

# 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 – OCTOBER 26, 2009**

**CLOSED SESSION – OCTOBER 26, 2009  
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 two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

**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 87-88/87W-88W; 833 Embarcadero  
Negotiating Parties: City and Caldwell and/or Leage  
Negotiations: Lease terms

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

**PUBLIC SESSION – OCTOBER 26, 2009  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

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

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

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

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

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

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS OF SEPTEMBER 28, 2009 AND OCTOBER 12, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

**RECOMMENDATION: Receive report for information and file.**

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 DISCUSSION/INTERPRETATION OF GENERAL PLAN/LOCAL COASTAL PLAN POLICIES AND ZONING REGULATIONS RELATING TO THE LOCATION AND PLACEMENT OF COMMERCIAL AND RECREATIONAL FACILITIES/USES IN THE WATERFRONT AND BAY AREA OF THE CITY WEST OF MAIN STREET BETWEEN ACACIA AND BARLOW; (CITY ATTORNEY)

**RECOMMENDATION: Interpret the City's General Plan/Local Coastal Plan to allow for commercial uses in the Bay/Tidelands area of the City west of Main Street between Acacia and Barlow, subject to a project-by-project review and environmental analysis.**

B-2 REVIEW AND APPROVE THE PUBLIC ART PROPOSAL FOR A PEACE POLE TO BE LOCATED AT THE MORRO BAY LIBRARY; (RECREATION & PARKS)

**RECOMMENDATION: Approve the proposal from the Friends of the Library to purchase and install a Peace Pole as Public Art at the exterior of the Morro Bay Library located at 615 Harbor Street.**

C. UNFINISHED BUSINESS

C-1 UPDATE ON MANDATORY WATER CONSERVATION MEASURES; (PUBLIC SERVICES)

**RECOMMENDATION: Receive report for information and file.**

D. NEW BUSINESS

D-1 APPROVAL TO INCORPORATE E-MAIL NOTIFICATION MODULE ON CITY WEBSITE; (ADMINISTRATION)

**RECOMMENDATION: Approve adding the E-Mail Notification module to the City website and authorize the expenditure for installation, training and maintenance from the Public, Education and Government Access Fund.**

D-2 APPLICATION FEE FOR AFFORDABLE HOUSING PROJECT FINANCING; (PUBLIC SERVICES)

**RECOMMENDATION: Direct staff to amend the Master Fee Schedule to include a \$500 base fee deposit plus actual costs in performing financial real estate pro forma analysis for affordable housing project financing.**

D-3 POTENTIAL TOPICS FOR THE JOINT PLANNING COMMISSION/CITY COUNCIL MEETING; (PUBLIC SERVICES)

**RECOMMENDATION:** Consider and discuss potential discussion topics for the joint Planning Commission/City Council meeting, and also set a date and time for the meeting.

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.**

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – SEPTEMBER 28, 2009  
CITY HALL CONFERENCE ROOM – 4:45 P.M.

Mayor Peters called the meeting to order at 4:45 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 Smukler and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

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

Property: 781 Market Street and the Corner of Pacific Street and Market Street.  
Negotiating Parties: George Salwasser and the City of Morro Bay.  
Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 4:45 p.m. and returned to regular session at 5:20 p.m.

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

The meeting adjourned at 5:20 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – SEPTEMBER 28, 2009  
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:07 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	George Rees	Fire Captain
	Susan Slayton	Administrative Services Director
	Dylan Wade	Utilities/Capital Projects Manager

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

Keith Taylor expressed thanks to the community who supported Measure Q and who made it possible to receive the Fire Act Grant.

Hunter Kilpatrick announced the 28<sup>th</sup> Annual Harbor Festival would be held on October 3<sup>rd</sup> and 4<sup>th</sup>, and reviewed this year's events.

Gary Hixson stated he is going to have a television show on Channel 2, and addressed a variety of issues.

John Jones stated he filed a complaint with the State Water Resources Control Board for non-compliance against the City on decision 1633. He said in 1995, the City received a decision to appropriate water to outside the City limits, and had two years to comply with placing flow meters within the creek. Mr. Jones stated the City has never placed the flow meters in the creek and it was done by a biologist who said it needed to be done for the betterment of the fish and the public good. He requested the City comply with decision 1633, which would be in the City's best interest.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – SEPTEMBER 28, 2009

Jack McCurdy addressed Item C-2 (Continued Discussion On State Water Resources Control Board Once-Through Cooling Statewide Policy) and the draft letter attached to the staff report. He said this policy is very important and will affect the community of Morro Bay directly. Mr. McCurdy stated the policy is vague and flawed, and the comments from the City to the State Board are commendable with appropriate points. He said CAPE will submit their comments to the Board. Mr. McCurdy also remembered Joe Giannini who recently passed away.

Tammie Haas, 4H Club, announced October 4-10 is “National 4-H Week”. She reviewed the benefits of being a 4-H member and noted the local club meets the first Tuesday of each month at the Grange Hall on Highway 41.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:02 p.m.; the meeting resumed at 7:09 p.m.

A. CONSENT CALENDAR

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

A-1 RESOLUTION NO. 49-09 APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER’S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 49-09.**

A-2 PROCLAMATION DECLARING OCTOBER 2009 AS RIDSHARE MONTH”; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Proclamation.**

A-3 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

**RECOMMENDATION: Accept the status report for file.**

Councilmember Winholtz pulled Item A-1 from the Consent Calendar for public information.

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REGULAR MEETING – SEPTEMBER 28, 2009

Councilmember Smukler stated at the Air Pollution Control Board meeting, they voted to send a letter in support of SB 67 (California: Property tax revenues: Proposition 1A receivables), and he recommended the City do the same.

MOTION: Councilmember Smukler moved the City Council approve Resolution No. 49-09; and, direct staff to submit a letter in support of Senate Bill 67 declaring the City's intent to participate in the program and the City's thankfulness for the ability to retain those funds in a short-term manner. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

Mayor Peters pulled Item A-2 from the Consent Calendar to make a presentation.

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

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 POLICY DISCUSSION ON WATER SERVICES OUTSIDE OF CITY LIMITS;  
(PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the City of Morro Bay's Municipal Code indicates, "The City will furnish water service in accordance with the regulations contained in this chapter and in accordance with other applicable ordinances, to any property within the City limits and to such areas outside the City limits as the Council may designate." From time to time since the incorporation of the City, water meters and water services have been provided to customers outside of the City limits. Some of these connections were made following the procedure outlined in the Municipal Code with a designation by Council while others were made in order to secure access or water for the City. There are others that have no available records pertaining to their connection. Currently, the City has water service at twelve locations outside of the City limits. 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 while providing water to customers in the basin that meets all State and Federal standards. 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



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that impacts the Chorro Groundwater Basin. 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. Wade recommended the City Council review the policy for providing water service outside of the City limits, and direct staff on whether to continue to provide water services outside of the City limits.

Mayor Peters opened the hearing for public comment.

The following people expressed the importance of the City maintaining a water source in the Chorro Valley: Russ Banner, Bill Martony, Millie Benson, Mike Burton, Scott Young, Carrie Burton, Vera Peirce, Dustin Lamone, Tammie Haas, Barbara Doerr, Edward Peirce, and Connie Papin.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated the City is years away from being able to afford a plant that will provide tertiary effluent and in the absence of State and Federal grants it will be years before the City will have the money to invest in reclamation, which is also very expensive. He said with the new groundwater rule and increased regulations, quality of water and degradation of the City's water supply, which the City is trying to mitigate, the sphere of influence and annexation of properties would not come close to taking care of the proposed solutions. Councilmember Grantham stated when it is said that the City cannot guarantee clean and safe water for its citizens in its current situation he has to look at his responsibility to the citizens of Morro Bay.

Councilmember Winholtz stated the City has spent \$1-2 million on the desalination plant to remove brackish water from the Morro Valley; why would the expense of \$1 million from the water fund on the Chorro Valley seem so outrageous. She said she would prefer not to make a decision tonight.

Councilmember Smukler stated this is a complex issue and a decision should not be made tonight. He said he would like to begin conversations that include the major stakeholders, i.e. the San Luis Obispo County Regional Water Quality Control Board, State Water Quality Control Board and the National Estuary Program.

Councilmember Borchard stated she would like staff to start working towards taking the next steps in the process.

Mayor Peters stated discussions need to take place on the options presented by staff.

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MOTION: Councilmember Winholtz moved the City Council direct staff to begin conversations with the property owners of the Chorro Valley regarding their source of water; and return to Council to discuss a source of water with disconnection as a potential. The motion was seconded by Councilmember Smukler.

Councilmember Winholtz, Councilmember Smukler and Councilmember Borchard requested the public comment period be reopened.

Mayor Peters opened the hearing for public comment.

The following people reiterated the importance of the City maintaining a water source in the Chorro Valley: Scott Young, Bob Doerr, Carrie Burton, Bill Martony, Russ Banner, and Barbara Doerr.

Mayor Peters closed the public comment hearing.

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

MOTION: Councilmember Smukler moved, as part of these conversations, the City Council include the stakeholders of the National Estuary Program, San Luis Obispo County Regional Water Quality Control Board and State Water Quality Control Board with a notice of the City's conversations and existing situation, and that we elude to our intent for future discussions about decision 1633 and collaborative actions to address the water quality issue in the Chorro Basin. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

Mayor Peters called for a break at 8:50 p.m.; the meeting resumed at 8:58 p.m.

C. UNFINISHED BUSINESS

C-1 RESOLUTION DETAILING STRATEGIES TO PREVENT AND REDUCE VACANCIES ON THE EMBARCADERO AND TO STIMULATE BUSINESS; (HARBOR)

Harbor Director Rick Algert stated at the September 14, 2009 meeting, the City Council reviewed a report on City Tidelands leases, revenues and rental structures and considered a similar resolution. The City Council directed staff that changes are made to the previous resolution to allow office uses with no time limit on second floor spaces only and to set fiscal year 09/10 minimum annual rents at the same amount as they were in fiscal year 08/09, effectively waiving Consumer Price Index increases in fiscal year 09/10. Leases that were due for their five-year adjustment in 09/10 based on either 75% of the total annual rent paid in the last five years or 8% of the appraised amount of the

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underlying property shall be adjusted so that the minimum annual rent is either the five-year adjustment amount or the fiscal year 08/09 amount, whichever is lower. A clause was added to the resolution to clarify that the resolution is for this year only unless the City Council should choose to reinstate this action in future years or take other similar actions at a later date. Mr. Algert recommended the City Council adopt Resolution No. 47-09 approving strategies to prevent and reduce vacancies on City properties on the Embarcadero and to stimulate business.

Councilmember Winholtz requested the following statement be added as part of the record:

“If an office use did go in and five years down the line the office use left, they would be subject to having to put in a commercial/visitor-serving use at that time. The one use that is established during this year continues; but after that it goes back to whatever the policy is at the time.” (statement made by Mayor Peters)

MOTION: Councilmember Winholtz moved the City Council adopt Resolution No. 47-09 approving strategies to prevent and reduce vacancies on City properties on the Embarcadero and to stimulate business. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

C-2 CONTINUED DISCUSSION ON STATE WATER RESOURCES CONTROL BOARD ONCE-THROUGH COOLING STATEWIDE POLICY; (PUBLIC SERVICES)

City Attorney Robert Schultz stated the State Water Resources Control Board issued a notice of public hearing to receive comments on the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. The proposed policy establishes technology-based standards to implement the Federal Clean Water Act section 316(b) and reduce the harmful effects associated with cooling water intake structures on marine and estuarine life. The proposed policy would apply to the 19 existing power plants including Morro Bay, that currently have the ability to withdraw over 15 billion gallons per day from the State’s coastal and estuarine waters using a single-pass system, also known as once-through cooling. According to the State Water Board staff, the intent of the proposed policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the State’s electrical generation and transmission system. This latest Board draft continues to require the phase-out of once-through cooling systems in existing plants, despite a recent U.S. Supreme Court decision permitting regulators to compare the costs of replacing the systems against the environment and other benefits resulting from such replacements. The Morro Bay Power Plant would have until 2016 to be in compliance. Mr. Schultz recommended the City Council discuss and approve the draft letter to the State Water Resources Control Board regarding comments on the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.

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Mayor Peters made grammatical amendments to the letter.

Councilmember Winholtz referred to page 8 of Appendix A, and recommended adding another bullet to the letter requesting Morro Bay is moved to the earliest possible date that would meet the Board's requirements.

MOTION: Councilmember Winholtz moved the City Council approve the letter written to the State Water Resources Control Board with the amendments made by Council. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 DECLARATION OF A WATER EMERGENCY AND INSTITUTION OF MANDATORY CONSERVATION REQUIREMENTS DURING THE STATE WATER PROJECT SHUTDOWN; (PUBLIC SERVICES)

Public Services Director Bruce Ambo stated the State Water Project annual maintenance shutdown is tentatively scheduled to begin on October 19th for three week duration with water deliveries resuming November 10<sup>th</sup>. Depending upon when the actual date of the shutdown, staff is recommending the City initiate mandatory water conservation measures to reduce demand during this critical period and preserve the City's water supply. Municipal Code Section 13.04.345 sets for the "Mandatory Water Conservation Requirements" with varying levels of water supply emergency or severity that is tied to increasing degrees of mandatory conservation ranging from Level A (Normal Water Supply Conditions), Level B (Moderately Restricted Water Supply Conditions), Level C (Severely Restricted Water Supply Conditions), Level D (Critical Water Supply Conditions), and Level E (Emergency Water Supply Conditions). These regulations generally restrict outdoor water use, irrigation, restaurant, and marina and waterfront use of water. Mr. Ambo recommended the City Council adopt Resolution No. 50-09 declaring a water emergency during the State Water Project annual maintenance shutdown and instituting mandatory conservation requirements, and authorizing the Public Services Director to take any and all actions that will best conserve water during this emergency.

Councilmember Smukler requested the Green Building Incentive Program be included in the water conservation requirements. He also noted he is in the process of organizing a North Coast Grey Water Workshop that may be held on November 10<sup>th</sup>; it will be a public outreach and educational opportunity on grey water use and on water conservation measures with the State Water shutdown.

Councilmember Borchard suggested downgrading the water restrictions to Level B once the State Water delivery has resumed.

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Councilmember Winholtz suggested the following amendments to Resolution No. 50-09:  
Fourth WHEREAS:

**WHEREAS**, in accordance with Morro Bay Municipal Code 13.04.330 Council water conservation powers, that the City Council declares an emergency water condition ~~will exist~~s, ~~during the State Water Project shutdown;~~

Second **BE IT FURTHER RESOLVED:**

**BE IT FURTHER RESOLVED**, that the Public Services Director is hereby authorized and directed to implement ~~Critical~~ **Severely Restricted** Water Supply Conditions, Section 13.04.345C of the Morro Bay Municipal Code in conjunction with his powers of enforcement as outlined in Section 13.04.340 of the Morro Bay Municipal Code that will best conserve water during the State Water Project shutdown.

Third **BE IT FURTHER RESOLVED:**

**BE IT FURTHER RESOLVED**, the conservation measures shall begin October 19, 2009 when the State Water Project annual maintenance shutdown is tentatively scheduled.

MOTION: Councilmember Winholtz moved the City Council adopt Resolution No. 50-09 declaring a City-wide water emergency as amended by Council. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-2 APPROVAL OF RESOLUTION 51-09 REGARDING CITY'S INTENTION TO SELL THE CITY-OWNED PROPERTY AT 781 MARKET AND THE CITY-OWNED PROPERTY AT THE CORNER OF PACIFIC AND MARKET IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City obtained ownership on the property located at the Northeast corner of Market Avenue and Pacific Street in 2001. The property was purchased for \$500,000 using parking in-lieu funds. The City Council will need to make findings that there is no longer a need for this property. It is suggested the City Council determine the parking lot on this property is underutilized because of the location away from the Embarcadero and downtown area. If the property is sold, the parking in-lieu fund will have to be reimbursed \$500,000. The City obtained 781 Market Avenue in 2002; General Fund monies were used for the purchase of this property, and also included the property at 714 Embarcadero. Since 2002, the City has unsuccessfully issued a series of Request for Proposals to develop the properties into a hotel/conference center. The City Council will need to make findings that there is no longer a need for this property. It is suggested the City Council determines this property is vacant, and has no

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potential to be developed as a City facility. Government Code section 37421 allows for the sale of any city-owned building and/or property by adoption of a resolution of intention to sell City property. The purpose of this resolution is to allow for any person to protest the proposed sale. The meeting for final action is scheduled for October 12, 2009. Mr. Schultz recommended the City Council adopt Resolution No. 51-09 regarding the City's intention to sell the City-owned real property located at 781 Market Avenue and the City-owned real property located at the corner of Pacific Street and Market Avenue in Morro Bay, California.

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 51-09 regarding the City's intention to sell the City-owned real property located at 781 Market Avenue and the City-owned real property located at the corner of Pacific Street and Market Avenue in Morro Bay, California. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

D-3 DISCUSSION OF CITY'S NOTICING POLICY; (ADMINISTRATION)

City Manager Andrea Lueker stated the City Council has discussed the issue of public outreach and noticing throughout the years. The City Attorney, in September 2005, compiled a lengthy and in-depth report on the City's legal requirement on public noticing. From that report, the issue became more narrow and dealt with public noticing for development proposals which the City Council provided specific direction. This issue was brought forward as a result of some concerns voiced by stakeholders during a recent JPA meeting regarding the Wastewater Treatment Plant upgrade. The chief concern among the stakeholders was their lack of notification of the meeting. As would be expected, the City adheres to the legal requirements in regard to noticing the public. In addition, the City takes an additional step in placing all public meetings on the City's new website under the "Calendar of Events" section of the homepage. Staff suggested the City of Morro Bay capital projects that require an Environmental Impact Report (EIR) to be conducted, the City will provide courtesy noticing for all meetings that pertain to said project; and, the City will amend the homepage of the City's website to change "Calendar of Events" to "Calendar of Meetings & Events"; the City will also change the "View all Events" to "View all Meetings & Events". Ms. Lueker recommended the City Council approve the procedure of notification of stakeholders in City of Morro Bay capital projects that require EIR.

MOTION: Councilmember Winholtz moved the City Council approve the procedure of notification of stakeholders and individuals in City of Morro Bay capital projects that require Environmental Impact Reports. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

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E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize a discussion on the consideration of the evaluation of water reclamation for Chorro Valley and the evaluation of local alternative water options; Councilmember Borchard and Councilmember Winholtz concurred.

ADJOURNMENT

The meeting adjourned at 10:06 p.m.

Recorded by:

Bridgett Bauer  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – OCTOBER 12, 2009  
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 |
|          | Noah Smukler   | Councilmember |
|          | Betty Winholtz | Councilmember |
| ABSENT:  | Rick Grantham  | Councilmember |
| STAFF:   | Andrea Lueker  | City Manager  |
|          | Robert Schultz | City Attorney |

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

**CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR.** Conference with the City’s Designated Representative, for the purpose of reviewing the City’s position regarding the terms and compensation paid to employees groups and giving instructions to the Designated Representative.

**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: 781 Market Street and the Corner of Pacific Street and Market Street.

Negotiating Parties: George Salwasser and the City of Morro Bay.

Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:54 p.m.

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

The meeting adjourned at 5:54 p.m.



MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009  
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
ABSENT:	Rick Grantham	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	Steve Knuckles	Fire Captain
	Susan Slayton	Administrative Services Director
	Dylan Wade	Utilities/Capital Projects Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

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

PUBLIC COMMENT

Leslyn Keith, representing the Central Coast SurviveOars Team announced the Awakening of the Dragon ceremony, which is a Chinese tradition to make their boat strong and fierce. She invited the public to come celebrate the Dragon on Saturday, October 17<sup>th</sup> at Tidelands Park. Ms. Keith stated the Central Coast SurviveOars is a female cancer survivor paddling team who for two years has provided support, compassion and exercise to female cancer survivors.

Shawn Alice, representing the Morro Dragons stated he has been in this race six times and noted the community will benefit from those who participate in this event.

Jean Lomero stated it is important to the SurviveOars that the community supports this event.

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Bonnie Blackledge addressed Item D-3 (Recommendation For Use Of Park In Lieu Funds To Contribute To The Completion Of An Aquatics Center Feasibility Study Sponsored By The Community Group, The Pool At Morro Bay) and requested the City Council approve the use of the park-in-lieu funds only if the scope of this study is expanded to include the recommendations as suggested by the Morro Bay Community Pool Foundation. She said the expanded scope as recommended would better serve the interest and needs of the citizens and would then become a feasibility study for a community aquatic center that would be located for public use and open year around.

Nancy Bast expressed concern that the City's library lease will expire next year and the City Council has not yet considered the County's proposal. She reviewed background information on the community history of the library. Ms. Bast stated this is the community's library and she would like to know why the lease has not been approved.

Peter Candela, Executive Director of the Chamber of Commerce, expressed thanks to those who volunteered at the Avocado Margarita Festival. He also extended an invitation to the Business Expo that would be held on Thursday, October 15<sup>th</sup> at the Community Center.

Nancy Johnson stated family and friends are soliciting funds for a memorial bench in honor of Chuck Meissner. She remembered all that Chuck had done for the community of Morro Bay.

Susan Brown, MV General Manager, shared Dial-a-Ride information including costs and hours of operation for public information.

The following people addressed Item D-1 (Report on Alcohol Beverage Control License Modification Request by the Owners of the Buoy Bar Located at 2940 Main Street), and expressed support by asking the City Council to file no written objections to the Buoy Bar's request for modifications to their Alcohol and Beverage Control license: Peter Candela, Nancy Nagano, Kelly Rain, George Caravana, Jane Heath, Lee Bragg, James Berry, Bill Martony, and James Hays.

Rick Gillian, Treasurer of the Morro Bay Community Pool Foundation, addressed Item D-3, and stated the Foundation is continuing to work hard towards the goal of a community aquatics center on the north coast. He said the City of Morro Bay would be providing a larger share of funds to conduct the feasibility study, and requested the Council require additional community-based questions to ensure a fair and balanced feasibility study.

Barbara Doerr addressed Item D-3 and said the City's park-in-lieu funds should be used for a feasibility study on an aquatic center that would be located within the City of Morro Bay and not outside the City limits.

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Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:14 p.m.; the meeting resumed at 7:24 p.m.

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  
ON SEPTEMBER 14, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

MOTION: Councilmember Winholtz moved the City Council approve Item A-1 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 PUBLIC HEARING PURSUANT TO RESOLUTION 51-09 REGARDING  
CITY'S INTENTION TO SELL THE CITY-OWNED PROPERTY AT THE  
NORTHEAST CORNER OF MARKET AVENUE AND PACIFIC STREET  
AND THE CITY-OWNED PROPERTY AT 781 MARKET STREET IN  
MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

City Attorney Robert Schultz stated Government Code section 37421 allows for the sale of any City-owned building and/or property by adoption of a resolution of intention to sell City property. Pursuant to section 37421, the City Council, at its September 28, 2009 meeting, adopted Resolution 51-09 acknowledging its intention to sell the real property at the Northeast Corner of Market Avenue and Pacific Street and at 781 Market Avenue. The purpose of this public hearing is to allow for any person to protest the proposed sale. Mr. Schultz recommended the City Council open the public hearing, and authorizes staff to seek bids for the sale of real property located at the Northeast Corner of Market Avenue and Pacific Street and at 781 Market Street, Morro Bay, California.

Mayor Peters opened the hearing for public comment.

Barbara Doerr requested information on how the City would seek bids on the property.

Bill Martony requested information on how the properties would be sold and at what price.

Mayor Peters closed the public comment hearing.

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Mr. Schultz answered the questions raised in public comment.

MOTION: Councilmember Winholtz moved the City Council authorize staff to seek bids to sell the real property located at the Northeast Corner of Market Avenue and Pacific Street and at 781 Market Street. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

B-2 RESOLUTION TO APPROVE A BUSINESS LICENSE APPLICATION FOR AN ARCADE IN CONFORMANCE WITH MORRO BAY MUNICIPAL CODE 5.04.330 AT 725 EMBARCADERO ROAD; (ADMINISTRATION)

City Manager Andrea Lueker stated the City received a business license request to establish a “family fun zone” video arcade at 725 Embarcadero. Pursuant to the Municipal Code, approval of the business license application for this type of business is required by the City Council in a public hearing setting. Ms. Lueker recommended the City Council adopt Resolution No. 53-09 approving a business license application for an arcade located at 725 Embarcadero Road.

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

Councilmember Borchard expressed concern with another business in the visitor serving area that will not be providing sales tax.

Councilmember Winholtz stated she will vote in support of this application with the condition of reviewing it in one year.

Mayor Peters stated she is supportive because it will give kids something to do.

MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 53-09 approving a business license application for an arcade located at 725 Embarcadero Road with conditions 1-5 as listed. The motion was seconded by Mayor Peters and carried unanimously. (4-0)

C. UNFINISHED BUSINESS

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

Mayor Peters stepped down due to a conflict of interest.

Recreation & Parks Director Joe Woods stated the City's co-sponsorship currently includes two special events: the Morro Bay Winter Bird Festival and the Teach Foundation Telethon Fundraiser. Both events were approved by the City Administrator

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and are well beyond 10 years in existence. The City Council has requested the Recreation and Parks Commission (RPC) review the current policy and recommend any improvements such as guidelines for qualifications, application review procedures, and event logistics. Through discussion, the RPC has agreed on the desire to continue with a co-sponsorship program, and the need to qualify requesting agencies based on various criteria. Information received from the requesting agency's application for co-sponsorship should be reviewed and approved by the RPC and Recreation and Parks Director. Staff feels that groups requesting co-sponsorship must meet the minimum of criteria consisting of the following: 1) event is off-season (November 1<sup>st</sup> through April 30<sup>th</sup>); 2) event is multi-day or one day with financial return to the City; and, 3) requesting party is a nonprofit organization. Furthermore, staff feels co-sponsored events should be reviewed on an annual basis along with their re-submittal of a Facility Use Application. Additionally, current co-sponsored events would need to reapply under any new policies or procedures which may be adopted. Mr. Woods recommended the City Council consider one of the three options: 1) continue with the existing co-sponsorship program without amendments; 2) approve the City's co-sponsorship of events with conditions; or 3) no longer support the City's co-sponsorship of events.

Councilmember Smukler stated he supports option 2 that would include a recycling plan on the questionnaire; Councilmember Borchard and Councilmember Winholtz agreed.

**MOTION:** Councilmember Borchard moved the City Council continue the co-sponsorship of events, with the following conditions: 1) event is off-season (November 1<sup>st</sup> through April 30<sup>th</sup>); 2) event is multi-day, or one day with financial return to the City; and, 3) requesting party is a nonprofit organization. The motion was seconded by Councilmember Smukler.

Councilmember Winholtz requested a friendly amendment to the motion to direct the Recreation & Parks Department to explore criteria further with more delineation.

Councilmember Borchard accepted the amendment to her motion; Councilmember Smukler accepted the amendment to his second.

**VOTE:** The motion carried with Mayor Peters abstaining. (3-0-1)

**C-2 MANDATORY WATER CONSERVATION MEASURES; (PUBLIC SERVICES)**

Utilities/Capital Projects Manager Dylan Wade stated on September 28<sup>th</sup>, the City Council declared a water emergency on the effective date of October 19<sup>th</sup>, with the pending State Water Project shutdown (November 1 and potentially extending to November 21). Mandatory Water Conservation Requirements are codified in the municipal code, as well as the authority of the Public Services Director to enforce these requirements to best conserve water during this period. The Public Services Department

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– Utilities Division newsletter was sent to every postal address and location within the community with information on primarily the mandatory conservation program, and a separate community wide mailing will include the actual “Mandatory Water Conservation Measures”. Notices and handouts have been distributed for display at all City departments with public counters. All restaurants, hotels and businesses related to serving visitor’s water will be distributed half page flyers to hand out to patrons stating the City’s mandatory water conservation measures are in effect. The City’s website has a considerable amount of the information on water conservation and the mandatory measures, as well as public service announcements which are currently being run on local government television (Channel 20). Mr. Wade recommended the City Council receive this report for information and file.

MOTION: Councilmember Winholtz moved the City Council receive this report for information and file. The motion was seconded by Councilmember Smukler and carried unanimously. (4-0)

D. NEW BUSINESS

D-1 REPORT ON ALCOHOL BEVERAGE CONTROL LICENSE MODIFICATION REQUEST BY THE BUOY BAR LOCATED AT 2940 MAIN STREET; (POLICE)

Police Chief John DeRohan stated in August 2008, Brian and Nancy Rozario purchased the Buoy Bar from Neighborhood Bar Concept, Inc. Prior to the sale of this bar, the Police Department experienced a high volume of calls for service at the Buoy Bar as well as numerous complaints from the surrounding residents. The Alcohol and Beverage Control (ABC) Board suspended the ABC license of the bar in 2007 for 30 days due to numerous violations. During the purchase negotiations of the bar, Brian and Nancy Rozario had meetings with the Police Chief and agents from ABC. Due to the history of the bar and the previous problems, additional conditions to the ABC license were mutually agreed upon by the new owners in addition to the conditions already in existence. The new owners were informed by the ABC Board that they had the ability to petition for modification of these conditions after one year in existence or at the time they applied for a different ABC permit that included the serving of food. It has now been approximately one year since the new owners took control of the bar and they are exercising their right to request a modification of the ABC conditions. The ABC Board has notified the City of the request by the Rosarios and the City Council must respond back to the ABC Board by October 15, 2009 (30 days from the date of the ABC notice) if they choose to file a written objection or response to the modification/removal of the conditions. Depending on the motion made by Council, comments will be forwarded to the ABC Board for their consideration if so desired. Any modifications to the ABC license of the Buoy Bar rest solely with the ABC Board. Chief DeRohan recommended the City Council discuss the request by the owners of the Buoy Bar, the impacts on surrounding residences and make a recommendation to the ABC Board.

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MOTION: Councilmember Winholtz moved the City Council file no written objection to the Buoy Bar's request for modifications to their ABC license that include: 1) modification of Current Condition #1 which would allow the sales, service and consumption of alcoholic beverages to be permitted between 6:00 a.m. and 2:00 a.m.; 2) modification of Current Condition #2 would allow permitting live entertainment, acoustic instruments only with minor amplification, no louder than the existing jukebox; and, 3) removal of Current Condition #5 which would no longer require at least one (1) uniformed security guard between the hours of 9:00 p.m. and the time the bar closes every day of the week the premises is open for business and that all security guards be licensed by the Department of Consumer Affairs. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

Mayor Peters called for a break at 8:32 p.m.; the meeting resumed at 8:36 p.m.

D-2 APPROVAL OF RESOLUTION 52-09 OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOODS, AND COASTAL PROTECTION ACT OF 2002 FOR IMPROVEMENTS TO LILA KEISER PARK; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated the Office of Grants and Local Services has contacted the City of Morro Bay regarding the remaining balance of our 2002 Bond Act Per Capita Block. The remaining balance of \$70,000 is unallocated, but still available. The allocation of these funds to a project must be requested through the submission of a project application, and staff has identified a project, which includes improvements to Lila Keiser Park. Staff has evaluated the current conditions at Lila Keiser Park, and has formulated a project which meets multiple City objectives. The objectives would be to provide a safe place for the community to recreate, as well as to attract and maintain positive revenue streams. The project would include the replacement of bleachers at both west and east fields, the replacement of the scoreboard on the east field, additional fencing at both fields, and possibly some parking lot improvements. Staff feels that the available funds would satisfy the financial demand brought about by the above project improvements. Staff recognizes the efforts previously demonstrated to capture the \$220,000 Block Grant, and feel it is in the best interest of the City to request the remaining unallocated balance for the use of the improvements to Lila Keiser Park. Mr. Woods recommended the City Council approve Resolution 52-09, approving the application for Grant funds for the Per Capita Grant Program under the California Clean Act, Clean and Air, Safe Neighborhoods, and Coastal Protection Act of 2002 for the improvements to Lila Keiser Park.

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MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 52-09 approving the application for Grant funds for the Per Capita Grant Program under the California Clean Act, Clean and Air, Safe Neighborhoods, and Coastal Protection Act of 2002 for the improvements to Lila Keiser Park, not to exceed the capacity of those grant funds. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

D-3 RECOMMENDATION FOR USE OF PARK IN LIEU FUNDS TO  
CONTRIBUTE TO THE COMPLETION OF AN AQUATICS CENTER  
FEASIBILITY STUDY SPONSORED BY THE COMMUNITY GROUP, THE  
POOL AT MORRO BAY; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated in the attempt to reestablish a community pool in Morro Bay, the San Luis Coastal Unified School District, City of Morro Bay, County of San Luis Obispo, and The Morro Bay Community Pool Foundation (a community based nonprofit organization) met to establish a strategic plan. It was agreed that the Morro Bay Community Pool Foundation would be responsible for funding and completing a feasibility study prior to any other action taking place. After this strategic planning meeting, a second community-based nonprofit organization, The Pool at Morro Bay, was established, and has taken the responsibility to complete the feasibility study. This group has sufficient funds to complete the first phase of the feasibility study and is requesting support from the City of Morro Bay to complete the second phase. The City Council reviewed a request from the Morro Bay Community Pool Foundation for partnership in the pursuit of an aquatics center. At the regular scheduled City Council meeting of November 10, 2008, the City Council unanimously agreed to adopt Resolution 77-08, which supports this community group in their goal of providing an aquatics center in conjunction with the County, School District, and the City of Morro Bay. The Memorandum of Understanding between San Luis Coastal Unified School District, City of Morro Bay, County of San Luis Obispo, and The Morro Bay Community Pool Foundation would identify each principles obligations and conditions of participation. A feasibility study would be outsourced and the Foundation agreed to raise the funds necessary to complete a feasibility study for the proposed community aquatics center. The completion of a feasibility study is an essential part of the initial effort to provide the Estero Bay community with an aquatics center. The allocation of park-in-lieu funds would contribute to the success of that endeavor. The Recreation and Parks Commission recommends the City Council allocate \$15,000 of park-in-lieu funds to support the second phase of the pool feasibility study. Mr. Woods recommended the City Council approve the use of \$15,000 of park-in-lieu funds for the completion of Phase 2 of the Aquatics Center Feasibility Study sponsored by the non-profit community group, “The Pool at Morro Bay”.



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MOTION: Councilmember Borchard moved the City Council approve the use of \$15,000 of park-in-lieu funds for the completion of Phase 2 of the Aquatics Center Feasibility Study sponsored by the non-profit community group, “The Pool at Morro Bay”. The motion was seconded by Mayor Peters.

Councilmember Winholtz stated she is in favor and appreciates being educated on the need for the Phase I feasibility study for the phone survey; however, she is not comfortable allocating the \$15,000 until she knows the results of that survey.

VOTE: The motion carried with Councilmember Winholtz voting no. (3-1)

E. DECLARATION OF FUTURE AGENDA ITEMS – None.

ADJOURNMENT

The meeting adjourned at 9:22 p.m.

Recorded by:

Bridgett Bauer  
City Clerk



AGENDA NO: A-2

MEETING DATE: 10/26/09

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 21, 2009  
**FROM:** Andrea K. Lueker, City Manager  
**SUBJECT:** Status Report on Applications for Economic Stimulus Funding

**RECOMMENDATION:**

Staff recommends the City Council review this information and accept this report.

**MOTION: I move the City Council accept the Status Report on Applications for Economic Stimulus Funding for file.**

**FISCAL IMPACT:**

Not Applicable.

**SUMMARY:**

In order to keep the City Council, staff and residents of Morro Bay informed regarding the City's efforts in attracting Economic Stimulus funds, staff will be presenting a status report to the City Council on a monthly basis outlining the applications to date.

**BACKGROUND:**

On February 17, 2009 President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The stated purpose of the ARRA is:

- (1) To preserve and create jobs and promote economic recovery.*
- (2) To assist those most impacted by the recession.*
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.*
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.*
- (5) To stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.*

The ARRA provides funds for investments in many programs, including health care, energy,

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

infrastructure, education, and public safety. The total cost of the package is \$787 billion, and consists of nearly \$355 billion for upgrades to transportation, infrastructure, construction, health care programs, education and housing assistance, and energy efficiency projects, \$144 billion in state and local fiscal relief, and \$288 billion in personal and business tax credits.

Specifically in California, the League of California Cities has compiled a “City Funding Book” to assist cities in their pursuit for funding. There will be regular updates made available on the League’s website at [www.cacities.org](http://www.cacities.org) as more information becomes available.

**DISCUSSION:**

Attached is a chart of the applications that have been submitted to date for funds related to the Economic Stimulus funding. **The programs listed represent only those which funding has been requested and or applications have been submitted.** Staff is tracking a number of other programs through a spreadsheet as well as “grant tracking report” form whose application dates are forthcoming.

Changes from the last update include the following:

- Fire awarded \$1,602,940 for Fire Station Phase II
- Harbor notified it will not be awarded a Clean Water State Revolving Fund grant for the Low Impact Development (LID) Boat Yard Phase I .



AGENDA NO:	<u>B-1</u>
MEETING DATE:	<u>10/26/09</u>

# Staff Report

**TO:** Honorable Mayor and City Council **DATE:** October 20, 2009

**FROM:** Rob Schultz, City Attorney

**SUBJECT:** Discussion/Interpretation of General Plan/Local Coastal Plan Policies and Zoning Regulations Relating to the Location and Placement of Commercial and Recreational Facilities/Uses in the Waterfront and Bay Area of the City West of Main Street between Acacia and Barlow

## RECOMMENDATION:

Staff recommends that the City Council discuss and interpret the applicable City General Plan/Local Coastal Plan policies and Zoning regulations related to the location and placement of commercial and recreational facilities in the Waterfront and Bay area and provide recommendations to City Council. It is Staff's interpretation that in the area of the City west of Main Street between Acacia and Barlow commercial uses are allowed in the Waterfront/Bay/Tidelands area, subject to a project-by-project review and environmental analysis.

**Motion: I move that Staff interpret the City's GP/LCP to allow for commercial uses in the Bay/Tidelands area of the City west of Main Street between Acacia and Barlow, subject to a project-by-project review and environmental analysis.**

## FISCAL IMPACT:

None.

## BACKGROUND:

The City's General Plan and Local Coastal Plan Policies relating to the location and placement of commercial uses, commercial fishing uses and recreational boating uses in the Waterfront/Bay/Tidelands area of the City west of Main Street between Acacia and Barlow has been the subject of controversy for a while. Many residents in this area have spoken at public comment that commercial uses are not allowed. This controversy has caused confusion and frustration for Staff and Applicants, particularly with regard to what are the allowable uses in the area of the City west of Main Street between Acacia and Barlow.

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

In an effort to reduce this controversy and provide more certainty in the planning process, the Harbor Advisory Board, Planning Commission and City Council held public hearings and provided recommendations on the interpretation of the City's General Plan and Local Coastal Plan policies on these issues. In addition, Staff has spent an incredible amount of time researching files and minutes to determine the legislative history of our policies.

On April 2, 2009, the Harbor Advisory Board held a public hearing to discuss and interpret the GP/LCP Policies relating to the location and placement of commercial and recreational facilities in the Bay. Attached as Exhibit "A" are the minutes of the meeting. After receiving public testimony, the Harbor Advisory Board on a 5-1 vote recommended to City Council to insert the word "fishing" into the first sentence of LCP Policy 7.05 and Program LU 63.4 to read: "Vessels of a commercial **fishing** nature...."

On April 6, 2009, the Planning Commission held a public hearing to discuss and interpret the GP/LCP Policies relating to the location and placement of commercial and recreational facilities in the Bay. Attached as Exhibit "B" are the minutes of the meeting. After receiving public testimony, the Planning Commission on a 5-0 vote recommended that if City Council desires Planning Commission to make an interpretation, they direct staff to make a full presentation to Planning Commission before taking action.

On May 26, 2009, the City Council held a public hearing to discuss and interpret the GP/LCP Policies relating to the location and placement of commercial and recreational facilities in the Bay. Attached as Exhibit "C" are the minutes of the meeting. After receiving public testimony, the City Council on a 5-0 vote directed Staff to forward this item to the Planning Commission for a full historical review with the zoning issues for commercial uses in the Bay/Tidelands area of the City and provide Council with further definition of appropriate commercial uses in that zone.

On July 6, 2009, the Planning Commission held a public hearing to discuss and interpret the GP/LCP Policies relating to the location and placement of commercial and recreational facilities in the Bay. Attached as Exhibit "D" are the minutes of the meeting. After receiving public testimony, the Planning Commission on a 4-0 vote recommended that commercial fishing facilities and uses are allowable uses in this Bay area and the types of commercial, or whether a use is commercial or industrial, will be determined on a case by case basis after environmental review.

## **DISCUSSION**

Based upon previous discussions at City Council and Planning Commission meetings, there has been confusion as to allowable uses in our Bay and Waterfront in the Mixed Use area "B". Mixed Use area "B" is shown on the Map in the City's Coastal Land Use Plan as the area of the City west of Main Street between Acacia and Barlow.

The City's Coastal Land Use Plan, Chapter II, pp. 24-25 states:

**Mixed Uses: The mixed uses land use designation combines neighborhood and visitor-serving commercial uses, high-density residential and professional uses. It recognizes those areas in the City which have existing mixed use development patterns which appear to be a positive land use function worth maintaining. Uses allowed in this designation will be those which can function compatibly and include but are not limited to apartments and condominiums, professional offices, small convenience stores and gift shops, and small capacity restaurants. Businesses which have later hours or tend to be noisy would be encouraged to locate in other areas with more appropriate land use categories.**

**In addition, the mixed land use designation may apply to certain vacant parcels that because of this large size, can accommodate two or more types of uses with careful planning. The following descriptions of these areas shall be the basic planning policy for these areas. These mixed uses, designated by specific areas on Figure 5, are defined as follows:**

**Mixed Use Area B: Existing coastal-dependent and coastal-related uses shall be protected, maintained and provided where feasible in new development. Mixed Harbor Uses shall be for recreational boating and fishing rather than commercial fishing. Visitor-serving commercial/recreational uses shall have priority over other land uses consistent with traffic, circulation and parking constraints in the Embarcadero.**

In 1983, the Planning Commission received several letters requesting that the LUP designation for Mixed Use Area "B" be changed to a strictly residential district. Hearings were held before the Harbor Commission on January 12, 1984 and before the Planning Commission on February 6. The minutes of the Planning Commission meeting are attached as Exhibit "E". The Planning Commission's and the Harbor Commission's discussions highlighted several important points bearing on this issue. The Points were summarized in a Staff Report to the City Council as follows:

- 1) This part of the City has been long characterized by a mix of residences and water-oriented commercial. Which type of use was there first may be debatable, but there is no doubt both kinds of uses have long histories in this area.
- 2) Given the well-established character of the area, significant recycling from one kind of use to another is not likely in the near term (five-ten years).
- 3) There is evidence of existing and potential conflicts between the commercial and residential uses. Given that the two kinds of uses are so well-established and wholesale recycling highly unlikely, the potential for conflicts will continue in this area for a long time.
- 4) The road access and circulation in this area is poor. Main Street is winding and narrow; maneuvering of large trucks for loading and unloading or simply for ingress

to commercial sites is frequently difficult and requires interruption of traffic flow or blocking of the bike trail and sidewalk. The area is clearly not suitable for the full range of commercial uses because of circulation problems.

- 5) The terrain puts restriction on possible development. There is a bluff separating the area and adjacent to Main Street from the waterfront itself. The areas above and below the bluff are relatively narrow. Access to the waterfront from Main Street is difficult because of the bluff.
- 6) There is a limited amount of waterfront available and there is a need being served by the existing water-oriented commercial establishments in this part of the City. The Coastal Act generally gives priority to water-oriented commercial uses over other kinds of commercial or residential uses along the waterfront.
- 7) The residents in the existing neighborhood on both sides of Main Street are concerned about potential noise, traffic and glare impacts if commercial activities increase; the owners, operators and customers of the existing commercial establishments are concerned about unreasonable restrictions on their present operation or on future expansion and about further residential encroachment onto the limited waterfront.

After considering these findings and objectives, the Planning Commission concluded that the best approach would be to establish the following policies in the LUP:

1. Designate the area below the bluff from the fuel dock property north as Mixed-Use: Harbor.
2. Designate the southernmost two parcels and existing residential above the bluff for low-medium density residential.
3. All existing residences and commercial establishments in this area shall be considered conforming; existing commercial use above the bluff shall not be permitted to expand.
4. Vehicular accessways and parking lots serving commercial properties below the bluff may be permitted above the bluff.
5. The entire area shall be designated with a "P.D." overlay so that CUPs (and public hearing) are required for new development. In approving a CUP for new uses the Planning Commission shall make the following findings:
  - a. That any proposed commercial use is generally serving a water-borne clientele or serving a water-oriented purpose.
  - b. That the proposed commercial use, by its nature or design, will result in

minimal noise, glare, odor and traffic impacts on other nearby uses.

- c. That any new residential development shall be of a density and design which minimizes potential exposure to and would not unreasonably restrict water-oriented commercial activities.
- d. That any new use shall not generate significant traffic/circulation impacts and shall include adequate parking, loading and access (turning and driveway) facilities.
- e. That any new use shall not result in any harmful (eg: toxic waste) discharge into the bay.

In response to the Planning Commission's recommendations, the City Council held a public hearing on August 13, 1984 and adopted resolution 95-84 and Ordinance 262. The minutes, Staff Report, Resolution and Ordinance are attached hereto as Exhibit "F". The Resolution and Ordinance approved changes to the LUP and zoning as follows:

**LUP: For properties above the bluff, from mixed uses: harbor to low-medium density residential.**

**Zoning: For properties above the bluff, from WF/PD to R-1/PD.**

**Added the following policies to the LUP text:**

**For the area of the City west of Main Street between Acacia and Barlow (ie: those parcels west of Main Street between APN 66-251-01 and 07, inclusively), the following policies shall apply:**

1. **All existing residences and commercial establishments in this area shall be considered conforming; existing commercial use above the bluff shall not be permitted to expand.**
2. **Vehicular accessways and parking lots serving commercial properties below the bluff may be permitted above the bluff.**
3. **The entire area shall be designated with a "P.D." overlay so that CUPs (and public hearings) are required for new development. In approving a CUP for new uses the Planning Commission shall make the following findings:**
  - a. **That any proposed commercial use is generally serving a water-borne clientele or serving a water-oriented purpose.**
  - b. **That the proposed commercial use, by its nature or design, will result in minimal noise, glare, odor and traffic impacts on other**



**nearby uses.**

- c. That any new residential development shall be of a density and design which minimizes potential exposure to and would not unreasonably restrict water-oriented commercial activities.**
- d. That any new use shall not generate significant traffic/circulation impacts and shall include adequate parking, loading and access (turning and driveway) facilities.**
- e. That any new use shall not result in any harmful (eg: toxic waste) discharge into the bay.**

Based upon the above, the area below the bluff in the Mixed Use Area B remained part of the “Waterfront (WF) District”. The City’s Zoning Ordinance states in regard to Waterfront District at 17.24.170:

**A. Purpose. The purpose of the waterfront (WF) district is to provide for the continued mixture of visitor-serving commercial and recreational and harbor-dependent land uses in appropriate waterfront areas, as provided in this chapter.**

The allowable uses in the WF District are set forth in Table 1 of 17.24.170:

- Visitor-serving commercial and recreational uses, including but not limited to those provided in Section 17.24.120 of this title, but excluding service stations, parking structures, and overnight RV camping.**
- Retail and wholesale seafood markets and seafood processing.**
- Dockage and support facilities for licensed commercial fishing and recreational (including sport fishing) boats subject to the following additional conditions: prior to allowing support structures and uses for new recreational boating facilities, the planning commission shall consider the present and future demand for such facilities and for other coastal-development uses, to ensure that new recreational boating facilities will not preclude reasonable expansion of commercial fishing facilities and other coastal dependent uses.**
- Support uses, structures, connections, and appurtenances to water uses including wharves, docks, piers, slips, quays, launches, fuel docks, hoists, and other facilities necessary or convenient for the promotion and accommodation of commerce and navigation.**
- Parks, observation decks and platforms, patios, boardwalks, benches, kiosks, and other facilities necessary or convenient for the promotion and accommodation of public access to the waterfront.**
- Revetments, bulkheads, seawalls, cliff retaining walls, and other such structures that alter shoreline processes which are found to be necessary for**

**protection of existing development (new development must ensure stability without depending on shoreline protection devices) or public recreation areas, or other coastal development uses.**

It is Staff's interpretation that the above LCP Policies and Zoning Ordinance clearly allow for commercial uses in the Waterfront area west of Main Street between Acacia and Barlow. The primary reason for this interpretation is that Planning Commission and City Council in 1984 specifically addressed this issue based upon Citizen letters and decided only to restrict residential uses above the bluff and continued to allow commercial uses below the bluff in the Waterfront District.

In regard to allowable uses in the Bay in the area west of Main Street between Acacia and Barlow, it gets a little bit more complicated. This area is located in Area 9 of the City's Coastal Land Use Plan. The City's Coastal Land Use Plan, Chapter I, p. 16 states:

**Area 9 – Harbor and Navigable Ways**

**This planning area incorporates the area within the city limits covered by bay water, wetlands areas and tidelands.**

**a. Existing Use**

**The harbor is being utilized for a variety of harbor dependent uses which include dockage, moorage, government, commercial and recreational navigation, swimming, commercial and recreational fishing, mariculture and other similar uses. The harbor serves as de facto safe moorage during inclement weather.**

**b. Potential Development**

**It is anticipated that existing uses will be expanded. It is possible that the harbor could be utilized for some coastal-dependent energy uses in the future.**

**c. Major Coastal Issues**

**The major coastal issues in this planning area are commercial fishing, energy, access and recreation, diking, dredging and filling, environmentally sensitive habitat protection and locating and planning new development.**

The Bay Area west of Main Street between Acacia and Barlow is part of the Harbor and Navigable Ways (H) District in the City's Zoning Code. The City's Zoning Code states:

**17.24.190 HARBOR AND NAVIGABLE WAYS (H) DISTRICT.**

**A. PURPOSE. The purpose of the harbor and navigable ways or (H)**

**district, is to designate the area within city limits covered by water excluding sensitive habitat areas, for those uses which must be located on the water in order to function, or as an accessory use to a land based/shore facility or structure as provided in this chapter.**

**B. USES ALLOWED WITHOUT A CONDITIONAL USE PERMIT. The following uses are permitted in the harbor and navigable ways (H) district: commercial and recreational boating and fishing; swimming, scuba diving and wind surfing in areas designated by the city council pursuant to Title 15 of the Morro Bay Municipal Code; bird and animal observation; viewshed; moorage in inclement weather.**

**C. USES ALLOWED ONLY WITH A CONDITIONAL USE PERMIT. The following uses may be permitted in the harbor and navigable ways (H) district subject to a conditional use permit and if the planning commission determines they will not impede navigation, nor adversely affect the current tidal flushing of the harbor, or increase shoaling, or otherwise substantially alter the natural shoreline processes and/or existing land forms, unless there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.**

- 1. Mariculture;**
- 2. Houseboat or Vessel Habitation. Houseboat or vessel habitation as regulated by Title 15 of the Morro Bay Municipal Code and subject to the provision of adequate parking as determined by the planning commission;**
- 3. Promotion and Accommodation of Commerce and Navigation. Wharfs, docks, piers, slips, quays, launches, moorings, fuel docks, hoists, observation decks and other facilities necessary or convenient for the promotion and accommodation of commerce and navigation;**
- 4. Recreational Boating and Commercial Fishing. Recreational boating and commercial fishing facilities subject to the following additional conditions:**
  - a. New recreational boating and passenger for hire facilities shall only be located in the bay south of Beach Street and not be located North of Beach Street,**
  - b. Only new licensed commercial fishing facilities may be located in the bay north of Beach Street,**

- c. Existing recreational boating and passengers-for-hire facilities located north of Beach Street may be modified but not expanded,
- d. Prior to allowing new noncommercial recreational boating facilities, the planning commission shall consider the present and future demand for such facilities and for other coastal dependent uses, to ensure that new recreational boating facilities will not preclude reasonable expansion of commercial fishing facilities and other coastal dependent uses.

The above LCP Policies and Zoning Ordinance clearly allow for both Commercial and Recreational Fishing in the Bay Area. However, LCP Policy 7.09 designates recreational boating and fishing uses as primary uses in this area west of Main Street and south of Acacia. In addition, there has also been some confusion with the meaning of certain terms in our General Plan and Local Coastal Plan Policies regarding “commercial fishing vessel”. Typically, a “commercial fishing vessel” is required to be registered with the State as such and follow a prescribed set of demands. However, a “commercial vessel” is not required to be registered as a “commercial fishing vessel” and does not have the same criteria.

The City’s Coastal Land Use Plan, Chapter IX, p. 148 states:

**Recently, the City has taken steps to ensure the priority of commercial fishing within the Morro Bay Harbor while still providing for recreational boating. With a demand greater than the City-owned slips could provide, it was necessary to establish priority for commercial fishing craft use of these slips and for the slips waiting list. Vessels of a commercial nature refer to boats which have a current Department of Fish and Game commercial fishing license and whose owner or operator holds a commercial fishing license which within the calendar year has been actively used for commercial fishing activities. In order to be consistent with Coastal Act policies, it is necessary that private slip development within the harbor also give priority to commercial fishing, balanced with the needs of recreational boating.**

**Program LU-52.1: Future harbor expansion, specifically for commercial fishing, should occur in the northern portion of the bay. This area is better suited to accommodate the larger boats which are becoming more prevalent in the fishing industry. If this future harbor expansion reduces the demand for existing commercial fishing facilities, those areas south of Tidelands Park should be utilized by recreational boats.**

**LCP Policy 7.01 & Program LU-63.1: New commercial fishing facilities shall be located in the northern portion of the Bay north of Beach Street. New recreational boating facilities shall be located south of Beach Street. Commercial fishing shall be accommodated as long as facilities and space allow,**

**consistent with providing for other coastal-dependent uses. New development must be found consistent with Section 30236 and other resource protection policies contained in the LUP and Chapter 3 policies in the Coastal Act.**

**LCP Policy 7.05 & Program LU-63.4: “Vessels of a commercial nature” shall mean vessels for which the State of California, Department of Fish and Game has issued a current commercial fishing license, and whose owner or operator holds a current commercial fishing license, and which within the current calendar year has been actively used for commercial fishing activities. Such use shall be evidenced by proof that the vessel has grossed a minimum \$5,000 during the calendar year or that the vessel has fished at least 60 days during the calendar year. Gross earnings or fish sales shall be evidenced by State of California, Department of Fish and Game commercial fish receipts of other west coast states. This definition shall be used to identify commercial fishing vessels for priority for coastal-dependent facilities.**

**LCP Policy 7.09 : The City shall designate recreational boating and fishing uses as priority uses for the portion of the planning area west of Main Street and south of the Acacia Street Intersection . Existing coastal dependent uses shall be protected when approving new development.**

It is Staff’s interpretation that the above policies allow commercial uses on the bay in the area of the City west of Main Street between Acacia and Barlow. Staff is split on whether Commercial Fishing uses are prohibited in this area. The initial issue for City Council to decide is whether Commercial Fishing facilities are allowable uses in the bay area of the City west of Main Street between Acacia and Barlow.

The other question for City Council is to try to define and make a clear the difference between commercial and industrial uses: you can discuss it and try to describe it, but you have to be careful when drawing lines. It gets really difficult because there is a lot of gray area in between. Most often, commercial applies to uses such as retail business establishments or personal services applications as set forth in Zoning Code Section 17.24.090. Industrial applications often include factories, boat building, machine shops and power plants as set forth in Zoning Code 17.24.140.

In regard to commercial uses, the City’s Coastal Land Use Plan, Chapter II at Pages 21-22 states:

## **2. Commercial Land Uses**

**Six commercial land use categories have been established to meet the varieties of commercial needs within the City.**

**Neighborhood Commercial: This land use designation is intended to provide for those commercial uses which cater to the daily needs of residents within a one-to-two mile radius. Typical land uses are grocery and convenience food stores, laundries, hardware and drug stores.**

**District Commercial:** This land use designation is intended to provide for commercial uses which cater to the needs of more than one neighborhood. It would provide for suitable land area, primarily in the Central Morro Bay Planning Area, for commercial businesses offering major household and personal goods and services.

**Service Commercial:** Many commercial uses must be located carefully with respect to residential neighborhoods. Those commercial businesses that create noise, require outdoor work areas, or have other characteristics which are not suitable to be located near residential land uses should be located in the areas designated for service commercial uses.

This land use category is intended to accommodate some forms of light industrial/manufacturing uses particularly relating to commercial fishing needs. Specifically, it is intended to encourage the continuation of boat building land uses and fish processing which does not require canning or extensive cooking facilities.

The City recognizes the need to preserve land for service commercial use, and will with any LUP amendment and zone change request carefully, recognizing the need for such uses as boat storage and repair, and light industry. Areas most suitable for service commercial/light industrial activities shall be protected as such. The characteristics of such areas include good vehicle access, buffers from residential areas and the principal commercial districts, and larger lot size. Some service commercial areas must also be preserved near the waterfront but care must be exercised to minimize conflicts with other uses.

**Mixed Commercial/Harbor Dependent Land Use:** This land use designation allows a mixture of visitor-serving commercial uses, and harbor dependent land uses. It is intended to preserve the working harbor existing along the Embarcadero while facilitating visitor needs, since the Embarcadero is a major tourist destination. Examples of land uses that would be accommodated in this category are sportfishing facilities, fish stores, dockage for commercial fishing boats, restaurants, gift shops, visitor access and facilities, some fish processing facilities requiring the use of ocean water, recreational boat dockage and other similar activities.

In regard to industrial uses, the City's Coastal Land Use Plan, Chapter II at Pages 22-23 states:

**Two industrial land use categories have been established, General (Light) Industrial and Coastal Dependent Industrial land uses. Both designations reflect the existence of two basic industrial uses in the City, commercial fishing and processing and public utility and energy land uses.**

**General Industry: Light industry land uses which do not require materials or equipment which emit excessive air, audio, water or land pollutants, or would require considerable outdoor storage, are allowable in this designation. The City would like to encourage the location of light industries that would specifically cater to commercial fishing and regional needs, such as machine shops, auto mechanic shops, black smith, cold storage, warehousing and food processing, light manufacturing, component assembling and small parts processing.**

**Conclusion:**

It is Staff's interpretation that the above policies allow for commercial uses on the waterfront and in the bay in the area of the City west of Main Street between Acacia and Barlow. It is also Staff's interpretation that industrial uses are not allowable uses on the waterfront or bay in the area of the City west of Main Street between Acacia and Barlow. However, the difficult questions before the City Council for interpretation are the following:

1. Are Commercial Fishing facilities and uses allowable in this area?
2. What types of commercial uses are allowable in this area? Should certain uses be classified Industrial and therefore not allowed?

Staff is split on the first issue. As to the second issue, Staff's recommendation that this should be determined on a case-by-case basis after environmental review.



AGENDA NO: B-2

MEETING DATE: 10/26/2009

## Staff Report

**TO:** Honorable Mayor and Council                      **DATE:** 10/26/2009  
**FROM:** Joe Woods, Recreation and Parks Director  
**SUBJECT:** Review and Approve the Public Art Proposal for a Peace Pole  
to be Located at the Morro Bay Library.

**RECOMMENDATION:**

The Recreation and Parks Commission (RPC), as well as Staff recommend City Council review and approve the proposal from the Friends of the Library to purchase and install a Peace Pole as Public Art at the exterior of the Morro Bay Library located at 615 Harbor Street.

**MOTION:** I move the City Council approve the proposal from the Friends of the Library to purchase and install a Peace Pole as Public Art at the exterior of the Morro Bay Library located at 615 Harbor Street.

**FISCAL IMPACT:**

Other than Staff time to coordinate the project with the Friends of the Library, there should not be any financial impact to the City.

**BACKGROUND/DISCUSSION:**

Pursuant to the current Public Art Policy, (attached), all requests for public art donations start at the City Manager's office. After review for completeness, the application for public art is forwarded to appropriate advisory boards for consideration and recommendations. Recommendations regarding the request to donate public art are then forwarded to City Council for final consideration. The Morro Bay Friends of the Library (FOL) have submitted an application to donate a Peace Pole to the City of Morro Bay. (attached) This application has met the City Manager's criteria, and has been reviewed by the RPC. The motion from the RPC recommends staff pursue acceptance of the Peace Pole for the Library location. The FOL proposal, with the amendment increasing the size of the Peace Pole from 6' to 8' is included for your consideration and acceptance.

Prepared By: JMW

Dept Review: JMW

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

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



**City of Morro Bay  
PUBLIC ART POLICY**

(Approved by Morro Bay City Council on February 27, 2006)

**PURPOSE**

The City of Morro Bay encourages public art on appropriate City owned property. The purpose of this policy is to set forth standardized policies and procedures for the acceptance of donated artwork offered to the City by the artist.

**DEFINITION OF PUBLIC ART**

For the purpose of this policy, public art will be artwork located in public places (indoor or outdoor) owned by the City of Morro Bay.

**REVIEW PROCEDURE**

A. Any artist wishing to donate artwork to the City of Morro Bay must submit an application to the City Manager's office in the form attached hereto:

- 1) Photo, plans or model of proposed donation
- 2) Technical description of the work
- 3) Any special care, maintenance, mounting or display requirements
- 4) Resume of the artist
- 5) Statement of value of the proposed donation

B. City staff shall review the application and supporting documentation for the proposed donation. Upon finding that the application is complete, City staff shall place the application on the agenda of all City boards and commissions for their comments. Input shall be encouraged from the Morro Bay Art Association, Morro Bay Public Art Foundation and the public at large. It shall then go to the City Council for final approval or denial.

**SELECTION CRITERIA**

A. The City Council will consider the following criteria when considering whether to accept or reject a donation of public art:

- 1) The design and placement of public art will not impede pedestrian or vehicle traffic or conflict with public or private easements.
- 2) Whether the artist has the necessary funds/resources to properly install, care for and maintain the donated public art.
- 3) Appropriateness of the site.

**ACCEPTANCE**

A. If the City Council votes to accept the donated artwork, the artist shall enter into a donation agreement. Upon execution of the agreement by the artist, title of the artwork shall pass to the City.

B. The City in its sole discretion may remove from its collection any donated artwork. In such event the City shall make reasonable efforts to contact the artist who donated the artwork and offer to return the artwork. If the artist cannot be located after reasonable efforts, or the artist declines to accept the return of the artwork, the City may determine the disposition of the artwork.

### **Public Art Request**

The Morro Bay Friends of the Library are requesting that the City Council for the City of Morro Bay and its appropriate Boards and Commissions approve our request to donate a Peace Pole to the City of Morro Bay, adjacent to the Morro Bay Library, in honor of a long term steward and advocate of our Library and this community. This is a time-sensitive donation, so we are hopeful that this can be approved through all the appropriate channels by the end of November 2009.

#### **History of Peace Pole**

The Peace Pole Project started in Japan in 1955 by Masahisa Goi, who decided to dedicate his life to spreading the message, “May Peace Prevail on Earth” in response to the bombings on Hiroshima. Peace Poles are handcrafted monuments erected the world over as international symbols of Peace. Their purpose is to spread the message “May Peace Prevail on Earth” in a different language, one on each side. Masahisa Goi stated, “We are facing an age where the politics of the world must be carried out by each individual who repeats the words “May Peace Prevail On Earth” thus becomes a great force for realizing Peace in the world.”

Peace begins in the heart and mind of each individual. As war begins with thoughts of war, Peace begins with thoughts of Peace. The Peace Pole reminds us to keep Peace ever-present in our thoughts. As we learn to honor one another, our environment, plants, animals and all creation on Earth, the vision of global Peace will gradually become a natural way of life, a true culture of Peace.

Peace Poles can be found in town squares, city halls, schools, places of worship, parks, and gardens - any place where the spirit of Peace is embraced by people of good will. Since the beginning of the project over 200,000 Peace Poles have been planted in over 200 countries around the world.

Some of the extraordinary locations include the Pyramids of El Giza in Egypt, the Magnetic North Pole in Canada, Gorky Park in Russia, and Angkor Wat in Cambodia. They are promoting healing of conflict in places like Sarajevo, the Atomic Bomb Dome in Hiroshima, and the Allenby Bridge on the border between Israel and Jordan.

Mayors in many parts of the world have planted Peace Poles to dedicate their cities and towns to world Peace. Both political leaders, such as former U.S. President Jimmy Carter, and religious leaders, such as Pope John Paul II, Mother Teresa and the Dalia Lama, have dedicated Peace Poles.

### **Why a Peace Pole**

We believe that a Peace Pole, located adjacent to the Harbor St. entrance to the Morro Bay Library (near the outdoor Library patio) would be a perfect legacy and honor for the individual we are celebrating, and a beautiful and meaningful attraction that enhances our city as an international tourist destination.

### **Type of Peace Pole**

We would like to purchase a 6' outdoor aluminum pole that is sandblasted so that the translations are etched into their surface. It would be four-sided so that the statement, "May Peace Prevail on Earth" would be in at least four different languages, one of them being English. Aluminum poles are maintenance free and weather resistant so they will not require any special care.



**Donation Cost of Such a Project**

The cost for a Peace Pole averages around \$350 plus \$45 for shipping and handling. We would also like to include in front of the Peace Pole a Bronze Plaque, which would have engraved the individual's name and a short dedication at a cost of about \$400. We do not believe this will be labor intensive to install, but are prepared to pay the prevailing wage for this to occur. The Morro Bay Friends of the Library will incur all costs.

**Contact Person:** Karen Robert, President, Morro Bay Friends of the Library – 772-9268



AGENDA NO: C-1

MEETING DATE: October 26, 2009

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 20, 2009

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

**SUBJECT:** Update on Mandatory Water Conservation Measures

**RECOMMENDATION:**

It is recommended that the City Council receive and file this report.

**MOTION:** I move that the City Council receive and file this report.

**FISCAL IMPACT:**

There is no fiscal impact associated with receiving this update.

**BACKGROUND/DISCUSSION:**

The mandatory water conservation measures went into effect on October 19. Several thousand brochures have been handed out to the visitor serving businesses in the community. There have been a few calls to the office with questions on the conservation measures, but no apparent enforcement issues so far.

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

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

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

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



AGENDA NO: D-1

MEETING DATE: October 26, 2009

## Staff Report

**TO:** Honorable Mayor and Council                      **DATE:** October 19, 2009  
**FROM:** Andrea Lueker, City Manager  
**SUBJECT:** Approval to Incorporate E-Mail Notification Module on City Website

### **RECOMMENDATION:**

Approve adding the E-Mail Notification module to the City website and authorize the expenditure for installation, training and maintenance from the Public, Education and Government (PEG) Access Fund.

**MOTION:** I move that the City Council approve adding the E-Mail Notification module to the City website and authorize the expenditure for installation, training and maintenance from the Public, Education and Government Access (PEG) Fund.

### **FISCAL IMPACT:**

The cost for the module is \$300 for installation, \$300 for training and \$100 per month for maintenance. The City has a \$340 credit with CivicPlus from training hours that were not used during the website redesign project last fiscal year. The City would use that credit and fund the remaining amount from the PEG Fund.

### **DISCUSSION:**

In an effort to provide additional opportunities for the public to receive information from the City in a timely and convenient manner, staff would like to install an E-Mail Notification module on the City website.

What the module does is provide the ability for citizens to sign up to receive e-mail notification when certain information is posted to the website. For example, a person could sign up to be notified when the Council agenda or minutes have been posted on the website rather than checking in repeatedly until the information being sought is placed online.

The notification module would also reduce staff time associated with phone calls from citizens wanting to know when particular information is available or from maintaining e-mail lists for manual notification to interested citizens of such information, for example the Wastewater Treatment Plant Upgrade meeting notification.

Prepared By: J. Burlingame

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

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

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

To get an idea of what the E-Mail Notification looks like, go to the City of Dubuque's website at <http://www.cityofdubuque.org> and click on the Notify Me button. Attachment 1 shows what the individual signing up for E-Mail Notification receives when he/she first signs up and Attachment 2 shows what the e-mail notification looks like when the selected information was posted to the website.

**CONCLUSION:**

Staff recommends the City Council approve adding the E-Mail Notification module to the City website and authorize the expenditure for installation, training and maintenance from the Public, Education and Government (PEG) Access Fund.

## Attachment 1

Page 1 of 1

### **Janeen Burlingame - You have been successfully subscribed to City Council Agendas & Minutes!**

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**From:** "Dubuque City Council Agendas & Minutes" <listserv@civicplus.com>  
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## Attachment 2

Page 1 of 1

### Janeen Burlingame - City Council Minutes, October 5, 2009

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**From:** "City of Dubuque" <listserv@civicplus.com>  
**To:** <jburlingame@morro-bay.ca.us>  
**Date:** 10/9/2009 12:01 PM  
**Subject:** City Council Minutes, October 5, 2009

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To view the minutes from the Dubuque City Council's October 5, 2009 special and regular sessions, please [click here](#).

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AGENDA NO: D-2

MEETING DATE: October 26, 2009

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 15, 2009

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

**SUBJECT:** Application Fee for Affordable Housing Project Financing

### **RECOMMENDATION:**

It is recommended that the City Council direct staff to amend the Master Fee Schedule to include a \$500 base fee deposit plus actual costs in performing financial real estate pro forma analysis for affordable housing project financing.

**MOTION: I move that the City Council direct staff to amend the Master Fee Schedule to include a \$500 base fee deposit plus actual costs in performing financial real estate pro forma analysis for affordable housing project financing.**

### **FISCAL IMPACT:**

Establishing this fee and system for reimbursing the City for actual costs will reduce costs in evaluating unworthy projects seeking funding from the Affordable Housing In-Lieu Fee fund and ultimately result in a savings to the City.

### **SUMMARY:**

The intent in establishing this fee is to deter frivolous or unrealistic requests for affordable housing assistance. In effect, this fee would only be applied to projects that do not justify financial assistance. If the City Council decides to participate in the project and provide affordable housing assistance, this fee and expenses in processing the request would be reimbursed or included with the financial assistance.

### **BACKGROUND:**

Unfortunately there have not been many requests for affordable housing project financing. The most recent request in several years was made last year when the City Council approved financial assistance from the Affordable Housing In-Lieu Fund for the Sea Shell Retirement Home at 1405 Teresa. As part of that item, staff brought up the idea of charging an application fee for processing requests for similar assistance. The item was subsequently placed on the Future Agenda Items calendar for future consideration, which is now before the Council.

**Prepared By:**

**Dept Review:**

**City Manager Review:**

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

**DISCUSSION:**

In evaluating requests for financial participation on affordable housing projects, it is necessary to ensure that the City is not making “a gift of the public funds.” Therefore, due diligence financial analysis is required of the project real estate pro forma. The amount of time and expense in conducting that analysis varies considerably depending upon the project scope, financial complexity, and developer expertise. The recommended base fee of \$500 would normally cover the initial analysis and the applicant would be charged the actual costs in completing the review. If the City Council determined that a prospective affordable housing project was worthy of financial assistance, the fee and expenses would either be reimbursed or credited with the approved funding.

**CONCLUSION:**

Adding this fee would ultimately save the City money on affordable housing proposals that do not justify public participation for any number of financial reasons. Projects that do justify financial assistance would be reimbursed or credited the fee and processing expenses. Requests for affordable housing financing assistance are few and far between, so this has not really been a significant cost issue for the City. However, adding the fee would be a deterrent to frivolous or unreasonable requests for financial assistance.



AGENDA NO: D-3

MEETING DATE: October 26, 2009

# Staff Report

**TO:** Mayor and Councilmembers **DATE:** October 20, 2009  
**FROM:** Bruce Ambo, Public Services Director

**SUBJECT:** Potential Topics for the Joint Planning Commission/City Council Meeting

**RECOMMENDATION:**

**It is recommended that the City Council consider and discuss potential discussion topics for the joint Planning Commission/City Council and also set a date and time for the meeting.**

**FISCAL IMPACT:**

There is no fiscal impact associated with this action other than the administrative costs for staff support at the meeting.

**BACKGROUND/DISCUSSION:**

Section 2.28.120 of the Morro Bay Municipal Code provides for the Planning Commission and City Council to meet twice annually to discuss policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The Planning Commission will also discuss potential topics at their meeting on November 2. The Council had originally scheduled a California Environmental Quality Act (CEQA) workshop for this joint meeting to occur on November 30, but apparently there is a schedule conflict and interest to talk about more items and/or goals from both the Planning Commission and City Council.

**RECOMMENDATION:**

Staff recommends that as a starting point the Council focus on the previously established Advanced Planning Work Program on the Current Planning Processing List, and then carefully consider any new additions and the implications in reordering any new projects, programs and/or priorities. Discussion on the CEQA review process would also be timely since the EIR for the wastewater treatment plant is in preparation and there are also several CEQA related items forthcoming on the greenhouse gas (AB 32) and sustainable communities fronts (SB 375).

- 1) Current Planning Processing List

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