

# City of Morro Bay

## City Council Agenda

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### *Mission Statement*

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

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**REGULAR MEETING – JULY 12, 2010**

**CLOSED SESSION – JULY 12, 2010  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

**CS-1 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.**

Discussions regarding Personnel Issues including one (1) public employee regarding evaluation, specifically the City Attorney.

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

**PUBLIC SESSION – JULY 12, 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 JUNE 28, 2010; (ADMINISTRATION)

**RECOMMENDATION: This item has been pulled from the agenda.**

A-2 RESOLUTION CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010; AND REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION; (ADMINISTRATION)

**RECOMMENDATION: Adopt Resolution No. 41-10.**

A-3 APPROVAL OF THE AMENDMENTS TO THE BYLAWS FOR THE COMMUNITY PROMOTIONS COMMITTEE; (ADMINISTRATION)

**RECOMMENDATION: Approve the Community Promotions Committee Bylaws as amended.**

A-4 APPROVAL OF THE VISITORS CENTER CONTRACT FOR FISCAL YEAR 2010/11; (ADMINISTRATION)

**RECOMMENDATION: Approve the Visitors Center Contract for Fiscal Year 2010/11.**

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

B-1 ADOPTION OF RESOLUTION NO. 40-10 DECLARING THE CITY'S INTENTION TO INCREASE THE ASSESSMENT FROM 2% TO 3% WITHIN THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT, AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEROF; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution No. 40-10.**

B-2 DISCUSSION REGARDING MAKING CITY ADVISORY BOARDS MORE INVOLVED AND EFFECTIVE; (ADMINISTRATION)

**RECOMMENDATION: Discuss and determine ways to create more interaction between advisory boards and the City Council.**

**C. UNFINISHED BUSINESS – NONE.**

**D. NEW BUSINESS**

D-1 RECOMMENDATION ON AMENDING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT BYLAWS IN RELATION TO MEMBER DESIGNATION; (ADMINISTRATION)

**RECOMMENDATION: Review the Morro Bay Tourism Business Improvement District Advisory Board Member designations and direct staff accordingly.**

D-2 REQUEST UTILIZATION OF PARK-IN-LIEU FUNDS FOR THE PREPARATION OF AN INITIAL STUDY – MITIGATED NEGATIVE DECLARATION AND COMPLETION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT DOCUMENT FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

**RECOMMENDATION:** Approve the request to utilize Park-in-Lieu funds for the preparation of the Initial Study-Mitigated Negative Declaration and completion of the California Environmental Quality Act requirements for the Teen Center Master Plan.

D-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING LEAF BLOWERS; (ADMINISTRATION)

**RECOMMENDATION:** Authorize staff to send a letter to the Presiding Judge of the San Luis Obispo County Superior Court responding to the Grand Jury report entitled “Leaf Blower Hazards in San Luis Obispo County.”

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: 07/12/10**

**THIS ITEM HAS**

**BEEN PULLED FROM**

**THE AGENDA**

**RESOLUTION NO. 41-10**

**RESOLUTION OF THE CITY COUNCIL OF THE  
 CITY OF MORRO BAY, CALIFORNIA  
 CALLING A GENERAL MUNICIPAL ELECTION  
 TO BE HELD ON TUESDAY, NOVEMBER 2, 2010;  
 AND REQUESTING THE BOARD OF SUPERVISORS  
 OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID  
 ELECTION WITH THE STATEWIDE GENERAL ELECTION  
 TO BE HELD IN SAN LUIS OBISPO COUNTY  
 ON TUESDAY, NOVEMBER 2, 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 General Municipal Election to be held on Tuesday, November 2, 2010 for the purpose of the election of one (1) Mayor of the City Council of said City for the full term of two (2) years, and for the election of two (2) members of the City Council of said City for the full term of four (4) years; and

**WHEREAS**, it is desirable that the General Municipal Election be consolidated with the Statewide General 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 General 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 General Municipal Election with the Statewide General Election on Tuesday, November 2, 2010, for the purpose of the election of one (1) Mayor, and two (2) Members of the City Council.

**SECTION 2.** That a measure is to appear on the ballot as follows:

Shall an ordinance be adopted to prohibit Medical Marijuana Dispensaries in the City of Morro Bay?	<b>YES</b>	
	<b>NO</b>	

**SECTION 3.** That the County Election Department is authorized to canvass the returns of the General 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 4.** 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 5.** 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 6.** 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 7.** 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 12<sup>th</sup> day of July 2010 on the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

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JANICE PETERS, Mayor

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BRIDGETT KESSLING, City Clerk



AGENDA NO: A-3

MEETING DATE: July 12, 2010

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** July 6, 2010  
**FROM:** Andrea K. Lueker, City Manager  
**SUBJECT:** Approval of the Amendments to the Bylaws for the Community Promotions Committee

### RECOMMENDATION

Staff recommends the City Council review the amended bylaws and motion for approval.

**MOTION:** I move the City Council approve the Community Promotions Committee Bylaws as amended and attached.

### FISCAL IMPACT

Not applicable at this time.

### DISCUSSION

The Community Promotions Committee recommended amendment of their bylaws to the City Council at the April 26, 2010 meeting. The City Council requested the Community Promotions Committee reword a section of the bylaws for clarity and return for final approval at a future City Council meeting. The Community Promotions Committee had a special meeting on July 6, 2010 and provides the attached revision for approval.

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

## EXHIBIT "A"

# CITY OF MORRO BAY COMMUNITY PROMOTIONS COMMITTEE BY-LAWS

### PURPOSE AND AUTHORITY

~~The Community Promotions Committee (CPC) was created in the belief that tourism is essential to the economic health and quality of life of this community. The purpose of the CPC is to be a proactive, diverse committee that will build a partnership between the city and the community; thus, maintaining the highest quality of life for the residents of the City of Morro Bay. The purpose of the CPC is to carry on a continuing and sustainable program of advertising and promotional activities designed to make known the advantages to the City of Morro Bay of tourism, recreation, business and community events. The purpose of the CPC shall be to provide input and recommendations to the Morro Bay City Council on policies and expenditure programs to advertise and promote Morro Bay and its special events as a tourist destination point in geographic and demographic areas both inside and outside the boundaries of San Luis Obispo County.~~

New language approved by the CPC on 7/6/2010:

The Community Promotions Committee (CPC) was created in the belief that tourism is essential to the economic health and quality of life of this community. The purpose of the CPC shall be to provide input and recommendations to the Morro Bay City Council on policies and expenditure programs to advertise and promote Morro Bay and its special events as a tourist destination point in areas both inside and outside the boundaries of San Luis Obispo County. In addition, the CPC shall carry on a continuing and sustainable program designed to make known the advantages of tourism, recreation, business and community events to the people of Morro Bay, which helps to maintain the highest quality of life for the residents.

In addition, the CPC will be responsible for developing cooperative marketing opportunities with existing and new local businesses. This shall be accomplished through targeted promotions of special events and consistent branding of the City of Morro Bay. The CPC shall work with the MBTBID in a way that is mutually supportive of each/both committees' goals for marketing, advertising and budgeting to bring more visitors and tourism to the City, which in turn, provides valuable TOT and sales tax revenues to the City of Morro Bay.

The CPC shall develop a specific set of goals and budgetary requests prior to the beginning of each fiscal year and present those goals and requests to the City Council prior to the adoption of the annual budget. The CPC shall also make any additional reports and recommendations to the various city boards, commissions or the City Council as requested by the City Council.

## **APPOINTMENT**

The Community Promotions Committee shall be comprised of seven (7) voting members, four of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Committee members shall serve at the pleasure of the City Council. The City Council will attempt to select members from the following categories:

- Morro Bay Chamber of Commerce
- Morro Bay Merchants Association
- Morro Bay Motel or Restaurant Representative
- Embarcadero Business Representative
- Special Events Representative
- Two Members at Large

## **TERMS OF OFFICE**

Members shall serve, without compensation, for a period of four (4) years commencing February 1<sup>st</sup>. in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

## **QUALIFICATIONS**

Four of the 7 members of the Community Promotions Committee must be residents and registered voters of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and, may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

Annually, each committee member will be required to familiarize himself or herself with the operation of the Visitor Center by volunteering and/or participating in business forums, chamber meetings, or merchant's association meetings.

## **ABSENCE FROM MEETINGS**

Absence of a Board Member from three (3) consecutive meetings or four (4) meetings in any consecutive 12-month period will constitute the voluntary resignation of the absent member and the position will be declared vacant.

## **ORGANIZATION**

At the first regular meeting in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Committee.

## **PROCEDURE**

Regular meetings shall be held monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance with Government Code Sections 54970-54975. The Chair may close meetings to public comments, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

All advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Committee shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Advisory Group, its members and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

## **QUORUM**

A majority of voting members shall constitute a quorum.

## **CITY STAFF**

The City Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Committee business and shall attend the Committee meetings.

## **BY-LAW AMENDMENTS**

All amendments to the By-Laws shall be approved by the City Council.



**AGENDA NO: A-4**

**MEETING DATE: July 12, 2010**

## Staff Report

**TO: Honorable Mayor and City Council      DATE: July 6, 2010**

**FROM: Andrea K. Lueker, City Manager**

**SUBJECT: Approval of the Visitors Center Contract for Fiscal Year 2010/11**

### **RECOMMENDATION**

Staff recommends the City Council review the annual contract with the amendments suggested at the June 28<sup>th</sup> City Council meeting and approve renewal of the contract for Fiscal Year 2010/11.

**MOTION: I move the City Council approve the Visitors Center Contract for Fiscal Year 2010/11.**

### **FISCAL IMPACT**

Not applicable at this time.

### **BACKGROUND**

The City Council suggested some amendments to the Visitors Center agreement at their June 28, 2010 meeting. Staff met with the Chamber of Commerce Executive, discussed the amendments and provides the attached agreement.

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

**MORRO BAY VISITOR CENTER  
AGREEMENT**

**FY 2011/2012**

THIS AGREEMENT is made and entered into this 13th day\_\_\_\_\_ of May,\_\_\_\_  
20092010, by and between the CITY OF MORRO BAY, a municipal corporation,  
hereinafter referred to as "CITY," and MORRO BAY CHAMBER OF COMMERCE, a  
non-profit corporation, hereinafter referred to as "CHAMBER."

**RECITALS**

WHEREAS, CITY recognizes that the need for continued development of the  
economic base of the community is important, and therefore, wishes to provide for a  
coordinated effort to encourage, promote, and foster the economic development of the  
community, and promote its advantages as a tourist and recreational center, and

WHEREAS, arranging, obtaining and distributing favorable coverage about the  
community, to be read by potential visitors to CITY, is an integral part of its promotion  
as a tourist and recreation center, and

WHEREAS, the parties agree that these goals can best be accomplished through the  
operation of a Visitor Center by CHAMBER, under the terms and conditions outlined  
hereinafter, making use of funds provided, pursuant to this contract, by CITY for  
operations beyond those historically maintained by CHAMBER.

**COVENANTS**

NOW, THEREFORE, in consideration of the covenants and conditions stated herein,  
and in consideration of the mutual benefits that will accrue to each of the parties hereto,  
as well as to the public good of all the citizens of Morro Bay, the parties have agreed,  
and do hereby agree, as follows:

1. That the foregoing recitals are true and correct, and constitute accurate  
statements of the facts herein.
2. The term of this agreement shall commence July 1, 2009 2010 and terminate  
on June 30, 20102011.
3. The maximum amount due and payable during the term of this contract is  
\$160,515152,490. CITY shall pay said amount to CHAMBER in monthly  
increments of \$13,376.2512,707.50, in advance, for each contract month.  
Such funds are to be expended only under the terms, conditions and  
restrictions, and for the purposes specifically set forth in this agreement.

4. CHAMBER shall provide qualified and competent staff in public relations, and public information shall be available, as necessary, for the successful implementation of this Agreement. CHAMBER's Executive Director shall be responsible for the day-to-day operations and management of this Agreement.
5. CHAMBER shall conduct promotional and publicity activities and programs for the CITY.
6. CHAMBER shall also maintain an office in the City of Morro Bay suitable for the conduct of a visitor information service. Said office is to be open to facilitate contact with news media representatives, and to disseminate news releases and promotions information, in a professional manner, for the various media, general public, and visitor information needs. The Visitor's Center shall operate 7 days a week excluding Easter Sunday, Thanksgiving Day, Christmas Day and New Years Year's Day. Operational hours will include a minimum of 4 hours on Sundays and Holidays (excluding those referenced above). Office hours shall be scheduled at the discretion of the CHAMBER and reviewed by the City Manager to coincide with and meet the needs of visitor serving traffic.
7. In addition, the CHAMBER shall maintain an answering machine during closed office hours to receive messages for visitor information requests.
8. CHAMBER shall coordinate services for prospective visitor groups, to include referral to motels, rental facilities, caterers, entertainment and other services, regardless of the businesses' membership status with CHAMBER. Said referrals will be tracked and recorded. CHAMBER shall provide promotional publication materials for visitors, in a quality form acceptable to the CITY, that specify recreational opportunities, campgrounds, art galleries and other services, regardless of the businesses' membership status with CHAMBER.
9. CHAMBER shall ensure that no funds provided by CITY will be used to support traditional CHAMBER activities that generally serve and benefit only CHAMBER membership or programs. Nothing in this contract, however, shall prevent CITY from specifically funding new projects as proposed by CHAMBER.
10. CHAMBER agrees to submit monthly reports to CITY promotions committee regarding visitor information and promotional activities. The reports need not be lengthy, but should be specific as to the tasks accomplished, and a breakdown of the costs of the funds used monthly expenditures. Failure to provide such monthly reports will be considered by CITY as possible grounds for termination of this contract.
11. CHAMBER agrees to make its books and financial records concerning the funds expended under this agreement available to CITY for inspections and

review and audit. CHAMBER will, at no expense to CITY, provide an annual report and accounting of expenditures of the funds covered by this agreement. The City Administrative Services Director shall work with the Chamber to perform a detailed financial review at the end of the fiscal year.

12. CHAMBER agrees that all persons working for CHAMBER under this Agreement shall be employees of CHAMBER, subject to its exclusive management and control, and shall in no way be considered employees of CITY; and that any liability, which might arise under the Worker's Compensation Law of the State of California due to any injury of any employee of CHAMBER, shall be the sole liability of CHAMBER.
13. CHAMBER agrees to indemnify, defend and hold harmless CITY, and its officers, employees, and agents, from any and all claims, suits, demands and causes of action resulting from the acts or failure to act of any agent, servant or employee of CHAMBER, or any other person pursuant to this Agreement.
14. CHAMBER shall obtain and maintain, in full force and effect during the term of the Agreement, a \$1,000,000 liability insurance policy specifically naming CITY as primary additional insured against claims and demands resulting from injuries to persons and property upon premises maintained by CHAMBER, during CHAMBER-sponsored activities and events, wherever situated. Said insurance policy shall provide for thirty (30) day notice of cancellation to CITY. Within ten (10) days of the date of execution of this Agreement, CHAMBER shall submit to CITY evidence of such insurance.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF MORRO BAY

MORRO BAY CHAMBER OF  
COMMERCE

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director



If the City Council approves the attached Resolution of Intention at this meeting, the process for increasing the assessment from 2% to 3% would proceed as follows:

- Resolution of Intention to increase assessment: July 12, 2010
- Public Meeting of protests to increase assessment: August 9, 2010
- Public Hearing of protests to increase assessment: September 13, 2010
- First reading of Ordinance to increase assessment: September 13, 2010
- Second reading of Ordinance to increase assessment: September 27, 2010
- Effective date of District 3% assessment: November 1, 2010

**CONCLUSION:**

Staff recommends that you adopt the attached Resolution Declaring the City's Intention to increase the assessment from 2% to 3% within the Morro Bay Tourism Business Improvement District (MBTBID), Declaring Its Intention to Levy an Assessment on Lodging Businesses Within Such District, and Fixing the Time and Place of a Public Meeting and a Public Hearing Thereon and Giving Notice Thereof.

**RESOLUTION NO. 40-10**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DECLARING ITS INTENTION TO ADOPT AN ORDINANCE  
INCREASING THE ASSESSMENT ON LODGING BUSINESSES  
WITHIN THE MORRO BAY TOURISM BUSINESS IMPROVEMENT  
DISTRICT, AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING  
AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF**

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

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

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

**WHEREAS**, on April 27, 2009, the City Council adopted Ordinance No.546 establishing the Morro Bay Tourism Business Improvement District ("MBTBID") and levying assessments; and

**WHEREAS**, the District's area consists of the City in its entirety and is coextensive in its boundaries with the City; and

**WHEREAS**, the MBTBID Advisory Board has recommended, pursuant to Streets & Highways Code section 36540, that the basis and method of levying the assessments imposed within the District be changed to increase the amount of the assessments; and

**WHEREAS**, section 36541 of the Streets & Highways Code allows the City Council to modify the basis and method of levying the assessment by adopting an ordinance after holding a hearing on the proposed modification, and after adopting a resolution stating the Council's intention to consider modifying the assessment;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY DOES HEREBY RESOLVE** that it intends to consider adopting an ordinance to increase the amount of the MBTBID's assessment from 2% to 3%, with the increase to take effect on the effective date of an ordinance increasing the assessment, and to remain in effect through the end of fiscal year 2010-2011.

**BE IT FURTHER RESOLVED** that the assessment to be levied for the MBTBID shall be used to fund tourism promotions and marketing programs to promote Morro Bay as a tourist destination, and projects, programs, and activities that benefit lodging businesses located and operating within the boundaries of the district. The proposed improvements and activities shall be targeted at increasing transient stays.

Resolution No. 40-10  
Page Two

**BE IT FURTHER RESOLVED** The City Council hereby sets August 9, 2010 as the date for a public meeting to allow for public testimony on the proposed increase in the assessment and September 13, 2010 as the date for a public hearing on the proposed increase in the assessment of the MBTBID and the levy of assessments pursuant to Government Code Section 54954.6. Both the public meeting and the public hearing will be held at 6:00 p.m., or as soon thereafter as practicable, in the City of Morro Bay City Council Chambers, 209 Surf Street, Morro Bay, California.

**BE IT FURTHER RESOLVED** that at the public hearing on September 13, 2010 in the City Council Chambers, 209 Surf Street, Morro Bay, California, on the levying of the increased assessment for fiscal year 2010-2011, written and oral protests may be made. The form and manner of protests shall comply with California Streets & Highways Code sections 36524 and 36525. If written protests are received from and not withdrawn by the owners of businesses in the MBTBID which will pay fifty percent (50%) or more of the assessments to be levied, no further proceedings to increase the assessment, as set forth in this Resolution of Intention, shall be taken for a period of one year from the date of the finding of a majority protest by the City Council.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to mail a copy of this resolution and a notice of the public meeting and the public hearing referred to herein to every business owner within the District that would be affected by the proposed increase in the assessment.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, State of California, held on this 12th day of July, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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JANICE PETERS, Mayor

ATTEST:

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BRIDGETT KESSLING, City Clerk



AGENDA NO: B-2

MEETING DATE: 7/12/10

# Council Report

**TO: MAYOR AND CITY COUNCIL                      DATE: JULY 6, 2010**  
**FROM: MAYOR PETERS**  
**SUBJECT: DISCUSSION REGARDING MAKING CITY ADVISORY BOARDS  
MORE INVOLVED AND EFFECTIVE**

**RECOMMENDATION:**

Discuss and determine ways to create more interaction between advisory boards and the City Council.

**FISCAL IMPACT:** None.

**BACKGROUND:**

Our various city advisory boards provide important information and discussion forums for citizens regarding each department. They also provide input and recommendations to the City Council on issues pertaining to those departments. Recently, however, there seems to be growing dissatisfaction from the board members regarding their effectiveness and value to the city government process.

**DISCUSSION:**

It is difficult for council members to watch all of the advisory board meetings, but it is important for us to know what transpires beyond simply reading the minutes.

Ideas to overcome this problem include:

- 1) Each council member becomes liaison to one of the boards and reports on their activities.
- 2) Each board has a representative give a monthly report at a council meeting.

Other ideas?



AGENDA NO: D-1

MEETING DATE: July 12, 2010

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** July 6, 2010  
**FROM:** Andrea K. Lueker, City Manager  
**SUBJECT:** Recommendation on Amending the Morro Bay Tourism Business Improvement District (MBTBID) Bylaws in Relation to Member Designation

### **RECOMMENDATION**

Staff recommends the City Council reviews the staff report in regard to member designation and provide staff with direction on amending the Morro Bay Tourism Business Improvement District (MBTBID) Bylaws

**MOTION:** I move the City Council direct staff to bring back a Resolution to amend the Morro Bay Tourism Business Improvement District Bylaws in regard to member designation in the following manner\_\_\_\_\_.

**FISCAL IMPACT** - None.

### **BACKGROUND**

During the recent Board and Commission interviews on May 10, 2010, the City Council directed staff to return to the City Council with a discussion on the member designations for the MBTBID Board. As discussed prior to the interviews of the Board/Commission members, the MBTBID Bylaws/Qualifications section states the following:

#### **QUALIFICATIONS**

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

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

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

*The Chamber of Commerce representative shall be the Executive Director of the Morro Bay Chamber of Commerce or a member of the Executive Board.*

*The “at large” members shall be residents and registered voters of the City during the term of appointment.*

*Each member must be at least 18 years of age at the time of appointment and may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)*

Note: During the May 26, 2009 interview process the City Council decided to change the designation and have 2 members representing hotels with 51 or more rooms and 1 member representing hotels with 50 or less. Staff will bring back a resolution making this change as well as the change discussed this evening to an August 2010 City Council meeting.

At the May 10, 2010 interviews, the discussion consisted of the MBTBID Bylaws using the word “**shall**” when referencing the specific member designations (see above qualifications section), while other Boards and Commission (specifically the Community Promotions Committee and the Harbor Advisory Board) use the statement “The City Council will **attempt** to select members from the following categories”. City Council directed staff to come back with some options so that if applicants do not specifically fit a designation, there may be an option for appointment with the above language change.

## **DISCUSSION**

Several of the Boards and Commission, such as the Harbor Advisory Board and the Community Promotions Board have specific categories for the members. Several examples include a Waterfront Leaseholder and Morro Bay Commercial Fishermen’s Association member for the Harbor Advisory Board and a Morro Bay Merchants Association member and a Water Front Business Representative for the Community Promotions Board. Over the years, there have been several instances where there were enough applicants for open positions, but they may have not met the category specification. As a result of this situation, the City Council decided to change “The City Council shall select members....” to “The City Council will attempt to select members....”

The MBTBID designations are somewhat different as the bylaws state that at least 4 members shall be from the lodging industry. However, within those four members, further stipulations include the following:

The four members from the lodging industry shall consist of:

- 1 member representing lodging rooms of less than 22 rooms
- 1 member representing 50 or less rooms
- 2 members representing hotels with 51 or more rooms.

In discussions at the May 10 2010 interviews, the City Council noted that the following change or something similar could be made to allow more flexibility to the lodging industry representation;

Three members of the four from the lodging industry shall consist of:

- 1 member representing lodging rooms of less than 22 rooms
- 1 member representing 50 or less rooms
- 1 member representing hotels with 51 or more rooms.

The City Council will attempt to select the fourth member as a member representing hotels with 51 or more rooms.

In closing, this item was on the MBTBID agenda for discussion at their June 17, 2010 meeting, however, the Board did not get to that item on the agenda and it has been re-agendized for the July 15, 2010 meeting. The City Council may want to hold off on their discussion until they receive a recommendation from the MBTBID Board, or they may feel they have enough information to move forward this evening.



Staff worked with RRM Design Group to develop the Master Plan (MP) for the Morro Bay Teen Center. Throughout the process, community groups as well as students were solicited for their input and vision for the future of our Teen Center. The Master Plan for the Teen Center was reviewed by the Recreation and Parks Commission (RPC) and adopted by City Council in 2006. City Council then directed Staff to seek funds to complete the plan.

Proposition 84, the Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program (SPDCRP/NEFGP) offers funding for a variety of projects of which the Teen Center MP project is eligible. At the regular meeting of City Council on January 11, 2010; Council approved resolution 01-10 and directed Staff to apply for Proposition 84, SPDCRP/NEFGP's Funds.

Staff began the work to submit an application for the SPDCRP/NEFGP's first round with a deadline of March 1, 2010. This deadline was missed due to the amount of work required and the limited Department resources. The completion of the CEQA Initial Study was and still is the major task hindering the application submittal. Staff is preparing to submit application to the State for the second round of funding, which will be due no sooner than March 1, 2011.

Staff presented the request for funds to the Recreation and Parks Commission (RPC) at their regular meeting of June 22, 2010, at which time the RPC recommended the use of up to \$30,000 of Park-in-Lieu funds for the completion of the CEQA requirements for the teen Center Master plan.

**CONCLUSION:**

Staff recognizes the request to use Park-in-Lieu funds for the teen Center Master plan meets Quimby Act requirements in that the proposed project enhances recreational facilities. Furthermore, the completion of the initial study is essential and required to apply for proposition 84 grant funds.



AGENDA NO:

MEETING DATE: 01/11/2010

## STAFF REPORT

**TO:** Honorable Mayor and City Council **DATE:** 01/11/2010  
**FROM:** Joe Woods, Recreation and Parks Director  
**SUBJECT:** Review and Approve Resolution 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.

### **RECOMMENDATION:**

Staff recommends City Council review and approves Resolution 01-10, authorizing the application for Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds.

**MOTION:** I move that the City Council approve Resolution 01-10 and direct Staff to apply for Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds.

### **FISCAL IMPACT:**

Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program Funds are non-matching; therefore, the City would only realize costs associated with Staff time in preparing the application. If the Grant is awarded, all expenses post award would be charged to the project.

### **SUMMARY:**

Staff worked with RRM Design Group to develop the Master Plan (MP) for the Morro Bay Teen Center. Throughout the process, community groups as well as students were solicited for their input and vision for the future of our Teen Center. The Master Plan for the Teen Center was reviewed by the Recreation and Parks Commission (RPC) and adopted by City Council in 2006. City Council then directed Staff to seek funds to complete the plan. The Teen Center MP project is an eligible project as defined in Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program. Deadline to submit applications for the SPDCRP/NEFGP's first round is March 1, 2010.

Prepared By: JMW

Dept Review: JMW

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

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

**BACKGROUND/DISCUSSION:**

The City has identified the need of the Community to provide a safe and interactive place for local teenagers. In 1999, the City joined forces with the Morro Bay Lions Club to renovate 535 Harbor Street and dedicate the City's first Youth Center. Shortly after, staff received \$400,000 grant monies from MCI/World COM for the future development of a Teen Center. Staff pursued several properties which had more potential than the current location. In 2000, the City purchased 1055 Morro Street. Later, this property was sold with the proceeds going towards the purchase of 220 Atascadero Road. Prior to any improvements, the City sold 220 Atascadero Road for the acquisition of 231 Atascadero Road. The time line is continued below.

- Sept. 2002 Purchased 231 Atascadero Road property.
- Jan. 2003 Teen Center opens to the Community.
- Jun. 2003 RRM is given Notice to Proceed with MB Teen Center/Skate Park project.
- Nov. 2003 Public Workshop #1 - Identification of top recreational uses and their respective design criteria as it relates to the Teen Center property.
- Apr. 2004 Public Workshop #2 - Participants engage in the Master Planning process with the goal of developing the Teen Center/Skate Park elements to reflect local interest.
- Mar. 2005 Public Workshop #3 - presentation of preliminary Teen Center/Skate Park design to the community. Community outreach and discussion for the purpose of arriving at a final design for the Teen Center.
- Jul. 2005 Recreation and Parks Commission reviews and accepts final Teen Center Master Plan. (attached)
- Mar. 2006 City Council review and approval of Teen Center Master Plan (TCMP).
- Jan. 2008 City Council identifies funding the TCMP as a priority, and directs Staff to seek funding for the project. RRM Design's cost estimate for the project is \$1,457,149.42. (Preliminary Construction Cost Opinion attached)

**CONCLUSION:**

Council has approved the Teen Center Master Plan and identified the project as a mid-range priority during the goal setting workshop in 2008. Staff has identified a funding source in which the project is eligible and is non-matching in contributions. The Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant program seems to be ideal for accomplishing the goals of the Teen Center Master Plan.

**MINUTES – MORRO BAY RECREATION AND PARKS COMMISSION**  
REGULAR MEETING –JUNE 22, 2010  
MORRO BAY COMMUNITY CENTER – 5:30 P.M.

**D. NEW BUSINESS**

**D-1 RECOMMENDATION TO USE PARK-IN-LIEU FUNDS FOR THE PREPARATION OF THE INITIAL STUDY-MITIGATED NEGATIVE DECLARATION AND COMPLETION OF THE CEQA DOCUMENT FOR THE TEEN CENTER MASTER PLAN**

Staff recommends the Commission approve and recommend to the City Council the use of up to \$30,000 of Park-in-Lieu funds for the preparation and completion of the California Environmental Quality Act (CEQA) requirements for the Teen Center Master Plan. Staff worked with RRM Design to develop the Master Plan for the Teen Center. The Master Plan was reviewed by the Commission and adopted by the City Council in 2006. City Council then directed staff to seek funds to complete the plan. The Teen Center Master Plan is an eligible project as defined in Proposition 84, Statewide Park Development and Community Revitalization Program of 2008 and Nature Education Facilities Grant Program. Staff has included a proposal from Rincon consultants to prepare the Initial Study and Mitigated Negative Declaration.

Chair Hale inquired about the size of the in ground Skate Park. Staff answered the size is comparable to the Templeton Skate Park. The elements within the project will be the same but the configuration will be changed. Chair Hale stated assuming the preliminary steps are successful, how many years out is it viable. When could we see it built as master planned. Staff replied if we are successful in securing funds from Proposition 84, probably 3 – 5 years if everything goes well. Staff added Proposition 84 is huge as it is non matching funds.

Commissioner Ayoob asked if the existing Teen Center will remain the same. Staff replied it will remain the same, this will be an addition. Staff added that during construction we hope to remain open but there will probably be times when it will be necessary to be closed.

**MOTION:** Commissioner Munoz recommended to staff to forward to City Council to use up to \$30,000 of Park-in-Lieu Funds for the preparation of the Initial Study-Mitigated Negative Declaration and completion of CEQA document for the Teen Center Master Plan. The motion was seconded by Commissioner Sidaris and carried. (4-0)



# Staff Report

AGENDA NO: D-3

MEETING DATE: July 12, 2010

**TO:** Honorable Mayor and City Council      **DATE:** July 6, 2010

**FROM:** Andrea K. Lueker, City Manager

**SUBJECT:** Request to Approve a Response to the Grand Jury Regarding Leaf Blowers

## **RECOMMENDATION**

Staff recommends the City Council direct staff to not prepare an ordinance at this time prohibiting two-cycle gasoline powered leaf blowers and restricting days and hours of operation allowed for leaf blower use. Staff further recommends authorization to send the attached letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports entitled "Leaf Blower Hazards in San Luis Obispo County".

**MOTION:** I move the City Council authorize the Mayor to send the attached letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports entitled "Leaf Blower Hazards in San Luis Obispo County".

## **FISCAL IMPACT**

There is no additional fiscal impact from sending the response letter.

## **BACKGROUND**

On April 27, 2010, the City received a report prepared by the San Luis Obispo County Grand Jury entitled "Leaf Blower Hazards in San Luis Obispo County" (Attachment A). The report makes the following recommendations:

1. San Luis Obispo County Board of Supervisors pass an ordinance calling for a gradual two year phase-out of all two-cycle gasoline powered leaf blowers within San Luis Obispo County.
2. The San Luis Obispo County Board of Supervisors adopts the same guidelines currently in effect within the City of San Luis Obispo for the restriction of days and hours of operation allowed for leaf blower use.
3. Each incorporated city within San Luis Obispo County adopts a parallel ordinance to ensure consistency throughout the county.

The report specifically requires the Morro Bay City Council to submit a response to Recommendation #3 to the Presiding Judge of the San Luis Obispo County Superior Court by July 29, 2010.

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

In April 2008, staff provided a report (Attachment B) to the City Council regarding Noise Abatement provisions of the Municipal Code as they pertained to kennels and garden machine noise. The action from the staff report was to review the noise issues and return to the City Council with an update Noise Ordinance. That project is currently on the Agenda Planning Guide.

### **DISCUSSION**

Under Penal Code Section 933.05, the City is required to indicate one of the following responses to the findings:

1. The respondent agrees with the finding; or
2. The respondent disagrees partially or wholly with the finding and why.

Furthermore, as to each Grand Jury recommendation, the responding party shall report one of the following actions

- a. The recommendation has been implemented, with a summary regarding the implemented actions.
- b. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- c. The recommendation requires further analysis.
- d. The recommendation will not be implemented because it is not warranted or is not reasonable and an explanation why.

The Grand Jury report concluded that gasoline leaf blowers create health hazards from emissions and toxic fumes, fugitive dust levels and high noise levels. The report also states that rakes and brooms are a quiet alternative and that if a blower is necessary, an electric blower is recommended as an alternative.

Staff has prepared a draft response (Attachment C) to the Grand Jury report. While staff agrees with most of the findings, staff does not recommend the City of Morro Bay move forward on an ordinance regulating leaf blowers. Staff suggests that the recommendation not be implemented as:

1. There has been no study within the City of Morro Bay showing that the impacts of leaf blowers are occurring with significant regularity and frequency as to mandate the adoption of an ordinance.
2. No complaints have been received by the City regarding noise disturbances from leaf blowers.
3. Restricting blowers may cause more use of hoses and water to clean areas.
4. Enforcement of such a regulation has proven difficult in other areas.
5. As indicated in the Grand Jury report, the San Luis Obispo County Air Pollution Control District is actively developing a multi-pollutant clean air plan, which is scheduled to be presented to the County Board of Supervisors in December 2010. As a result, it may be prudent to wait until recommendations are provided by the APCD.

In closing staff has been in contact with other cities and no others have indicated they were planning on recommending adoption of a leaf blower ordinance in response to the Grand Jury recommendation.



# City of Morro Bay

Morro Bay, CA 93442  
(805) 772-6200

July 7, 2010

Presiding Judge Charles S. Crandall  
San Luis Obispo County Superior Court  
1050 Monterey Street  
San Luis Obispo, CA 93408

Re: Grand Jury Report entitled "Leaf Blower Hazards in San Luis Obispo"

Dear Judge Crandall:

On behalf of Council of the City of Morro Bay, thank you for the information provided by the Grand Jury in the report entitled "Leaf Blower Hazards in San Luis Obispo County". After the City Council reviewed the report and staff's analysis at our July 12, 2010 City Council meeting, it was determined to not pursue adoption of an ordinance regarding leaf blowers at this time. This response is submitted in compliance with Penal Code 933(c) and a copy will be sent to the Grand Jury as well.

The City of Morro Bay will not be implementing recommendation #3 due to the below issues:

1. There has been no study within the City of Morro Bay showing that the impacts of leaf blowers are occurring with significant regularity and frequency as to mandate the adoption of an ordinance.
2. No complaints have been received by the City regarding noise disturbances from leaf blowers.
3. Restricting blowers may cause more use of hoses and water to clean areas and the City is currently under moderate restricted water supply conditions.
4. Enforcement of such a regulation has proven difficult in other areas.

**CITY MANAGER**  
595 Harbor Street

**ADMINISTRATIVE SERVICES**  
595 Harbor Street

**FIRE DEPT.**  
715 Harbor Street

**PUBLIC SERVICES**  
955 Shasta Avenue

**HARBOR DEPT.**  
1275 Embarcadero Road

**CITY ATTORNEY**  
595 Harbor Street

**POLICE DEPT.**  
850 Morro Bay Boulevard

**RECREATION & PARKS**  
1001 Kennedy Way

Presiding Judge Charles S. Crandall  
San Luis Obispo County Superior Court  
July 7, 2010  
Page Two

5. As indicated in the Grand Jury report, the San Luis Obispo County Air Pollution Control District is actively developing a multi-pollutant clean air plan, which is scheduled to be presented to the County Board of Supervisors in December 2010. As a result, it may be prudent to wait until recommendations are provided by the APCD.

Please let the City know if you have any further questions or would like additional information.

Sincerely,

Janice Peters  
Mayor

# LEAF BLOWER HAZARDS IN SAN LUIS OBISPO COUNTY

## SUMMARY

The use of two-cycle gasoline engine leaf blowers in the cities and unincorporated areas of San Luis Obispo County presents a health hazard to all citizens. The hazards are four-fold:

- All gasoline powered leaf blowers create emissions and toxic exhaust fumes. However, two-cycle leaf blowers pollute more and are the loudest. Exhaust pollution from a typical gas powered leaf blower over one hour is equal to one car driven 200 miles in a confined area.
- The high-velocity air jets used in blowing leaves move more than just leaves. The particulate matter (PM) swept into the air includes many unwanted and toxic elements. Various pollutants include dust, pesticides, chemicals, fertilizers, fungi, street dirt and fecal matter. Approximately five pounds of PM per leaf blower per hour are blown into the air and can take hours or even days to settle.
- Two-cycle leaf blowers generate unhealthy high noise levels. Two-cycle leaf blowers generate a decibel level that can cause permanent hearing loss to the operator and an annoyance to anyone nearby.

- Unaware citizens, including the most vulnerable in our county such as the young, homebound and seniors frequently must endure the localized air and noise pollution of two-cycle leaf blowers.

Considering the evidence, the Grand Jury concluded the health hazards residents are exposed to from two-cycle leaf blowers outweigh the possible benefit they provide. The Grand Jury recommends that the San Luis Obispo County Board of Supervisors and all incorporated cities initiate a gradual phase-out of two-cycle gasoline powered leaf blowers for landscape and cleanup operations.

## **INTRODUCTION AND PURPOSE**

The purpose of this report was to assess the health hazards caused by leaf blowers within San Luis Obispo County. The Grand Jury assessed air and noise pollution caused by leaf blowers in public, commercial and residential uses. Three types of leaf blowers were reviewed: two cycle, four cycle and electric. This report will summarize the findings of this assessment, along with recommendations for actions to reduce health hazards presented by leaf blowers. If the recommendations are implemented, the quality of life for the citizens of San Luis Obispo County could improve without causing undue hardship.

## **METHOD/PROCEDURE**

Interviews were conducted with staff of the San Luis Obispo County Air Pollution Control District (APCD), the San Luis Obispo County Department of Planning and Building and its Code Enforcement Division. The Grand Jury reviewed written materials from various sources, including:

- U.S. Environmental Protection Agency (EPA)
- California Air Resources Board (CARB)
- California State Assembly Bill 32: Global Warming Solutions Act of 2006
- Municipal codes within San Luis Obispo County

- California Landscape Contractors Association
- Consumer Reports Magazine and various other news sources
- American Speech-Language-Hearing Association

## NARRATIVE

Leaf blowers were introduced to the United States in the 1970s. Drought conditions in California precipitated acceptance of the blowers as a water saving clean-up option in lawn and garden maintenance. Soon after leaf blowers were introduced, complaints regarding noise and air pollution began, leading to restrictive ordinances or complete bans. There are three types of portable leaf blowers in common use: gas powered with either a two or four-cycle engine and electric powered. All have practical applications, as well as contributing to environmental hazards in varying degrees.

### **Description of Hazards**

**Exhaust Emissions:** Exhaust emissions are those emissions generated from the incomplete combustion of fuel in an engine. Small, two-cycle gasoline engines have traditionally powered most leaf blowers. They are inexpensive, lightweight, operate in any position and generate a relatively large amount of power. A major disadvantage, however, is the high exhaust emissions due to the required mixing of fuel and oil that are inefficiently burned in the combustion chamber leading to as much as 30% of the fuel/oil mixture being exhausted unburned. According to the U.S. Environmental Protection Agency, a typical leaf blower generates as much emission in one hour as an automobile does while traveling over 200 miles, with the major difference being the leaf blower emits the pollution in a much smaller radius. The resulting major pollutants are oil-based particulates, hydrocarbons and carbon monoxide. Some of the hydrocarbons in fuel and combustion by-products are toxic air contaminants, including benzene, 1,3-butadiene, acetaldehyde and formaldehyde.

Four-cycle leaf blowers emit significantly lower emissions than two-cycle leaf blowers, with lower levels of hydrocarbons and particulate matter. Electric blowers have the advantage of not requiring fuel or oil, thus, there are no exhaust emissions.

**Fugitive Dust Emissions:** Besides the intended purpose of moving leaves, grass and other garden debris, blowers cause sidewalk and roadway dust to become airborne (fugitive dust). Varying by make and model, leaf blowers move air at 150 to 280 miles per hour. As a comparison, a Category 5 hurricane is defined as wind speed of 156+ miles per hour. Fugitive dust may contain pollen, animal fecal matter, herbicide and pesticide residues, fungi, spores and street dirt containing tire rubber, heavy metals and organic and elemental carbon. Especially harmful are the particulate matter (PM) in fugitive dust that are small enough to be inhaled (defined as particles smaller than 10 micrometers). PM from fugitive dust cloud emissions can linger in the air from minutes to as long as a week, depending on PM size and local conditions.

**Noise Emissions:** Noise is the general term for sound that is perceived as disagreeable and unwanted. High intensity, high frequency sounds are the most damaging to the ear and usually identified as the most annoying. The noise emitted from leaf blowers contains a significant amount of high intensity and high frequency emissions. In a quiet neighborhood, there are no natural sources of sound at these same frequencies. Therefore, the sounds are not easily masked and are more noticeable, contributing to a high level of annoyance perceived by bystanders.

Noise levels from leaf blowers are measured in decibels (dBA) and usually are manufacturer-reported levels that represent exposure of a bystander at 50 feet from the blower. Sound levels are estimated to range from 62 to 75 dBA. The difference in 62 versus 75 dBA is roughly 100 times the sound intensity and is perceived by a bystander as significantly louder. The dBA for the operator of a two-cycle blower is estimated to range from 87 to 101 dBA. Sounds louder than 80 dBA are considered potentially dangerous. Both the amount of noise and the length of time of exposure determine the amount of potential damage to hearing. Hair cells of the inner ear and the hearing nerves can be permanently damaged by an intense brief impulse, like an explosion, or by continuous or repeated exposure to noise.

The regulation of leaf blowers in California cities and counties typically is based on noise emissions standards and falls into the categories of time of the day, days of the week and dBA limits. Under current San Luis Obispo County code, noise from leaf blowers is not permitted to exceed 70 dBA between the hours of 7 a.m. to 10 p.m., and 65 dBA between the hours of 10 p.m. and 7 a.m. The City of San Luis Obispo has more stringent restrictions including the ban of gasoline powered blowers anytime on Sundays, and limiting the use of any power blower on other days of the week to between the hours of 8 a.m. and 6 p.m. in residential zones, and 7 a.m. and 6 p.m. in non-residential zones.

An interview conducted with a San Luis Obispo County Code Enforcement official revealed that current noise ordinances are not practical to enforce, and in fact, are never enforced with regards to leaf blowers. For code enforcement to issue a violation of current noise codes, the officer would need to actually witness a violation and be able to verify a blower exceeded dBA limits. However, use of a specific type of blower that is banned would be clearly observable, and therefore, more easily enforceable.

## **Health Effects**

Particulate Matter is inhalable and able to deposit on the lungs' airway surfaces. Smaller particles, 2.5 micrometers or less, are able to penetrate deep into lung tissue. Exposure to PM has been linked to higher hospital admissions and respiratory ailments.

Carbon monoxide (CO) is a product of incomplete combustion of carbon containing fuels. CO in the air can be absorbed from the lungs into the bloodstream, and in significant levels can reduce oxygen to body tissues. Risk groups for ambient CO include the elderly, pregnant women, infants, those with anemia, respiratory diseases and heart disease with exercise-induced angina.

Benzene from burned and unburned fuel is a known carcinogen and depresses the central nervous system. Formaldehyde, acetaldehyde and 1,3-butadiene also have been identified as probable carcinogens and acute exposure may lead to eye, skin and respiratory tract irritation.

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Leaf blowers emit substantial hydrocarbons, primarily from unburned fuel, that can react with nitrogen dioxide to form ozone. Ozone is a known irritant, with exposures of as little as one hour causing constriction of airways, coughing, shortness of breath and worsening of respiratory diseases such as emphysema, bronchitis and asthma. Over time, permanent damage and decreased lung capacity from repeated exposure can occur.

There is a direct relationship between repeated exposure to excessive noise and hearing loss. Noise induced stimulation of the autonomic nervous system has been linked to high blood pressure, headaches and cardiovascular disease. Noise acts as a biological stressor that can trigger a “fight or flight” response, causing stress and anxiety. Excessive noise also interferes with communication, disrupts sleep, impairs concentration and generally causes community annoyance.

## **Alternatives**

Rakes and brooms are quiet alternatives to leaf blowers and consume no resources. They emit minimal dust and debris into the air and do not release pollutants from exhaust emissions. Rakes and brooms are efficient and almost as fast as power blowers. After banning the use of leaf blowers in 1990, the City of Claremont, California calculated that the increase in workload using rakes and brooms was only 6 percent more than with the use of blowers in the maintenance of city property. This calculation did not include the time for maintenance and fuel/oil mixing for the blowers. Other cities found similar results.

In situations where a power blower is absolutely necessary, testing has shown that electric models, while generating less noise, have out-performed gasoline fueled competitors with comparable power. The quietest and least polluting type of leaf blower is electric and most owners and reviewers say an electric leaf blower will suit homeowners very well. Electric blowers are also easier to maintain. While exhaust emissions are eliminated, fugitive dust and PM pollution are still an issue.

In cases where hand raking or an electric blower is not feasible, newer four-cycle gasoline fueled blowers are preferable due to their reduced exhaust emissions and noise. Experts recommend reserving use of gasoline-powered blowers to work areas farther than a 150-foot extension cord can reach, or where a power cord is not practical.

### **Compliance in Cities Banning Leaf Blowers**

Over 300 cities nationwide have banned or restricted leaf blowers including more than 100 municipalities in California. Examples include:

1. The City of Santa Barbara banned all gasoline powered leaf blowers in 1997. Electric powered leaf blowers are allowed, but may not be used within 250 feet of a residential zone and must be certified to meet a dBA level of no more than 65. The parks department incurred a one-time cost of \$90,000 (out of a budget of \$4 million) to replace equipment and has seen no additional impact on city cleanup in regards to time or cost.
2. The City of Carmel banned leaf blowers in 1974, becoming the first city in the nation to impose leaf blower restrictions.
3. The City of Los Angeles (population 3.6 million) banned leaf blowers in 1998.

### **Air Quality Legislation**

California State Assembly Bill 32 (AB32), the Global Warming Solutions Act of 2006, is a statewide effort enacted to reduce environmental emissions leading to greenhouse gases. AB32 requires the California Air Quality Board (CARB) to adopt regulations by 2011 that will achieve technologically feasible and cost-effective reductions in greenhouse gases. At a local level, the San Luis Obispo County Air Pollution Control District (APCD) is the primary agency responsible for achieving the clean air standards established by the CARB. The APCD is actively developing a multi-pollutant clean air plan which is scheduled to be presented to the San Luis Obispo County Board of Supervisors in December 2010. Currently, the APCD does not have jurisdiction over mobile consumer devices such as leaf blowers, but can make recommendations to the Board of Supervisors and incorporated cities. Any change to leaf blower regulations within San Luis Obispo County would be the task of the County Board of Supervisors and city councils.

## FINDINGS

It is the finding of the Grand Jury that leaf blowers can cause preventable health hazards to the citizens of San Luis Obispo County.

1. Gasoline-powered leaf blowers, particularly two-cycle models, create exhaust emissions containing carbon monoxide, hydrocarbons and other harmful particulate matter. The resulting pollution from one leaf blower operated for one hour is approximately equivalent to one car being driven 200 miles.
2. All leaf blowers create fugitive dust drifts containing harmful chemicals, fungi, fecal matter and harmful particulate matter that can linger in the air for hours.
3. Leaf blowers, two-cycle models being the loudest, generate high intensity and high frequency noise that can lead to operator hearing loss, as well as multiple harmful physiological and psychological responses to the operator or bystanders. Current county noise ordinances are limited to decibel level violations that are unenforceable in practice. A specific ban on two-cycle leaf blowers would be an effective and enforceable ordinance.
4. California Assembly Bill 32 of 2006 mandates reduction of harmful greenhouse emissions. San Luis Obispo County must adopt measures to meet emission reduction requirements.
5. It has been demonstrated manual rake or broom cleanup is nearly as time efficient and effective as leaf blowers, without causing harmful air or noise hazards. When a leaf blower is necessary, an electric model is the preferred option due to no exhaust emissions. Four-cycle gasoline powered leaf blowers should be limited to areas of greater than 150 feet from an electric power source, or when a power source is not available.

## RECOMMENDATIONS

Based on these findings, the Grand Jury recommends that:

1. The San Luis Obispo County Board of Supervisors pass an ordinance calling for a gradual two year phase-out of all two-cycle gasoline powered leaf blowers within San Luis Obispo County.
2. The San Luis Obispo County Board of Supervisors adopt the same guidelines currently in effect within the City of San Luis Obispo for the restriction of days and hours of operation allowed for leaf blower use.
3. Each incorporated city within San Luis Obispo County adopt a parallel ordinance to ensure consistency throughout the county.

## REQUIRED RESPONSES

**The San Luis Obispo Board of Supervisors** is required to respond to Recommendations 1 and

2. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**. Please provide a copy of all responses to the Grand Jury as well.

**The Atascadero City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**.

Please provide a copy of all responses to the Grand Jury as well.

**The Arroyo Grande City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**. Please provide a copy of all responses to the Grand Jury as well.

**The Grover Beach City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**. Please provide a copy of all responses to the Grand Jury as well.

**The Morro Bay City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior court by **July 29, 2010**.

Please provide a copy of all responses to the Grand Jury as well.

**The Paso Robles City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**.

Please provide a copy of all responses to the Grand Jury as well.

**The Pismo Beach City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**. Please provide a copy of all responses to the Grand Jury as well.

**The San Luis Obispo City Council** is required to respond to Recommendation 3. The response shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **July 29, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

<b>Presiding Judge</b>	<b>Grand Jury</b>
Presiding Judge Charles S. Crandall Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

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AGENDA NO: D-2  
Meeting Date: 4/14/08 Action: Directed staff to investigate noise ordinance, and return to Council.

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** February 25, 2008

**SUBJECT:**

**Report on Noise Abatement Provisions of the Municipal Code as they pertain to kennels and garden machinery noise.**

**RECOMMENDATION:**

Review staff report and advise staff accordingly.

**FISCAL IMPACT:**

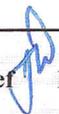
None

**SUMMARY:**

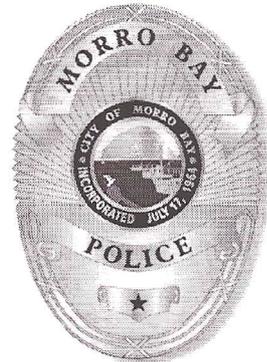
Mayor Peters requested that staff prepare a report for council discussion purposes outlining the noise abatement provisions of the municipal code as they pertain to kennels and garden machinery noise. The attached report outlines the existing provisions of Municipal Code Sections 7.04 Animals and 9.28 "L" Blowers and Motor-driven Cycles.

**CONCLUSION:**

Information only.

Prepared By: John DeRohan, Police Chief 	Dept Review: _____
City Manager Review: _____	
City Attorney Review: _____	

# MEMO



Date: February 25, 2008  
To: Mayor and Council  
Cc: Andrea Lueker, Interim City Manager  
Rob Schultz, City Attorney  
From: John DeRohan, Police Chief  
RE: Noise Abatement Provisions of Municipal Code Pertaining to Kennels  
and Garden Machinery Noise

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Mayor Peters requested a report on the noise abatement provisions of the municipal code as they pertain to kennels and garden machinery noise. This report is for informational purposes and is provided for council discussion.

## Kennels:

Morro Bay Municipal Code Section 7.04.070 states the following: *It is unlawful for any person to keep, maintain, or permit on any lot or parcel of land, any dogs, cats, poultry, fowl or household pets, which by any sound or cry shall disturb the peace and comfort of any neighborhood, nor shall any person keep upon any lot or parcel of land, any animal(s), poultry, fowl, or household pets, in a foul, obnoxious, filthy or unsanitary condition.*

Section 7.04.080 discusses noise abatement related to kennels: *Whenever it shall be affirmed in writing by three or more persons living in separate dwelling units in the neighborhood that any dog, cat, animal, poultry, fowl, or household pet is an habitual nuisance by reason of frequent, persistent, or long-continued howling, barking, or other noise, or is in any other manner causing undue annoyance, by reason of chronic leash law violations or unsanitary conditions, that shall constitute a public nuisance, the division, though an investigation including, but not limited to, observation of the animal, interviews with the animal's owner, the complaints, neighbors and other interested parties make a determination whether a public nuisance exists. If the division finds such a public nuisance to exist, it shall serve written notice upon the owner or custodian of the animal(s) that the public nuisance shall be abated or the owner or custodian of the animal(s) may contest the abatement order in writing or in person within ten days of receipt of the abatement order by requesting a hearing on the allegations.*

The City of Morro Bay contracts with County Animal Services on an annual basis to handle such noise complaints and abatement investigations.

## Garden Machinery:

The Morro Bay Municipal Code does not specifically address garden machinery noise. It does however discuss the use of Blowers in Section 9.28.030(L). Section 9.28.020 prohibits certain noise: *It is unlawful for any*

person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitiveness residing in the neighborhood. The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

- A. *The audible volume of the noise;*
- B. *The intensity of the noise;*
- C. *Whether the nature of the noise is usual or unusual;*
- D. *Whether the origin of the noise is natural or unnatural;*
- E. *The volume and intensity of the background noise, if any;*
- F. *The proximity of the noise to residential sleeping facilities;*
- G. *The nature and zoning of the area within which the noise emanates;*
- H. *The density of the inhabitation of the area within which the noise emanates;*
- I. *The time of the day or night the noise occurs;*
- J. *The duration of the noise;*
- K. *Whether the noise is recurrent, intermittent, or constant; and*
- L. *Whether the noise is produced by a commercial or noncommercial activity.*

More specifically, section 9.28.030(L) discusses blowers and requires that the blower is properly muffled with a muffler sufficient to reduce the noise to a level which will not disturb the surrounding neighborhood. This section also states that the noise limits set forth in Section 23130 of the California Vehicle Code shall be deemed to be the applicable standard for noise emissions. However, Vehicle Code Section 23130 no longer exists.

It should be noted that any ordinance where decibel limits are listed, a sophisticated sound measuring device that would withstand the requirements of any court of law would be required in order to enforce such ordinance.

I am not aware of any complaints or problems related to garden machinery noise. We did, however, receive a complaint regarding the Paw Spa Kennel. SLO County Animal Services fully investigated this complaint and determined that a public nuisance did not exist at the Paw Spa.