No. 9A. Until a method of providing treatment for nitrate removal or blending is in place, the City is unable to use this well as a supply source. Therefore, since Well No. 9A can no longer serve the purpose of municipal water supply without major modifications to the City's infrastructure, Staff is comfortable relinquishing control of that well at this time. The degradation of water quality in the Chorro Valley, coupled with the connection of water services to the pumping line, and further complicated by more stringent regulations, will continue to strain the City's water resources until resolved. Mr. Schultz recommended the City Council begin the process by terminating the agreement with Roandoak; Staff will then negotiate the terms of removal of service with the impacted property owners, in accordance with any existing agreements, and for the benefit of the residents of the City of Morro Bay.

Mayor Peters opened the hearing for public comment.

Carrie Burton stated there are property owners that did not know about the lease agreement when they purchased their property because it was not disclosed at the time of purchase. She addressed the contaminated water and how those in Chorro Valley are going to be provided clean water. Ms. Burton also stated this has caused property values to go down.

David Nelson stated he read the lease and termination is justifiable by the City. He said the City cannot afford to send water outside of the City.

Mike Burton stated when he bought his home five years ago he assumed he had water by receiving a City water bill. He said there is no way hydraulically to pump water from the Well 9-A to the homes in Chorro Valley. Mr. Burton requested the City be considerate of their situation.

Millie Benson reviewed the history of her family's properties on Canet Road, and noted Chorro Valley needs clean water not only for the families out there now but for the future development of Morro Bay.

Mayor Peters closed the public comment hearing.

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Mayor Peters stated the last thing the City wants is to have people without water. She said what has happened is a problem has arisen and the City is trying to resolve it and hopefully it is going to be fair for everyone.

Councilmember Smukler stated it seems clear that water service would not be discontinued until there is a positive agreement between the community and the Chorro Valley residents. He said Council should move ahead with this tonight and be kept informed as far as how the negotiations are going. Councilmember Smukler stated there are some interesting water supply options that could help address the issues without tapping into the ground water or bringing in water from an outside source.

Councilmember Borchard stated part of the problem is the City has no sphere of influence since the County took that away. The City does not have the ability to have oversight out in the Chorro Valley in regards to usage and their unpermitted septic tanks; those are County issues. She said neighboring residents requested Roandoak's water usage with the City be stopped because they thought it was being used in a manner that was not fair. Councilmember Borchard stated she feels the City has come to a point where they can end the agreement with Roandoak.

Councilmember Grantham stated he would be voting in favor of terminating the agreement with Roandoak and encouraged fair negotiations on the part of the City.

Councilmember Winholtz noted the date of the original agreement is 1982 and at that time there was ample water in the Chorro Valley and the City needed water and an exchange was made, which was the honorable thing to do at that time. She said now because of the contamination, the City should continue to honor the fact of being able to progress because of the Chorro Valley water. Councilmember Winholtz noted although the City does not have a sphere of influence, the City population can go up to 12,000 which will require more water. She said the City or County will need to address cleaning up the Chorro Basin. She recommended amending the motion that service will continue.

Mayor Peters stated she would like to maintain a regular water customer relationship until another agreement is reached.

MOTION: Councilmember Winholtz moved the City Council direct staff to terminate the Agreement between Roandoak and the City of Morro Bay pursuant to Paragraph 9 of the Agreement which states it will terminate in 120 days; in addition, there will be no discontinuation of water service until a new agreement is reached. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

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C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 DISCUSSION ON WATER QUALITY TESTING IN MORRO BAY'S
DRINKING WATER; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the City of Morro Bay is regulated as a Large Water System since it serves a population of more than 10,000 people. As such, the City is subject to the requirements of the Safe Drinking Water Act (SDWA). Under the SDWA the US EPA sets national standards for drinking water based on sound science to protect against health risks, considering available technology and costs. These National Primary Drinking Water Regulations (Attached) set enforceable maximum contaminant levels for particular contaminants in drinking water or required ways to treat water to remove contaminants. Each standard also includes requirements for water systems to test for contaminants in the water to make sure standards are achieved. The City conducts a routine monitoring program testing the quality of both the source waters and the treated waters that enter into the distribution system. The water is tested for the more than 100 contaminants for which both primary and secondary drinking water standards have been established. Other testing is performed by the City as needed to ensure the integrity of the treatment process being used, or in the case of the recent nitrate studies, as an indicator of source water characteristics. Mr. Wade recommended the City Council review the report and accompanying attachments, and provides direction to staff as it deems necessary.

Councilmember Grantham addressed SB966 regarding ways of disposing medications, and the numerous pharmaceuticals found in water sources and expressed the importance of testing our water sources.

Councilmember Smukler stated there are also a significant amount of contaminants found in our water sources that are available off the shelf including fertilizers, herbicides, and pesticides. He said there is a program that Miners Hardware Store is participating in called “Our Water Our World”, which directs people to alternative options for these different applications, and he encouraged people to search out this program.

Councilmember Borchard stated as the City’s Integrated Waste Management Authority representative, the disposal of pharmaceuticals is an on-going issue that has to be reviewed at the state level with many mandates due to the disposal of controlled substances.

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Councilmember Winholtz stated what the community can do is be more preventative in terms of use and disposal of pharmaceuticals and pesticides, herbicides and fertilizers.

The City Council received the report for information; no further action was taken on this item.

D-2 REVIEW OF 2009 TROLLEY SEASON PERFORMANCE; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated the City's Trolley service is a seasonal fixed route transit system serving the general public by linking the Downtown Business District, Waterfront, state parks in the north and south ends of the community through the use of three trolley routes operating within the City limits. In addition, the service provides a connection to the regional transit system at City Park. While the number of operating days did not change between the 2008 and 2009 seasons; the end of day service hours on Friday and Saturday were reduced to 7 p.m., and the fare structure was modified to include a different fare for children and adults. Ms. Burlingame recommended the City Council receive and file the 2009 trolley season performance report.

Councilmember Winholtz stated she would like to cut one more hour at the end of the day to end at 6 p.m.

Mayor Peters stated she would prefer to maintain the 7:00 p.m. time frame until the end of the fiscal year.

Councilmember Smukler stated he would like the Public Works Advisory Board to discuss the trolley ridership when they consider the Dial-a-Ride concept as Council continues to get further into the budget process.

The City Council received this report for information; no further action was taken on this item.

D-3 EVALUATION FOR CONSISTENCY WITH CITY COUNCIL POLICIES AND PROCEDURES REGARDING A LETTER SENT TO THE CALIFORNIA COASTAL COMMISSION DATED DECEMBER 8, 2009; (CITY COUNCIL)

Councilmember Winholtz stated on Friday, December 11, 2009, the California Coastal Commission (CCC) ruled in favor of a Coastal Development Permit for 801 and 833 Embarcadero, commonly called the Conference Center, a project previously voted on by City Council. That week, Council Members received in their mailboxes a hard copy of a letter dated December 8, 2009 signed by the Mayor as mayor on City letterhead. She said it was her contention that this letter does not follow the Policies and Procedures outlined

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in Resolution 50-07, in that the letter is not clear who it represents. Councilmember Winholtz requested the City Council discuss and consider sending the following statement to the Mayor: the following statement should be sent to the Mayor in the form of a letter: "While you have been an effective advocate for the City of Morro Bay, you have chosen more than once not to follow adopted correspondence procedures. Consider this a letter of (counsel/admonishment/reprimand) that such action is unacceptable and depreciates the integrity of the Council as a whole. We believe that you can easily correct this situation and assume you are willing to do so."

The City Council discussed the issue and decided to move forward; bring back the entire City Council Policies and Procedures Manual with an amendment that letters from the Mayor and City Council begin with the first paragraph stating who is being represented in the letter, and the signing of documents.

No further action was taken on this item.

D-4 APPOINTMENT OF VICE-MAYOR TO SERVE A ONE-YEAR TERM;
(ADMINISTRATION)

Mayor Peters stated based on Policies and Procedures, for appointment as Vice Mayor, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Vice Mayor. If there are two Council Members who have not yet held the position, the Council Member receiving the highest number of votes in the most recent election shall be appointed Vice Mayor. Both Councilmember Borchard and Councilmember Smukler have served on the Council for one year; Councilmember Smukler received the highest number of votes in the November 2008 election.

MOTION: Mayor Peters moved the City Council appoint Councilmember Smukler as Vice-Mayor to serve a one-year term. The motion was seconded by Councilmember Grantham.

Councilmember Smukler requested that Councilmember Borchard be appointed Vice-Mayor this year, and he would take the role as Vice-Mayor next year.

Mayor Peters withdrew her motion; Councilmember Grantham withdrew his second to the motion.

Councilmember Winholtz stated although it is the exception to the Policies and Procedures, since it is being done publicly, she will support it.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JANUARY 11, 2010

MOTION: Mayor Peters moved the City Council appoint Councilmember Borchard as Vice-Mayor to serve a one-year term. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendize a discussion on the City Council Internal Sub-Committee Appointments; Council concurred.

Councilmember Winholtz requested the discussion on the cell tower issue be scheduled to a date certain; Council concurred.

Councilmember Grantham requested to agendize a discussion on testing water for pharmaceuticals; Council concurred.

ADJOURNMENT

The meeting adjourned at 9:48 p.m.

Recorded by:

Jamie Boucher
Deputy City Clerk

AGENDA NO: A-2

MEETING DATE: 02/08/10

RESOLUTION NO. 06-10

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY, CALIFORNIA
CALLING A PRIMARY MUNICIPAL ELECTION TO BE HELD ON
TUESDAY, JUNE 8, 2010 FOR THE PURPOSE OF ELECTING
CERTAIN OFFICERS OF SAID CITY; AND REQUESTING THE BOARD OF
SUPERVISORS OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID
ELECTION WITH THE CONSOLIDATED DISTRICTS ELECTION
TO BE HELD IN THE COUNTY ON TUESDAY, JUNE 8, 2010;
AND OTHER ELECTION MATTERS AS REQUIRED BY LAW**

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

WHEREAS, the City Council of the City of Morro Bay called a Primary Municipal Election to be held on Tuesday, June 8, 2010 for the purpose of the election of two (2) members of the City Council of said City for the full term of four (4) years, and for the election of one (1) Mayor of the City Council of said City for the full term of two (2) years; and

WHEREAS, it is desirable that the Primary Municipal Election be consolidated with the Statewide Primary Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the County Election Department of the County of San Luis Obispo canvass the returns of the Primary Municipal Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, the City Council of the City of Morro Bay, California, does resolve, declare, determine and order as follows:

SECTION 1. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Luis Obispo is hereby requested to consent and agree to the consolidation of a Primary Municipal Election with the Statewide Primary Election on Tuesday, June 8, 2010, for the purpose of the election of one (1) Mayor, and two (2) Members of the City Council.

SECTION 2. That the County Election Department is authorized to canvass the returns of the Primary Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. That the City of Morro Bay recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of San Luis Obispo.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of February 2010 following vote:

AYES:

NOES:

ABSENT:

ATTEST:

JANICE PETERS, Mayor

BRIDGETT KESSLING

, City Clerk



AGENDA NO: A-3

MEETING DATE: 02/08/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 20, 2010

FROM: Susan Slayton, Administrative Services Director/City Treasurer

SUBJECT: Resolution No. 05-10 Adopting the Mid-Year Budget Amendments

RECOMMENDATION:

Staff recommends that Council adopt Resolution 05-10, authorizing the budget amendments, as revised.

MOTION: I move that Council adopt Resolution No. 05-10, authorizing the budget amendments, as revised.

FISCAL IMPACT:

Revenue amendments:

General Fund	(\$164,195) plus \$1,153,861 (one-time cash reimbursement)
Measure Q	\$50,000
State Gas Tax	\$94,974
Transit	(\$81,002)
Gen'l Gov't Capital Improv't	\$3,040,000

Expenditure amendments:

General Fund	\$775 plus approximately \$487,546 (one-time exp)
Transit	(\$15,938)
Water Revenue	\$695,000
Sewer Revenue	\$ 80,000
Gen'l Gov't Capital Improv't	\$3,040,000
Water Capital Improvement	\$290,000
Harbor Capital Improvement	\$30,000

SUMMARY:

The 2009/10 mid-year performance reports are presented, along with the requested budget amendments that are summarized above. Staff recommends that Council adopt Resolution No. 05-10, as revised.

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

DISCUSSION:

The requested budget amendments are presented on the attached pages with a description justifying each request. Separately provided is a December 31, 2010 budget performance report for all funds.

The General Fund has been economically adjusted to move certain critical revenues, such as sales tax and TOT, into the proper reporting period.

The economy is beginning to stabilize, and Morro Bay continues to trudge along. We are more fortunate than the other cities in the County; we have not suffered the sales and property tax losses that they have experienced. We have and continue to weather this recession with very little financial loss. Below are our core revenues' performances for the past 5 years plus the 2009/10 estimate, as revised with this mid-year Resolution:

	<u>2009/10</u>	<u>2008/09</u>	<u>2007/08</u>	<u>2006/07</u>	<u>2005/06</u>	<u>2004/05</u>
Prop tax	3,615,322	3,652,244	3,637,226	3,525,966	3,271,111	2,516,897
Sales tax	1,050,000	1,027,309	1,134,895	1,143,860	1,111,576	1,082,832
TOT	1,850,000	1,865,027	1,955,889	1,967,074	1,805,636	1,663,360

With all the economic woes that we have been continually heard about for the past year and a half, Morro Bay has managed to remain stable. We are expecting a slight loss in property taxes for 2009/10, \$37k. Sales tax dropped between 2006/07 and 2007/08 by \$9k, and declined additionally in 2008/09 by \$108k. Actual figures for 2009/10 indicate slight growth, which has been confirmed by our sales tax consultant, HdL. Transient Occupancy Tax (TOT) declined between 2006/07 and 2007/08 by \$11k, and further declined in 2008/09 \$91k. While the 2009/10 figures indicate a rebound from 2008/09, a conservative amendment has been suggested. An additional bit of good news was sent out from CalPERS; CalPERS earned an 11.80 percent return on investments for the one-year period ended December 31, 2009. This, along with CalPERS commitment to spread its investment losses over 20 years, bodes well for future contribution rates.

The General Fund Budget Performance Report demonstrates expenditures spent in excess of revenues by \$57k. Since all revenues and expenditures have not been accrued, this number is not significant.

Staff has presented the 2009/10 Mid-Year Budget Adjustments worksheet (Attachment "A") to reflect economic changes and one-time revenues to the General Fund (increase of \$38,481), and the policy changes to revenues (decrease of \$202,676) so that Council is aware that the reduction of \$164,195 is not totally composed of negative economic factors or one-time revenue adjustments. The change to the Enterprise administrative transfers results in a reduction to the General Fund of \$202,676. Council may wish to consider the ramifications of implementing this plan. Also, the one-time cash infusion of \$1.1 million is footnoted, rather than included in the totals. Staff has presented the expenditures in the same regard, removing the "guess-timate" for capital projects and presenting it as a footnote.

Resolution No. 05-10, adopting the mid-year budget amendments, is presented for approval. The Resolution's supporting spreadsheet will reflect any amendments made at this meeting.

RESOLUTION NO. 05-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA, AUTHORIZING THE MID-YEAR
2009/10 AMENDMENTS TO THE CITY'S OPERATING AND CAPITAL
IMPROVEMENT BUDGETS**

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

WHEREAS, the City of Morro Bay is required to appropriate and expend public funds to conduct its day-to-day business activities; and

WHEREAS, the City Council adopted the original Operating and Capital Improvement Budgets on June 29, 2009 by Resolution No. 37-09; and

WHEREAS, the City Council deems it necessary to amend said budgets.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the operating budgets of the City of Morro Bay are amended by additional revenues and appropriations as shown on the attached schedule.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of January 2010, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-4

MEETING DATE: 02/08/2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** 02/08/2010

FROM: Mike Wilcox, Maintenance Superintendent

SUBJECT: Resolution No. 07-10 Authorizing Staff To Use Energy Conservation Assistance Account Loan Funding From the California Energy Commission to Supplement the Energy Efficiency Community Block Grant Funds allocated for the City of Morro Bay.

RECOMMENDATION:

Staffs recommends that Council pass resolution 07-10 authorizing staff to use loan funding from the California Energy Commission to supplement grant funding to complete the energy efficiency projects.

The successful completion of the Energy Audit Letter Report recommendations would satisfy the Council's goal of reducing overall energy costs, and developing fiscal conservation to eliminate nonessential expenditures.

MOTION: I move that the City Council authorize the execution of Resolution No. 07-10 allowing the City of Morro Bay to use low interest loan funding from the California Energy Commission to complete the energy efficiency improvements identified by the California Energy Commission in the Energy Audit Letter Report dated November the 19th 2009

FISCAL IMPACT:

The low interest loan application will request funds of \$94,843.25 to be used solely for the purpose of completing the energy efficiency improvement projects identified by the California Energy Commission in the Energy Audit Letter Report dated November 19, 2009.

There would be no fiscal impact to the City of Morro Bay during the term of the loan, as the loan would be repaid on a quarterly basis using the cost savings from the implemented energy efficiency improvements.

Upon final payment of the loan, the City of Morro Bay would immediately begin to realize the cost savings from these improvements through a reduction in energy consumption and utility costs.

SUMMARY:

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

Staff has identified \$150,826.25 in eligible energy efficiency improvement projects. The projects identified have been determined exempt from CEQA. Staff has applied for \$55,983 in grant funding to use toward the completion of these projects. Staff is recommending that Council approve No. 07-10 authorizing Staff to use a low interest loan not to exceed \$95,000 from the California Energy Commission to complete these projects.

This is a simple, low interest loan opportunity designed specifically for energy efficiency projects. The loan repayment will be structured to fit the cost savings of the project(s) funded. The proposed projects have a combined calculated simple payback of 4.22 years. In terms of current utility rates, this equals \$35,733 in annual savings.

BACKGROUND:

At the City Council meeting on 12/14/2009, staff was authorized to apply for EECBG funds to initiate the projects identified in the California Energy Commission Energy Audit Letter Report. Staff informed Council at that time that General Fund monies may be requested to supplement the grant funds to complete the recommendations identified in the audit. Staff has calculated costs for all of the projects, including lighting upgrades at facilities and outdoor venues, HVAC replacement of qualifying units, and replacement of the more than 20 and 30 year old refrigerators at the Veteran's Memorial Building and the Community Center and identified a significant gap between the grant funding and resources required to complete the projects. The California Energy Commission offers loans for these types of projects, and recently lowered the interest rate to 3% on these loans. This opportunity will not present itself again as this program is closing.

CONCLUSION:

Budgets are shrinking, energy costs are increasing. Now is the time to invest in energy efficiency. This low interest loan opportunity bridges the gap between the EECBG funds and the completion of many City-wide energy efficiency projects. The completion of the energy efficiency projects identified by the California Energy Commission is a step in the right direction.

RESOLUTION NO. 07-10

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING STAFF TO SUBMIT THE ENERGY EFFICIENCY AND
CONSERVATION BLOCK GRANT PROGRAM APPLICATION TO THE CALIFORNIA
ENERGY COMMISSION FOR GRANT FUNDS TO EXECUTE THE PROPOSED
IMPROVEMENTS IDENTIFIED IN THE CALIFORNIA ENERGY COMMISSIONS
“ENERGY AUDIT LETTER REPORT”**

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

WHEREAS, the California Energy Commission provides loans to school, hospitals, local governments, special districts, and public care institutions to finance energy efficiency improvements, and

WHEREAS, the City Council of the City of Morro Bay, California authorizes the City of Morro Bay to apply for an energy efficiency loan from the California Energy Commission to implement energy efficiency measures, and

WHEREAS, that in compliance with the California Environmental Quality Act (CEQA), the City Council of the City of Morro Bay, California finds that the activity funded by the loan is not a project and exempt from CEQA pursuant to Section 15301 (Existing Facilities), Class I of the CEQA Guidelines because the project consists of the repair, maintenance, and minor alteration of existing public structures, facilities, and mechanical equipment involving negligible or no expansion of the existing use, and

WHEREAS, that if recommended for funding by the California Energy Commission, the City Council of the City of Morro Bay, California authorizes the City of Morro Bay, California to accept a loan up to ninety-five thousand dollars (\$95,000), and

WHEREAS, that the amount of the loan will be paid in full, plus interest, under the terms and conditions of the Loan Agreement, Promissory Note and Tax Certificate of the California Energy Commission, and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Morro Bay, California, that Joe Woods, Recreation and Parks Director, is hereby authorized and empowered to execute in the name of the City of Morro Bay all necessary documents to implement and carry out the purpose of this resolution, and to undertake all actions necessary to undertake and complete the energy efficiency projects.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of February, 2010 on the following vote:

AYES:
NOES:
ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Kessler, City Clerk

SIMPLE PAYBACK FOR ENERGY EFFICIENCY PROJECTS

	Location	Watts In	Watts Out	Wattage Savings	Quantity	Hours per Year	Watt Hours per Year	Kwh per Year	Cost per Kwh	Annual Savings	Project Cost	Simple Payback Years
T8 lamps	City Hall	32	28	4	148	2340	1,385,280.0	1,385.3	0.17	\$235.50	\$703.00	2.99
	Public Services	32	28	4	197	2340	1,843,920.0	1,843.9	0.17	\$313.47	\$935.75	2.99
	Community Center Upstairs	32	28	4	350	2080	2,912,000.0	2,912.0	0.18	\$524.16	\$1,662.50	3.17
	Community Center Downstairs	32	28	4	226	2340	2,115,360.0	2,115.4	0.18	\$380.76	\$1,073.50	2.82
	Police Dept. Dispatch	32	28	4	40	8760	1,401,600.0	1,401.6	0.16	\$224.26	\$190.00	0.85
	Police Dept. Office Spaces	32	28	4	106	3650	1,547,600.0	1,547.6	0.16	\$247.62	\$503.50	2.03
	Harbor	32	28	4	36	2250	324,000.0	324.0	0.18	\$58.32	\$171.00	2.93
	Tidelands	32	28	4	16	3650	233,600.0	233.6	0.17	\$39.71	\$92.00	2.32
	Cloisters	32	28	4	8	3650	116,800.0	116.8	0.19	\$22.19	\$46.00	2.07
										\$2,045.98	\$5,377.25	2.63
Exit signs	Veterans Memorial Bldg.	30	2	28	8	61320	13,735,680.0	13,735.7	0.17	\$2,335.07	\$300.00	
	Public Services	30	2	28	6	61320	10,301,760.0	10,301.8	0.17	\$1,751.30	\$516.00	
										\$4,086.36	\$816.00	0.20
	Community Center	14	2	12	21	61320	15,452,640.0	15,452.6	0.18	\$2,781.48	\$787.50	2.38
										\$6,867.84	\$1,603.50	0.23
Walk way	Veterans Memorial Bldg.	270	13	257	2	3650	1,876,100.0	1,876.1	0.17	\$318.94	\$350.00	1.10
	Veterans Memorial Bldg.	250	13	237	2	3650	1,730,100.0	1,730.1	0.17	\$294.12	\$350.00	1.19
	Walkways	150	13	137	51	3650	25,502,550.0	25,502.6	0.17	\$4,335.43	\$12,980.00	2.99
	Walkways	150	26	124	21	3650	9,504,600.0	9,504.6	0.17	\$1,615.78	\$13,440.00	8.32
	City Hall	120	13	107	6	3650	2,343,300.0	2,343.3	0.17	\$398.36	\$1,050.00	2.64
	Community Center	100	13	87	23	3650	7,303,650.0	7,303.7	0.17	\$1,241.62	\$5,075.00	4.09
	Veterans Memorial Bldg.	85	13	72	7	3650	1,839,600.0	1,839.6	0.17	\$312.73	\$1,715.00	5.48
	Community Center	70	13	57	3	3650	624,150.0	624.2	0.17	\$106.11	\$735.00	6.93
											\$8,623.09	\$35,695.00
Thermostats	Community Center				1	61320		561.6	0.17	\$95.47	\$92.50	0.97
	Public Services				6	61320		2,788.0	0.17	\$473.96	\$555.00	1.17
										\$569.43	\$647.50	1.14
HVAC	Community Center	8.5 SEER	15 SEER	56%	4	825		12,704.0	0.19	\$2,413.76	\$22,245.00	9.22
	City Hall	9 SEER	14 SEER	64%	1	750		11,233.2	0.17	\$1,909.64	\$6,048.00	3.17
	Public Services	9 SEER	14 SEER	64%	6	750		19,880.0	0.17	\$3,379.60	\$34,165.00	10.11
	Police Department	9 SEER	14 SEER	64%	2	1585		15,424.6	0.16	\$2,467.94	\$12,045.00	4.88
										\$10,170.94	\$74,503.00	7.33
Refrigerators	CC				5	61320		31,760.0	0.17	\$5,399.20	\$24,000.00	4.45
	VMB				2	61320		12,100.0	0.17	\$2,057.00	\$9,000.00	4.38
										\$7,456.20	\$33,000.00	4.43
										\$35,733.49	\$150,826.25	4.22

ATTACHMENT F

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE FORM

The California Environmental Quality Act (CEQA) requires state and local agencies (public agencies) to identify the significant environmental impacts of their actions and to avoid or mitigate them, if feasible. For an explanation of the CEQA process, please visit <http://ceres.ca.gov/ceqa/summary.html>. All awards (contracts, grants, and loans) funded by the Energy Commission are considered "projects" under CEQA,¹ and must therefore comply with CEQA in order to receive funding.

The Lead Agency is the public agency that has the greatest responsibility for preparing environmental documents under CEQA, and for carrying out, supervising, or approving a project. Where the award recipient is a public agency, the Lead Agency is typically the public agency. Where the award recipient is a private entity, the Lead Agency is the public agency that has greatest responsibility for supervising or approving the project as a whole.² The Energy Commission, as the funding agency, must develop CEQA findings based on review of the Lead Agency's environmental documents. **This form must be completed by the authorized legal representative of each applicant for Energy Commission funding.**

The Energy Commission may request additional information in order to clarify answers provided on this form.

1. **Has a public agency (other than the Energy Commission) determined that the activity is a "project" under CEQA (i.e., may cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment)?**

Yes (please state the name of the public agency below, and continue to question #2)

City of Morro Bay

No (please explain why the public agency does not consider the activity to be a "project" under CEQA):

¹ A "project" is an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Cal. Pub. Res. Code § 21065.

² 14 Cal. Code of Regs. §§ 15050, 15051. The Lead Agency typically has general governmental powers (such as a city or county), rather than a single or limited purpose (such as an air pollution control district).

Agency has not completed review (please provide an estimated date for completion of review):

Uncertain (please state reason for uncertainty):

2. Has the public agency determined that the project is exempt from CEQA?

For an explanation of CEQA exemptions, please visit:

<http://ceres.ca.gov/ceqa/flowchart/exemptions/index.html>.

Yes (please check the appropriate boxes below and list the relevant California Public Resources Code (PRC) and/or California Code of Regulations (CCR) section number, then continue to question #3):

Statutory exemption
PRC number: _____
CCR number: _____

Categorical exemption
CCR number: 15301 - Existing Facilities, Class 1

Common sense exemption (i.e., no possible significant effect)
CCR number: 14 CCR §15061(b)(3) (please explain why this exemption applies to the project):

No (continue to question #4)

Agency has not completed review (please provide an estimated date for completion of review):

3. Has the public agency filed a Notice of Exemption (NOE) with the County Clerk and/or Governor’s Office of Planning and Research?

For an explanation of the NOE filing process, please visit:

<http://ceres.ca.gov/ceqa/flowchart/noe.html>.

To obtain an NOE form, please visit:

<http://ceres.ca.gov/ceqa/guidelines/appendices.html>.

- Yes** (please submit a copy of the NOE along with this form)
- No** (please provide an estimated filing date below. Alternatively, please submit an authorizing resolution³ that includes a finding of exemption, or an agenda item accompanying the resolution that includes a finding of exemption):

It is anticipated that the Notice of Exemption will be filed on December 15, 2009.

4. Has the public agency completed an Environmental document for the project (i.e., Initial Study, Negative Declaration, Mitigated Negative Declaration, Notice of Preparation, Environmental Impact Report), or does the public agency plan to complete a Environmental document?

- Yes** (please complete the following information, then continue to question #5):

Type of Environmental Review	Title of Environmental Document	State Clearinghouse Number	Completion Date	Planned Completion Date
Initial Study				
Negative Declaration				
Mitigated Negative Declaration				
Notice of Preparation				
Environmental Impact Report				

Please submit a copy of the completed Environmental document(s) to the Energy Commission.

³ See Exhibits 4 and 5 of this solicitation for examples of authorizing resolutions.

- No** (please explain why the public agency has not completed or does not plan to complete an Environmental document):

The project consists of the maintenance and replacment of existing lighting fixtures, lamps, and HVAC equipment to energy efficient fixtures, lamps, and HVAC equipment. The project does not require the completion of an environmental document and is exempt from CEQA pursuant to Section 15301 (Existing Facilities), Class 1 of the CEQA Guidelines because the project consists of the repair, maintenance, and minor alteration of existing public structures, facilities, and mechanical equipment involving negligible or no expansion of the existing use.

5. Has the public agency filed a Notice of Determination (NOD) with the County Clerk and/or Governor’s Office of Planning and Research?

For an explanation of the NOD filing process, please visit:
<http://ceres.ca.gov/ceqa/flowchart/NODloclead.html>.

To obtain a Notice of Determination form, please visit:
<http://ceres.ca.gov/ceqa/guidelines/appendices.html>

- Yes** (please submit a copy of the Notice of Determination along with this form)
- No** (please provide an estimated filing date):

Because the project is categorically exempt from CEQA, pursuant to Section 15301 Existing Facilities, Class 1, an environmental document is not required and the filing of a Notice of Determination will not be required.

Name of Person Completing This Form: Genene Lehotsky

Title: Environmental Coordinator

Signature: 

Phone Number: (805) 772-6278

Email: glehotsky@morro-bay.ca.us

Date: 12/9/09

(ENDORSED)

FILED

JAN 29 2010

JULIE RODEWALD, COUNTY CLERK
By S.K. RAMOS
DEPUTY CLERK

NOTICE OF EXEMPTION

TO: San Luis Obispo Co. Clerk
County Government Center
San Luis Obispo CA 93401

FROM: City of Morro Bay
Public Services Department
590 Morro Bay Blvd.
Morro Bay, CA 03442

Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

Project Title: Energy Efficiency Community Block Grant-Energy Efficiency Improvement Projects

Project Location - Specific: City of Morro Bay facilities and park properties

Project Location - City: MORRO BAY County: SAN LUIS OBISPO

Description of Project: The project consists of the maintenance and replacement of existing lighting fixtures and appliances, lamps, HVAC and refrigeration equipment. The project does not require the completion of an environmental document and is exempt from CEQA pursuant to Section 15301 (Existing Facilities), Class I of the CEQA Guidelines because the project consists of the repair, maintenance, and minor alteration of existing public structures, facilities, and mechanical equipment involving negligible or no expansion of the existing use.

Name of Public Agency Approving the Project: CITY OF MORRO BAY

Name of Person or Agency Carrying Out Project: Mike Wilcox, Maintenance Superintendent, City of Morro Bay

Exempt Status: (Check One)

Reasons why project is exempt: Replacement, repair and maintenance of existing facility and installation of new equipment.

Ministerial (Sec. 21080(b)(1); 15268); Categorical Exemption:
Type and Section Number: 15301, Class I

Declared Emergency (Sec. 21080(b)(3); 15269(a))

Declared Emergency (Sec. 21080(b)(3); 15269(a)) Statutory Exemption Code No. _____

Lead Agency: CITY OF MORRO BAY

Contact Person: Genevieve Lehotsky Telephone: (805) 772-6270

Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Certification:

I hereby certify that the public agency has made the above finding and that the project is categorically exempt from CEQA.

Signature: A. Lehotsky

Title: Associate Planner

Date: 1/29/2010

AGENDA NO: A-5

MEETING DATE: 02/08/10

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING FEBRUARY 2010 AS
“GRAND JURY AWARENESS MONTH”**

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

WHEREAS, the Civil Grand Jury consists of a panel of 19 citizens that serves the citizens of the County of San Luis Obispo for one-year period after selection; and

WHEREAS, the individual Grand Jurors are selected from a list of 30 volunteer applicants who have been screened and qualified by the judges of the Superior Court, with final selection obtained by random drawing; and

WHEREAS, the jurisdiction of the Grand Jury extends to all activities of local government within the geographic limits of San Luis Obispo County, and that its primary function is to provide independent oversight into the efficiency, effectiveness, honesty and impartiality of government; and

WHEREAS, it is believed that public awareness of the Grand Jury’s function and purpose can be furthered by governmental declarations of awareness.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby proclaim February 2010 as “**Grand Jury Awareness Month**” in order to give attention to the Grand Jury’s public reports and to encourage public participation in the Grand Jury process.

IN WITNESS WHEREOF I have
hereunto set my hand and caused the
seal of the City of Morro Bay to be
affixed this 8th day of February 2010

JANICE PETERS, MAYOR
City of Morro Bay, California



AGENDA NO: B-1

MEETING DATE: February 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 2, 2010
FROM: Rob Schultz, City Attorney
SUBJECT: Consideration of an Amendment to Morro Bay Municipal Code Title 5
Adding Chapter 5.50 Establishing Regulations and Procedures Entitled
“Medical Marijuana Collectives”

RECOMMENDATION:

Review the Staff Report and attached draft Regulations and Procedures entitled “Medical Marijuana Collectives”, and direct staff to return with this item for Introduction and First Reading with any changes suggested by Council.

FISCAL IMPACT:

None at this time.

SUMMARY:

In 1996 California voters enacted Proposition 215, the Compassionate Use Act, which protects qualified patients and their primary caregivers from prosecution under California laws for possession or cultivation of marijuana to treat serious illness pursuant to a doctor’s recommendation. Several years later, in 2003, the state legislature enacted implementing legislation to allow qualified patients and caregivers to obtain identification cards that insulate them from arrest for cultivation and/or use of marijuana for authorized medical purposes. Although dispensaries are not expressly authorized under these laws, many individuals have used these laws as the legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use.

BACKGROUND

In June 2005, Staff recommended to the City Council that they enact an interim urgency ordinance imposing a moratorium on medical marijuana dispensaries until Staff had an opportunity to propose regulations. The interim urgency ordinance was not adopted by City Council and Staff was directed to allow medical marijuana dispensaries pursuant to our current municipal code. Pursuant to Council direction, medical marijuana dispensaries were allowed in the City of Morro

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Bay in the C-1 District by obtaining a business license and with a minor use permit in the MCR District under the category of “drugs”.

Based upon Council’s action, in 2006, the City approved a Medical Marijuana Dispensary at 780 Monterey Street. This location was in the General Commercial zoning district. Staff issued a business license since the sale of drugs (in this case medical marijuana) was an allowable use in the General Commercial zoning district.

In 2007, an application was received for the establishment of a Medical Marijuana Dispensary at 2840 Main Street. This location is in the Mixed Commercial/Residential zoning district, so a minor use permit was required. Staff issued a minor use permit since the sale of drugs (in this case medical marijuana) was an allowable use in the Mixed Commercial/Residential zoning district. The minor use permit was appealed to the Planning Commission. While the appeal was pending, the City Council declared a moratorium on medical marijuana dispensaries.

In 2008, after reviewing the current status of federal and state law and the associated risks and possible consequences of establishing an ordinance allowing medical marijuana dispensaries, the City Council instructed the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. Pursuant to Council’s direction, Ordinance No 547 was enacted in 2009. However, Ordinance 547 had a sunset provision and expired in October 2009.

During discussions on Ordinance 547, the City Council expressed interest in considering an ordinance that would establish provisions for locating and regulating medical marijuana dispensaries (MMDs) within the City of Morro Bay. The City’s Attorney’s Office has developed a possible approach to locating and regulating MMDs which entails specifying the zoning districts in which MMDs may be established and developing regulations governing the procedures to be followed in applying for, permitting, revoking and renewing a license required to operate an MMD. Attached please find a Draft Ordinance that would implement this approach.

The Draft Ordinance is based upon the City Attorney Office’s review of both adopted and draft ordinances of several jurisdictions that allow MMDs or are considering allowing MMDs. It represents a comprehensive examination of potential impacts and sets forth detailed requirements for the operators of an MMD. The draft ordinance prepared by the City Attorney’s office has not been reviewed by other Staff, so should the Council wish to continue with the adoption process following this hearing, enough time should be allowed for further staff input.

LEGAL ANALYSIS

State Law

In November 1996, California voters passed the Compassionate Use Act of 1996 (the “Act”), which protects patients, their primary caregivers (defined as an individual designated by the patient who has consistently assumed responsibility for the housing, health, or safety of the patient), and physicians who prescribe marijuana for medical treatment, from criminal prosecution or sanction. While Proposition 215 exempts qualified individuals from certain State marijuana laws, it does not

grant an absolute immunity from arrest. Instead, it provides a limited immunity from prosecution and may provide a basis for a pretrial motion to set aside an indictment or a defense at trial.

In 2004, the CUA was supplemented by Senate Bill 420 (hereinafter “S.B. 420”). S.B. 420 mandates the State of California via the Department of Health Services to create and maintain a voluntary program for the issuance of identification cards for qualified patients. Although mandated to establish the identification program, the Department has not done so. S.B. 420 also requires that “every county health department, or the county’s designee” provide applications for identification cards, process completed applications, maintain records and utilize protocols adopted by the Department of Health Services. As of this date, San Luis Obispo County has not issued identification cards in compliance with S.B. 420. Neither the original 1996 CUA nor the additions contained in S.B. 420 speak to the regulation of medical marijuana dispensaries.

Neither the Act nor S.B. 420 specifically addresses medical marijuana dispensaries; however, the findings made by the legislature when approving S.B. 420 include a statement that the legislation is intended to “enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.” It is asserted by those seeking to operate medical marijuana dispensaries that this language authorizes such facilities.

Federal Law

The Federal Controlled Substances Act (21 USC 801 et seq.) prohibits the possession, cultivation, and dispensing of marijuana, regardless of its purpose. Therefore, there exists a conflict between California and Federal law regarding medical marijuana, and for this reason some cities in California have banned medical marijuana dispensaries, or have adopted moratoria prohibiting medical marijuana dispensaries until the law is settled.

On June 6, 2005, the U.S. Supreme Court addressed the California voter-enacted Compassionate Use Act, holding that Congress (i.e., the federal government) has the power to prohibit the local possession, cultivation and use of marijuana. Thus, notwithstanding the Compassionate Use Act, those using or distributing marijuana for medical reasons could still be prosecuted under federal law. In *Gonzales v. Raich* (2005) 125 S.Ct. 2195, the Federal Court found that the federal prohibition on use of marijuana for medicinal purposes could be enforced even though it was in conflict with the law of the State of California. As such, the Court ruled that the federal prohibition could be applied to prosecute persons growing, dispensing, possessing, and using marijuana wholly within the borders of the State of California and without having carried on a commercial transaction.

The Supreme Court did not go so far, however, as to invalidate California law permitting the medicinal use of marijuana. No appellate court has as yet invalidated the California law. What has resulted is a substantial controversy over the validity of state law permitting medicinal use of marijuana when federal authorities may legally raid medical marijuana dispensaries, shut them down, and prosecute those persons dispensing or using marijuana inside them.

In response to the Supreme Court decision, California Attorney General Bill Lockyer issued a statement that the “ruling does not overturn California law permitting the use of medical marijuana.”

The California Department of Justice issued a bulletin to law enforcement agencies stating that the decision does not pre-empt the Compassionate Use Act and that law enforcement should not change current practices for non-arrest and non-prosecution of individuals who are within the legal scope of the Act.

In August 2008, California Attorney General (AG) Jerry Brown issued guidelines for the operation of California's medical marijuana laws (as he is required to do under those laws). The AG guidelines were an important step towards fully clarifying the legal landscape and towards implementing medical marijuana law in California. They advise patients on how to stay within the confines of state law. They advise law enforcement on how to approach encounters with medical marijuana patients. They advise patients, law enforcement, and local communities on what is allowed and what is not allowed with regards to medical marijuana under California law. Although the AG guidelines are recommendations and are not binding on any court, they do provide powerful direction to state and local law enforcement, judges, and other public officials.

Perhaps most importantly, the AG guidelines provide recommendations for operating medical marijuana dispensaries in accordance with state law. Specifically, the Attorney General states:

“...a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines...are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver—and then offering marijuana in exchange for cash “donations”—are likely unlawful.”

The AG guidelines also contain a provision requiring medical marijuana dispensaries to operate on a not-for-profit basis.

On November 24, 2008, the California Supreme Court, in a unanimous decision, defined the term “primary caregiver” as used in the Compassionate Use Act (CUA) of 1996. In the case of *People v. Mentch*, S148204, the Court held that the CUA “provides partial immunity for the possession and cultivation of marijuana to two groups of people: qualified medical marijuana patients and their primary caregivers. The Supreme Court in *Mentch* held that “the statutory definition has two parts: (1) a primary caregiver must have been designated as such by the medical marijuana patient; and (2) he or she must be a person ‘who has consistently assumed responsibility for the housing, health, or safety’ of the patient.” The Court concluded “a defendant asserting primary caregiver status must prove at a minimum that he or she (1) consistently provided care giving, (2) independent of any assistance in taking medical marijuana, (3) at or before the time he or she assumed responsibility for assisting with medical marijuana.”

The Supreme Court in *Mentch* discussed the purpose of the CUA as one to help those who were seriously ill and who could benefit from the use of marijuana for medical purposes. It pointed out that the CUA's “focus is on the seriously and terminally ill, [and] logically the Act must offer

some alternative for those unable to act in their own behalf; accordingly, the Act allows ‘primary caregivers’ the same authority to act on behalf of those too ill or bedridden to do so. To exercise that authority, however, one must be a ‘primary’—principal, lead, central—‘caregiver’—one responsible for rendering assistance in the provision of daily life necessities—for a qualifying seriously or terminally ill patient.”

After eight years of police raids on marijuana dispensaries under the preceding administration, federal law enforcement, through Attorney General Eric Holder, has changed the course of federal marijuana enforcement policy by declaring federal authorities will no longer be raiding state licensed medical marijuana dispensaries and clinics that are in compliance with their own state laws and regulations concerning the medical use and safe access to marijuana. Under current federal law however, the use, sale or possession of marijuana, whether medically prescribed or not, is still unlawful and carries significant criminal penalties.

SUMMARY OF DRAFT REGULATIONS

The draft Medical Cannabis Dispensaries ordinance proposes to add Chapter 5.50 to Title 5 (Business Licenses and Regulations) establishing licensing provisions for facilities to dispense medical cannabis, consistent with the intent of Health and Safety Code Section 11362, et. seq. The Ordinance establishes the following main provisions:

1. Dispensary Permit Required.
 - Requires a permit to operate a facility.
 - Establishes an annual permit renewal and fee.
2. Limitations on Dispensaries. Limits the number, size, and location of dispensaries.
3. Operating requirements. Establishes the following operating requirements:
 - Prohibits operators with a criminal history.
 - Prohibits/controls access by non-patients and minors.
 - Limits days and hours of operation.
 - Controls size, supply, storage and general operations.
 - Establishes floor plan, security, and storage requirements.
 - Requires patients to have physician’s recommendation before visiting site.
 - Prohibits on-site prescribing of medical cannabis.
 - Prohibits on-site and open public consumption.
 - Requires operators to advise patients of rules and etiquette.
 - Prohibits all retail sales.
 - Requires active management of site activities, litter and graffiti control.
 - Requires staff training.
 - Establishes signage and noticing requirements.
 - Requires emergency contact information, record keeping.
4. Application Requirements. Establishes application eligibility and submittal requirements, including:

- Background information on applicant and employees.
 - Preparation of a security plan.
 - Preparation of a dispensary plan of operations, identifying how the use would comply with codes.
 - Submittal of site, floor and lighting plans that demonstrate adequate site visibility, ability to provide site security and compliance with standards for entry, storage and dispensing.
5. Criteria for Review. Establishes criteria for approval or denial of permits, including consideration of:
- Crime statistics in area.
 - The location and design of the facility.
 - The dispensary's plan of operations.
 - Any nuisance issues.
 - Any felony conviction of applicants.
 - Age limit—minors are not allowed to operate or work at site.

Additionally, the ordinance establishes the authority to revoke the permit or not renew the permit if issues result. Fees are also required to cover costs of administration and enforcement.

CONCLUSION:

Cities in California definitely find themselves at the center of the discussion regarding the compassionate use of marijuana. Staff has reviewed and analyzed several ordinances and reports and can attest to a strong public interest in its use to combat the symptoms of various debilitating illnesses. However, allowing a medical marijuana dispensary is not without concerns, as described in this report.

The City Attorney's Office has attempted to draft an ordinance which suits the scale of Morro Bay by providing the possibility of a single medical marijuana dispensary under specific circumstances. The use of the license process will allow greater control by the City should the dispensary be found to be a nuisance.

Based upon the broad information gathered, the City Attorney's Office has attempted to prepare a draft ordinance that blends many of the interests and options. The draft Ordinance contains many policy decisions that the City Council will want to consider.

ORDINANCE NO. 554

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MORRO BAY
AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 5.50
ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED
“MEDICAL MARIJUANA COLLECTIVES”**

The Council of the City of Morro Bay does ordain as follows:

SECTION ONE. Chapter 5.50 of Title 5 of the Morro Bay Municipal Code, entitled “Medical Marijuana Collectives,” is added to read as follows:

Chapter 5.50

MEDICAL MARIJUANA COLLECTIVES

Sections:

- 5.50.010 Purpose and intent.**
- 5.50.020 Definitions.**
- 5.50.030 Collective permit required to operate.**
- 5.50.040 Business license tax liability.**
- 5.50.050 Imposition of Collective use permit fees.**
- 5.50.060 Limitations on the permitted location of a Collective.**
- 5.50.070 Operating requirements for Collectives.**
- 5.50.080 Collective permit application—Preparation and filing.**
- 5.50.090 Criteria for review of Collective applications**
- 5.50.100 Appeal.**
- 5.50.110 Suspension and revocation by Planning Commission.**
- 5.50.120 Transfer of Collective permits.**

5.50.010 Purpose and intent.

It is the purpose and intent of this Chapter to regulate medical marijuana Collectives in order to ensure the health, safety and welfare of the residents of the City of Morro Bay. The regulations in this Chapter, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the California Health and Safety Code (collectively referred to as “State Law”) do not interfere with a patient’s right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may cultivate medical marijuana collectively. Medical marijuana Collectives shall comply with all provisions of the Morro Bay Municipal Code (“Code”), State Law, and all other applicable local and state laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law.

5.50.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the following meanings:

A. “Applicant”. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a Collective.

B. “Drug Paraphernalia”. As defined in California Health and Safety Code Section 11014.5, and as may be amended from time to time.

C. “Identification Card”. As defined in California Health and Safety Code Section 11362.71, and as may be amended from time to time.

D. “Medical Marijuana Collective”. Any association, cooperative, affiliation, or collective of persons where multiple qualified patients or primary caregivers are organized to provide education, referral, or network services, and facilitation or assistance in the lawful distribution of medical cannabis. “Collective” shall include any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by an “attending physician” [as that term is defined in Health & Safety Code Section 11362.7(a)] and where medical cannabis is made available to or distributed by or to a primary caregiver or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq.

E. “Permittee”. The person to whom either a Collective permit is issued by the City and who is identified as a primary caregiver in California Health and Safety Code Section 11362.7, subdivision (d) or (e).

F. “Person”. An individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

G. “Person with an Identification Card”. As set forth in California Health and Safety Code Section 11362.5 et seq., and as amended from time to time.

H. “Physician”. A licensed medical doctor including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

I. “Primary Caregiver”. As defined in subdivision (d) of California Health and Safety Code Section 11362.7, and as it may be amended from time to time.

J. “Qualified Patient”. As defined in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time.

K. “School”. An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle, or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

5.50.030 Collective permit required to operate.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a Collective unless the person first obtains and continues to maintain in full force and effect a Collective Use Permit issued by the City.

5.50.040 Business license tax liability.

An operator of a Collective shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04 as a prerequisite to obtaining a permit pursuant to the terms of this Chapter, as required by the State Board of Equalization. Collective sales shall be subject to sales tax, which applies to all retail sales of goods and merchandise.

5.50.050 Imposition of Collective use permit fees.

Every application for a Collective use permit or renewal shall be accompanied by an application fee, in an amount established by resolution of the City Council from time to time at an amount calculated to recover the City's full cost of reviewing and issuing the Collective Use Permit pursuant to this Chapter.

5.50.060 Limitations on the permitted location of a Collective.

A. Permissible zoning for Collectives. A Collective is designated as a retail sales "drugs" business establishment pursuant to Title 17 of the Municipal Code, and may be located only within the C-1 or MCR zoned areas of the City.

B. Storefront locations. A Collective shall be located only in a visible store-front type location which provides good public views of the Collective entrance, its windows, and the entrance to the Collective premises from a public street.

C. Areas and zones where Collectives not permitted. Notwithstanding subparagraph (A) above, a Collective shall not be allowed or permitted in the following locations or zones:

1. On a parcel located within 500 feet of a school, public park, religious institution, licensed child care facility, youth center, or substance abuse rehabilitation center;
2. On a parcel located within 500 feet of any existing residential zoning district;
3. On a parcel located within 500 feet of any other medical marijuana Collective.

D. Maximum number of Collective permits. Notwithstanding the above, the City may not issue a total of more than three (3) Collective permits at any one time and no more than three (3) permitted Collectives may legally operate within the City at any one time.

5.50.070 Operating requirements for Collectives.

Collective operations shall be permitted and maintained only in compliance with the following day-to-day operational standards:

A. Criminal history. A Collective permit applicant, his or her agents or employees, volunteer workers, or any person exercising managerial authority over a Collective on behalf of the Collective applicant shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance.

B. Minors. It is unlawful for any Collective Permittee, operator, or other person in charge of any Collective to employ any person who is not at least 18 years of age. Persons under the age of 18 shall not be allowed on the premises of a Collective unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian. The entrance to a Collective shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

C. Collective size and access. The following Collective and access restrictions shall apply to all Collectives permitted by this Chapter:

1. A Collective shall not be enlarged in size (i.e. increased floor area) without a prior approval from the City amending the existing Collective permit pursuant to the requirements of this Chapter.

2. The entrance area of the Collective building shall be strictly controlled; a viewer or video camera shall be installed in the door that allows maximum angle of view of the exterior entrance.

3. Collective personnel shall be responsible for monitoring the real property of the Collective site (including the adjacent public sidewalk and rights-of-way) of the block within which the Collective is operating for the purposes of controlling loitering.

4. Only Collective staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted within a Collective.

5. Qualified patients or primary caregivers shall not visit a Collective without first having obtained a valid written recommendation from their physician recommending use of medical cannabis.

6. Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area along with Collective personnel.

7. Restrooms shall remain locked and under the control of Collective management at all times.

D. Dispensing operations. The following restrictions shall apply to all dispensing operations by a Collective:

1. A Collective shall dispense only to qualified patients or a primary caregiver with a currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et.seq. Collectives shall require such persons to provide valid official government-issued identification, such as a Department of Motor Vehicles driver's license or State Identification Card.

2. Prior to dispensing medical cannabis, the Collective shall obtain verification from the recommending physician's office personnel that the individual requesting medical cannabis is or remains a qualified patient pursuant to state Health & Safety Code Section 11362.5.

3. A Collective shall not have a physician on-site to evaluate patients and provide a recommendation or prescription for the use of medical cannabis.

4. A Collective shall not dispense medical marijuana to an individual qualified patient or primary caregiver more than twice a day.

E. Consumption restrictions. The following medical marijuana consumption restrictions shall apply to all permitted Collectives:

1. Cannabis shall not be consumed by patients on the premises of the Collective. The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Collective's entrance. Collective employees who are qualified patients may consume cannabis within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

2. Collective operations shall not result in illegal redistribution or sale of medical cannabis obtained from the Collective, or use or distribution in any manner which violates state law.

F. Retail sales of other items by a collective. The retail sales of Collective-related or marijuana use items may be allowed under the following circumstances:

1. With the approval of the City, a Collective may conduct or engage in the commercial sale of specific products, goods, or services in addition to the provision of medical cannabis on terms and conditions consistent with this chapter and applicable law.

2. No Collective shall sell or display any drug paraphernalia or any implement that may be used to administer medical cannabis.

3. A Collective shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.5 et seq.

G. Operations Plan. In connection with a permit application under this Chapter, the applicant shall provide, as part of the permit application, a detailed Operations Plan and, upon issuance of the Collective permit, shall operate the Collective in accordance with the Operations Plan as such plan is approved by the City. The Operations Plan shall include:

1. Floor plan. A Collective shall have a lobby waiting area at the entrance to the Collective to receive clients, and a separate and secure designated area for dispensing medical cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage. A Collective shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical cannabis.

3. Security plans. A Collective shall provide adequate security on the premises, in accordance with a security plan, including provisions for adequate lighting and alarms, in order to insure the safety of persons and to protect the premises from theft.

4. Security cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage and to report loitering, crime, illegal or nuisance activities. Security video shall be maintained for a period of not less than 72 hours.

5. Alarm system. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the Collective at all times.

6. Emergency contact. A Collective shall provide the Chief of Police with the name, cell phone number, and facsimile number of an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Collective.

7. Operating hours. The hours of operation for an approved medical marijuana cooperative or Collective shall be limited to between 8:00 a.m. to 8:00 p.m. or as specified within the Use Permit.

H. Collective signage and notices. A notice shall be clearly and legibly posted in the Collective indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the Collective is prohibited. Signs on the premises shall not obstruct the entrance or windows. No interior illumination of any exterior signs or any interior signs shall be visible from the exterior.

I. Employee records. Each owner or operator of a Collective shall maintain a current register of the names of all volunteers and employees currently working at or employed by the Collective on-site at the Collective at all times, and shall disclose such registration for inspection by any City officer or official but only for the purposes of determining compliance with the requirements of this Chapter.

J. Patient records. A Collective shall maintain confidential health care records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., (as a

protection of the confidentiality of the cardholders) or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical cannabis under state Health & Safety Code Section 11362.5. Such records shall be maintained on-site at the Collective at all times.

K. Staff training. Collective staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law and this Chapter.

L. Site management. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject Collective. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours. The operator shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

M. Compliance with other requirements. The Collective operator shall comply with all provisions of all local, state or federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

N. Display of permit. Every Collective shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter for such Collective in a conspicuous place so that the same may be readily seen by all persons entering the Collective.

O. Alcoholic beverages. No Collective shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

P. Non profit status. No Collective shall operate for a profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the collective's actual expenses of the growth, cultivation and provisions of medical marijuana shall be allowed provided that they are in strict compliance with State law.

5.50.080 Collective permit application—Preparation and filing.

A. Application filing. A complete Cannabis Use Permit application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the Public Services Department, using forms provided by the City, and accompanied by the applicable filing fee. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

B. Eligibility for filing. Applications may be filed only by the owner of the subject property or by a person with a lease signed by the owner or duly authorized agent of the owner expressly allowing them the right to occupy the property for the intended Collective use.

C. Filing date. The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

D. Effect of incomplete filing. Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to

complete the application within 30 days. If the application remains incomplete in excess of 30 days the application shall be deemed withdrawn and a new application submittal shall be required in order to proceed with the subject request.

E. Effect of other permits or licenses. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Collective permit.

5.50.090 Criteria for review of Collective applications

A. Decision on application. Upon an application for a Collective permit being deemed complete, the application shall be processed as a minor use permit or conditional use permit depending upon the zoning and Title 17.

B. Criteria for issuance. In addition to any and all requirements pursuant to Title 17, the Public Service Director or the Planning Commission shall consider the following criteria in determining whether to grant or deny a Collective permit:

1. That the Collective permit is consistent with the intent of the state Health & Safety Code for providing medical marijuana to qualified patients and primary caregivers and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein;

2. That the proposed location of the Collective is not identified by the City Chief of Police as an area of increased or high crime activity (e.g., based upon crime reporting districts/statistics as maintained by the Police Department);

3. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner;

4. That issuance of a Collective permit for the Collective size requested is appropriate and justified to meet the needs of the community for access to medical marijuana;

5. That issuance of the Collective permit would serve the needs of City residents within a proximity to this location;

6. That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule, or regulation and no significant nuisance issues or problems are likely or anticipated to result and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished;

7. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior;

8. That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference of the operation of another business;

9. That the Collective is likely to have no potentially adverse affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific

neighborhood, or contribute to a public nuisance; or that the Collective will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests;

10. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws will not be violated;

11. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;

12. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

5.50.100 Appeal.

An applicant or any interested party who disagrees with the Public Services Director or Planning Commission decision to issue, issue with conditions, or to deny a Collective permit may appeal such decision by filing an appeal pursuant to the requirements of the Municipal Code.

5.50.110 Suspension and revocation by Planning Commission.

A. Authority to suspend or revoke a Collective permit. Any Collective permit issued under the terms of this Chapter may be suspended or revoked by the City Council when it shall appear to the Council that the Permittee has violated any of the requirements of this chapter or the Collective is operated in a manner that violates the provisions of this chapter, including the operational requirements of this Chapter, or in a manner which conflicts with state law.

B. Annual review of Collective operations. The staff of the Public Services Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted Collective within the City for full compliance with the operational requirements of this Chapter, including specifically a verification that all persons employed or volunteering at the Collective have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. The staff may initiate a permit suspension or revocation process for any Collective which is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

C. Suspension or revocation—Written notice. Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least ten (10) days prior to the date set for such review hearing and the reasons for the proposed suspension or revocation have been provided to the Permittee in writing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the Permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid, (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a Collective permit.

5.50.120 Transfer of Collective permits.

A. Permit—Site specific. A Permittee shall not operate a Collective under the authority of a Collective permit at any place other than the address of the Collective stated in the application for the permit. All Collective permits issued by the City pursuant to this chapter shall be non-transferable.

B. Transfer of a permitted collective. A Permittee shall not transfer ownership or control of a Collective or attempt to transfer a Collective permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this chapter stating that the transferee is now the Permittee. Such an amendment may be obtained only if the transferee files an application with the Public Services Department in accordance with all provisions of this chapter accompanied by the required application fee.

C. Request for Transfer with a Revocation or Suspension Pending.

No Collective permit may be transferred (and no permission for a transfer may be issued) when the Public Services Department has notified in writing the Permittee that the permit has been or may be suspended or revoked and a notice of such suspension or revocation has been provided.

D. Transfer without Permission. Any attempt to transfer a permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked.

SECTION TWO. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its passage and, before the expiration of fifteen (15) days after its passage, shall be published once in a newspaper of general circulation printed and published in the City of Morro Bay, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance. Any publication of the Ordinance or summary or posting of the Ordinance shall include the names of the members of the City Council voting for and against the same.

INTRODUCED at the regular meeting of the City Council of the City of Morro Bay held on the 8th day of February, 2010, by motion of _____ and seconded by _____.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, on the ____ day of _____, 2010 by the following vote to wit:

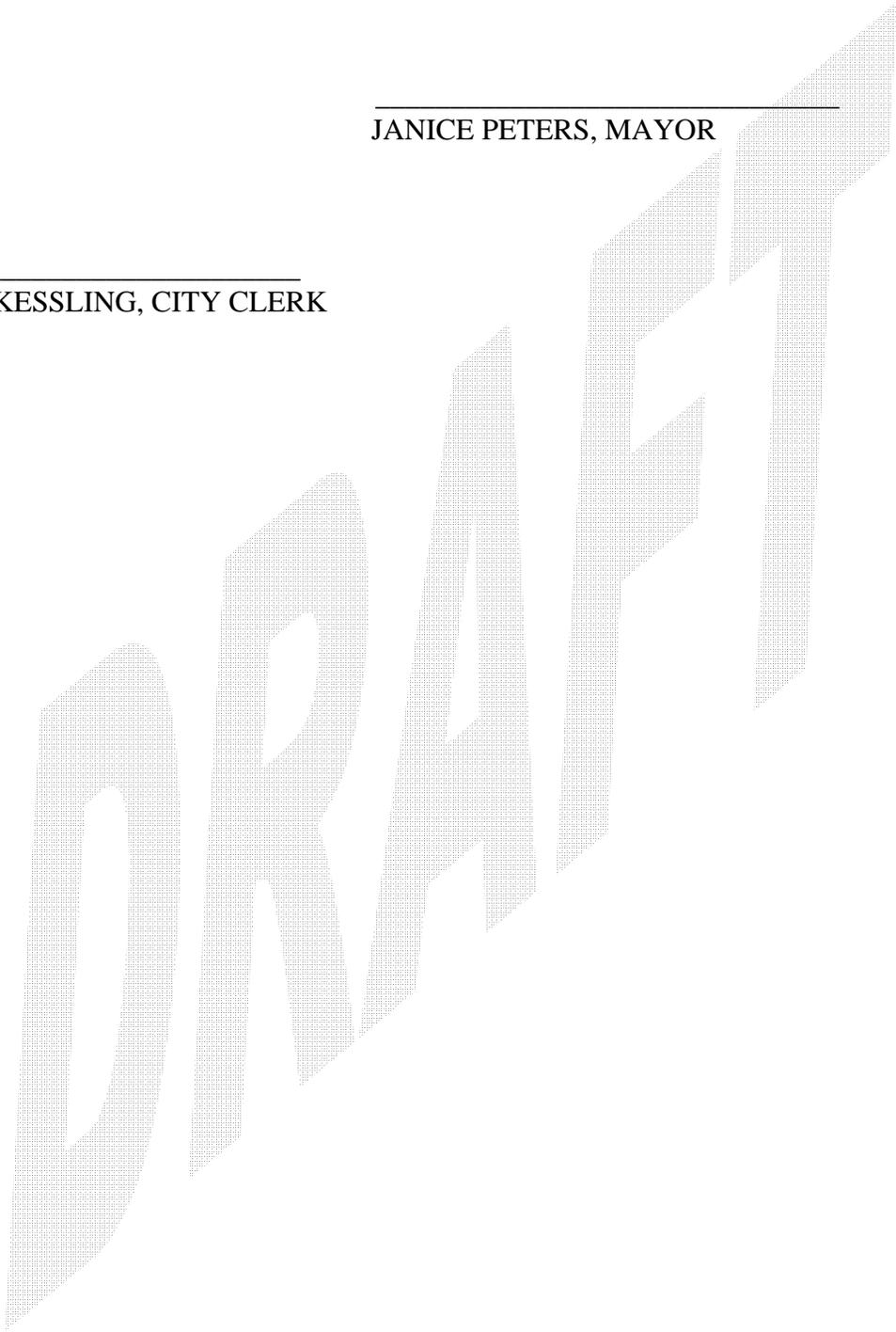
|

AYES:
NOES:
ABSENT:
ABSTAIN:

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT KESSLING, CITY CLERK





AGENDA NO: C-1

MEETING DATE: 2/8/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 30, 2010
FROM: Susan Slayton, Administrative Services Director/City Treasurer
SUBJECT: Approval of the 2010/11 Budget Calendar

RECOMMENDATION:

Staff recommends that the City Council discuss and set a date for the Goals/Council Budget Workshop, and review the remaining schedule of events leading to adoption of the 2010/11 annual budget.

SUMMARY:

The following budget calendar is presented in reference to the preparation of the 2010/11 budget:

February 8	Proposed budget calendar to City Council for consideration
TBD	Goals/Council Budget Workshop
TBD	Finance distributes budget worksheets to all departments
March 28	Estimates due to Finance from all departments
April 12 - 30	Review preliminary budget with City Manager & Department Heads
May 19	First Public Budget Workshop
June 2	Second Public Budget Workshop, if needed
June 28	City Council adopts FY 2009/10 operating budget

Council needs to discuss and set a date and time for the Goals/Council Budget Workshop. The remainder of the schedule may change based on the outcome of that meeting.

<p>Prepared By: _____ Dept Review: _____</p> <p>City Manager Review: _____</p> <p>City Attorney Review: _____</p>
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AGENDA NO.: D-1

Meeting Date: 02/08/10

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



AGENDA NO: D-2

MEETING DATE: 02/08/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 28, 2010
FROM: Susan Slayton, Administrative Services Director/City Treasurer
SUBJECT: Consideration of Recommendations from the Citizens Oversight Committee

RECOMMENDATION:

Council to provide direction to staff regarding the Committee's recommendations.

FISCAL IMPACT:

Unknown

SUMMARY:

The fiscal year 2008/09 recommendations from the Citizens Oversight Committee are attached with this report. Staff is requesting that Council consider the recommendations, and direct staff to make adjustments if warranted.

DISCUSSION:

On December 9, 2009, the Citizens Oversight Committee reviewed the fiscal year 2008/09 transactions that occurred in the District Transaction Tax Fund (Measure Q). The Committee has provided the attached documents for Council's consideration: A – Appropriate and Inappropriate Use of Measure Q Funds (guidance); B – Fiscal Year 2008/09 Review (recommendations); C – Detail Balance Sheet (information); and D – Detail Income Statement (information). This staff report will discuss Attachment A and Attachment B comments/recommendations.

ATTACHMENT A

Salaries paid with Measure Q funds

The Committee believes that District Transaction Tax funds should be used for staffing based on the following criteria: 1) Funds should only be used for entry level Public Safety employees (i.e., sworn police officers and firefighters); 2) Funds should only be used to increase public safety staff levels above those authorized in the 2006/07 General Fund budget; and 3) District Transaction Tax funds will not follow the employee, if he/she is promoted.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Staff wishes to make a clarification to Criterion 3 as it relates to Fire personnel. All Firefighters are mandated through their Memorandum of Understanding (MOU) to test and promote to Engineer at the end of their probationary period. This type of “promotion” would still leave the Engineer as the lowest “rung in the Fire personnel ladder;” therefore, qualifying them for continued Measure Q funding.

ATTACHMENT B

Street Department

Staff wishes to provide information related to the Committee’s comment made under the Street Department, Recommendations: “the budget for contractual services in the General Fund’s Street Department has been declining.”

The budget of \$81,500 had been maintained from 2005/06 to 2007/08. In 2008/09, it changed with the separation of Streets Maintenance, Street Trees, and Storm Drains/Creek Clearing into separate divisions. The Street Maintenance budget of \$81,500 was divided up between Streets (\$65,100), Street Trees (\$16,275), and Storm Drains/Creek Clearing (\$27,125). Please note that this adds up to a total of \$108,500, **an increase \$27,000 between the three divisions.**

Storm Drains

The Public Services Department purchased a file cabinet for document storage, and charged Measure Q for a portion of that file cabinet. The Committee feels that an office supply is not a justifiable use of Measure Q funds. **COMMITTEE RECOMMENDATION: Transfer \$2,533 back to the General Fund.**

On February 9, 2009 the City Council approved, with a 5-0 vote, a \$25,000 expenditure for the Storm Water Management Plan, a mandatory requirement. The Committee feels that a mandate should be paid for with General Fund money, and is not a justifiable use of Measure Q funds. **COMMITTEE RECOMMENDATION: Transfer the encumbrance back to the General Fund.**

Staff disagrees with these two recommendations. When Council adopted the 2008/09 budget, no restrictions were placed on the use of Measure Q funds for Streets or Storm Drains. The file cabinet is shared with the Water Fund, and is being used to store Storm Drain documents, such as the Storm Water Management Plan.

Regarding the appropriation of funds for the Storm Water Management Plan, Council voted unanimously to allow the use of Measure Q funds for this expenditure. Again, Council placed no restrictions on the use of Measure Q funds for Streets or Storm Drains in the 2008/09 fiscal year.

Staff requests that Council provide direction related to staffing and Storm Drain expenditure recommendations.