

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING – SEPTEMBER 8, 2008

**CLOSED SESSION – SEPTEMBER 8, 2008
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY

TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to 3 parcels.

- Property: 625 Harbor Street; Library.
Negotiating Parties: SLO County and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: 35W and 36W adjacent to 235 Main Street
Negotiating Parties: Martony, Pekarek and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: Morro Bay RV Dunes.
Negotiating Parties: Doug Claassen and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

**CS-2 GOVERNMENT CODE SECTION 54956.9(A); CONFERENCE WITH
LEGAL COUNSEL REGARDING PENDING LITIGATION.**

- LINKER vs. CITY OF MORRO BAY
- MORRO BAY vs. MARTONY and PEKAREK

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

**PUBLIC SESSION – SEPTEMBER 8, 2008
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.

COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE SPECIAL MEETING OF AUGUST 4, 2008, AND THE REGULAR CITY COUNCIL MEETINGS OF AUGUST 11, 2008 AND AUGUST 25, 2008; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 55-08 APPROVING A LANDLORD'S ESTOPPEL CERTIFICATE ON LEASE SITE 53-56/53W-56W; ESTERO LANDING LOCATED AT 501 EMBARCADERO; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 55-08.

A-3 PROCLAMATION DECLARING SEA OTTER AWARENESS WEEK; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 ZONING ORDINANCE AMENDMENT FOR NEIGHBORHOOD COMPATIBILITY STANDARDS; (PUBLIC SERVICES)

RECOMMENDATION: Accept the Planning Commission's recommendation and direct staff to work on the zoning amendments.

C. UNFINISHED BUSINESS

C-1 FURTHER DISCUSSION OF RESPONSIBLE PARTY ON UTILITY ACCOUNTS AND WATER DEPOSIT; (FINANCE)

RECOMMENDATION: Discuss and direct staff accordingly.

D. NEW BUSINESS

D-1 CONSIDERATION OF CHANNEL STREAMING AND PURCHASE OF REPLACEMENT EQUIPMENT FOR LOCAL GOVERNMENT CHANNEL INSERTION POINT; (ADMINISTRATION)

RECOMMENDATION: Discuss and direct staff accordingly.

D-2 DISCUSSION ON COUNCIL MEMBER REPORTS FROM OTHER COUNTY AND AGENCY MEETINGS; (COUNCIL)

RECOMMENDATION: Discuss and direct staff accordingly.

D-3 CONSIDERATION OF A DATE FOR A JOINT CITY COUNCIL AND COMMUNITY PROMOTIONS COMMITTEE MEETING; (ADMINISTRATION)

RECOMMENDATION: Schedule a joint City Council/Community Promotions Committee meeting.

E. 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
SPECIAL MEETING 6 AUGUST 4, 2008
VETERANS MEMORIAL HALL - 4:00 P.M.

Mayor Peters called the meeting to order at 4:03 p.m.

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	William Peirce	Councilmember
	Rick Grantham	Councilmember
ABSENT:	Betty Winholtz	Councilmember
STAFF:	Rob Schultz	City Attorney
	Susan Slayton	Finance Director
	Bruce Ambo	Public Services Director
	Kimberly Peeples	Housing Programs Coordinator
	Planning Manager	Mike Prater
	Joe Woods	Acting Recreation & Parks Director

PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONSIDERATION OF A CDBG PLANNING AND TECHNICAL ASSISTANCE (ECONOMIC DEVELOPMENT) GRANT APPLICATION FOR A REDEVELOPMENT FEASIBILITY STUDY AND ADOPTION OF A RESOLUTION APPROVING THE APPLICATION AND GRANT AGREEMENT; (PUBLIC SERVICES)

Public Services Director Bruce Ambo presented the staff report noting the only funding source that will be used for the cash match is the CDBG fund; the General Fund will not be affected. He recommended the City Council receive public comment, and adopt Resolution No. 51-08 approving an Application for Funding in the amount of \$35,000 from the Community Development Block Grant "Economic Development" Planning and Technical Assistance (P/TA) Grant Application for a Redevelopment Feasibility Study and the Execution of a Grant Agreement and any amendments thereto.

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

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 51-08 approving an Application for Funding in the amount of \$35,000 from the Community Development Block Grant "Economic Development" Planning and Technical Assistance (P/TA) Grant Application for a Redevelopment Feasibility Study and the Execution of a Grant Agreement and any amendments thereto. The motion was seconded by Councilmember Peirce and carried unanimously. (4-0)

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING 6 AUGUST 4, 2008

B-2 CONSIDERATION OF A CDBG PLANNING AND TECHNICAL ASSISTANCE (GENERAL ALLOCATION) GRANT APPLICATION FOR A REDEVELOPMENT FEASIBILITY STUDY AND ADOPTION OF A RESOLUTION APPROVING THE APPLICATION AND GRANT AGREEMENT; (PUBLIC SERVICES)

Public Services Director Bruce Ambo presented the staff report noting this application will be coupled with Item B-1 to cover the majority of the costs of the Redevelopment Feasibility Study. He recommended the City Council receive public comment, and adopt Resolution No. 52-08 approving an Application for Funding in the amount of \$35,000 from the Community Development Block Grant "General Allocation" Planning and Technical Assistance (P/TA) Grant Application for a Redevelopment Feasibility Study and the Execution of a Grant Agreement and any amendments thereto.

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

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 52-08 approving an Application for Funding in the amount of \$35,000 from the Community Development Block Grant "General Allocation" Planning and Technical Assistance (P/TA) Grant Application for a Redevelopment Feasibility Study and the Execution of a Grant Agreement and any amendments thereto. The motion was seconded by Councilmember Grantham and carried unanimously. (4-0)

B-3 RECONSIDERATION OF THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL AND THE CITY COUNCIL'S DENIAL OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 545 SHASTA AVENUE. (CITY ATTORNEY)

Planning Manager Mike Prater made a presentation reviewing the history of the project and the appeal of locating a Wireless Telecommunications Facility at 545 Shasta Avenue; the federal regulations that affect this project, and reviewed the coverage maps provided by Sprint.

Ann Travers, appellant, addressed the Council highlighting her previous appeal request, the history of the appeal and the current moratorium. She requested the City Council support this appeal.

Michael Jencks, attorney for the appellants, presented copies of a memo to the City Council and reviewed how the Telecommunications Act is applicable to this project. Mr. Jencks also asked to have the October 22, 2007 record made part of today's record (which is on record at the City Clerk's office), and stated the CEQA review is not on the agenda description so he felt the reconsideration had not been noticed properly.

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING 6 AUGUST 4, 2008

Barbara Norton, appellant, asked the Council what is going to define the non-moratorium neighborhood; why only part of the settlement was rescinded if a federal judge notified that it was rescinded; and, what has changed since the October 22, 2007 meeting.

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

Councilmember DeMeritt stated she is not sure if the tower is necessary at this location due to the service area map shown online for Sprint, which shows complete coverage in Morro Bay. She said she is going to uphold the initial appeal and rely on the Telecommunications Act and the City Council to protect the community.

Councilmember Peirce stated the map they were provided might be accurate based upon the engineering that was done when they put their tower on Radcliffe Avenue. He said he would like to see changes to the zoning ordinance to support these changes, but nothing can be done until the Coastal Commission reviews these amendments.

Councilmember Grantham stated the settlement agreement is not relevant to his decision tonight and he is still a proponent for placing telecommunications facilities on City property.

Mayor Peters stated she did not feel anything was hidden from public scrutiny, no exparte communications have happened, and there is no law preventing them from approving cell sites in residential areas.

MOTION: Councilmember DeMeritt moved the City Council uphold the appeal and deny the Wireless Telecommunications Facility at 545 Shasta Avenue. The motion was seconded by Councilmember Grantham and failed with Councilmember Peirce and Mayor Peters voting no. (2-2)

MOTION: Councilmember DeMeritt moved the City Council continue this item to the August 11, 2008 City Council Meeting. The motion was seconded by Councilmember Grantham and carried unanimously. (4-0)

ADJOURNMENT

The meeting adjourned at 5:08 p.m.

Recorded by:

Kimberly Peeples
Housing Programs/Office Coordinator

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION 6 AUGUST 11, 2008
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

PRESENT: Janice Peters Mayor
 Melody DeMeritt Councilmember
 Rick Grantham Councilmember
 William Peirce 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 Peirce and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.9(a); CONFERENCE WITH LEGAL
 COUNSEL REGARDING PENDING LITIGATION

- SPRINT PCS ASSETS V CITY OF MORRO BAY
- TRAVERS AND NORDIN V CITY OF MORRO BAY

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

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

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 11, 2008
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	Rick Grantham	Councilmember
	William Peirce	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
	Mike Pond	Fire Chief
	Susan Slayton	Finance Director
	Joe Woods	Acting Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

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 announced tickets are available for a fundraiser supporting the Police Department, Fire Department and Rotary Club with a chance to win a Prius or \$18,000.

Jim Nance encouraged citizens to support the Veterans Outreach for those who have served and are serving in the armed forces.

Nancy Castle stated Chess Live would be performing every second and fourth Sundays of the month at the giant chessboard on the Embarcadero. She also requested fabric for festival flags for the tents at the Harbor Festival.

Mayor Peters closed the hearing for public comment.

DECLARATION OF FUTURE AGENDA ITEMS ó None.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING 6 AUGUST 11, 2008

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR REGULAR CITY COUNCIL MEETING OF JULY 14, 2008; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 48-08 AUTHORIZING THE ANNUAL TRANSFER OF EXCESS OPERATING CASH TO ACCUMULATION FUNDS; (FINANCE)

RECOMMENDATION: Adopt Resolution No. 48-08.

A-3 RESOLUTION NO. 49-08 ADOPTING REVISIONS TO THE MASTER FEE SCHEDULE; (FINANCE)

RECOMMENDATION: Adopt Resolution No. 49-08.

A-4 AUTHORIZATION TO FILE FEDERAL LITIGATION AGAINST VANCE AND LOLA JONES IN REGARD TO THEIR DERELICT AND ABANDONED VESSEL, THE ST. JOSEPH; (HARBOR)

RECOMMENDATION: Authorize litigation to ensure removal of the derelict and abandoned vessel, the St. Joseph, and obtain a judgment for delinquent mooring/docking fees.

Councilmember Winholtz pulled Item A-3 from the Consent Calendar.

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

A-3 RESOLUTION NO. 49-08 ADOPTING REVISIONS TO THE MASTER FEE SCHEDULE; (FINANCE)

Councilmember Winholtz stated tenants should not be held responsible for paying a deposit for water service, and the property owner should be responsible for water service.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING 6 AUGUST 11, 2008

MOTION: Councilmember Winholtz moved the City Council adopt Resolution No. 49-08 adopting revisions to the Master Fee Schedule with the deletion of the utility deposit for tenants only, and request staff to return with an ordinance that would make property owners responsible for application of water bills. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 6:55 p.m.; the meeting resumed at 7:10 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 53-08 SUPPORTING THE ESTABLISHMENT OF AN OFF LEASH DOG PARK AT DEL MAR PARK AND AUTHORIZING STAFF TO PROCESS GENERAL PLAN AND MASTER PLAN AMENDMENTS ON BEHALF OF MORRO PUPS; (CITY ATTORNEY)

City Attorney Robert Schultz stated an off-leash dog park located in Morro Bay has been a topic of discussion for several years. The last action taken by the City Council was on April 28, 2008 when it adopted a Memorandum of Understanding with Morro Bay Pups. Pursuant to the MOU with Morro Bay Pups, on June 5, 2008 the Recreation & Parks Commission reviewed and approved the proposed design concept for an off-leash dog area within Del Mar Park and directed staff to forward a recommendation to amend the Master Plan for Del Mar Park directly to City Council. Mr. Schultz recommended the City Council adopt Resolution No. 53-08 supporting the establishment of an off-leash dog park at Del Mar Park and authorize staff to process General Plan and Master Plan amendments on behalf of Morro Bay Pups.

Mayor Peters opened the hearing for public comment.

The following people expressed support for establishing an off-leash dog park at Del Mar Park: Roger Ewing, Mary Stallard, Noah Smukler, George Bomely, Nancy Williams, Ilean Doering, Mary Norby, Steven Marketello, Joe Hoeflich, and Jane von Koehe.

The following people expressed opposition to establishing an off-leash dog park at Del Mar Park: Jeanne McIntosh, Patrick Ayotte, Mike Anderson and Lindsay Ayotte.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING 6 AUGUST 11, 2008

Councilmember Winholtz expressed support for an off-leash dog park at Del Mar Park. She said traffic and flooding concerns should be addressed, and traffic should be directed away from the Island Street parking area. Councilmember Winholtz stated tourists should be directed to go to a beach that is accessible to walking their dogs to reduce the impact to this dog park.

Councilmember Peirce stated although he sympathizes with the Island Street neighborhood, this is a good location for a dog park.

Councilmember Grantham stated he is encouraged with this proposed plan and location. He said there should be a restriction that all dogs remain on a leash until they are in the designated off-leash area.

Councilmember DeMeritt stated she is an enthusiastic supporter of this dog park. She said it is necessary with the limited areas available on the smaller lots in the City for dogs to run.

Mayor Peters expressed support for this dog park. She said the parking should not impact Island Street, and the dogs will be interacting with each other and there should not be too much noise. Mayor Peters encouraged the neighboring property owners to participate in the upcoming meetings to review the requirements of this dog park.

MOTION: Councilmember DeMeritt moved the City Council adopt Resolution No. 53-08 supporting the establishment of an Off-Leash Dog Park at Del Mar Park and authorizing Staff to process General Plan and Master Plan Amendments on behalf of Morro Pups. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 7:50 p.m.; the meeting resumed at 8:00 p.m.

B-2 CONTINUED PUBLIC HEARING FROM AUGUST 4, 2008 ON THE RECONSIDERATION OF THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL AND THE CITY COUNCIL'S DENIAL OF A CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT FOR A WIRELESS TELECOMMUNICATIONS FACILITY AT 545 SHASTA AVENUE. (CITY ATTORNEY)

City Attorney Robert Schultz stated the proposed facility would consist of the removal of the existing cross and subsequent installation of a RF-friendly cross with one, three-panel electromagnetic satellite antenna to be located entirely within the cross, and construction of a twenty-foot deep by ten-foot wide fenced equipment storage area. Mr. Schultz reviewed the history of this application:

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING 6 AUGUST 11, 2008

- On August 20, 2007, the Planning Commission approved the applicant's request for Coastal Development Permit and Conditional Use Permit approvals for the erection of a wireless telecommunications facility at 545 Shasta Avenue.
- On August 29, 2007, Ann Travers and Barbara Nordin appealed the Planning Commission's approval of a wireless telecommunications facility at this location.
- On October 22, 2007, after considering evidence presented by interested parties during a public hearing, the City Council voted to overturn the approval of the Planning Commission and denied the application.
- On November 21, 2007, in response to the City Council's denial of its application, Sprint filed a Complaint in Federal Court against the City.
- On June 9, 2008, the City Council approved a settlement agreement that disposed of all such matters and controversies that were raised or could have been raised in the litigation including allowing Sprint to construct a wireless telecommunications facility at 545 Shasta Avenue and dismissal of the litigation.
- On July 8, 2008, the City received a letter from an attorney for Ann Travers and Barbara Nordin alleging the City violated the Brown Act at the June 9, 2008 City Council meeting.
- On July 14, 2008, the City Council rescinded the action taken at the June 9, 2008 meeting pertaining to the granting of any permit or entitlement for the construction of a wireless telecommunications facility at 545 Shasta Avenue.
- On August 4, 2008, the City Council scheduled a public hearing for reconsideration of the appeal of the Planning Commission's approval and the City Council's denial of a wireless telecommunications facility at 545 Shasta Avenue; this public hearing was continued to this meeting.

Mr. Schultz recommended the City Council rescind any and all previous action taken by City Council in regard to this project and conditionally approve the project by adopting a motion including the following actions:

- A. Find that the Mitigated Negative Declaration is complete and adequate under the requirements of the California Environmental Quality Act (CEQA) and that it was considered in reviewing the merits of the proposed project;
- B. Adopt the Findings for Approval, including findings required by CEQA;

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING 6 AUGUST 11, 2008

- C. Approve the Conditional Use Permit and Coastal Development Permit subject to the Conditions of Approval.

Ann Travers, appellant, stated the City should continue the moratorium on wireless telecommunications facilities until it has an updated ordinance that will make a level playing field for all wireless telecommunication facilities. She said she has been in contact with staff of Representative Lois Capps' office to consider support for the amendment to the Telecommunications Act to enable more local control for local jurisdictions to work with the various telecommunication vendors in a fair and equitable way.

Michael Jencks, attorney for appellants, stated companies enforcing the Telecommunications Act have superior resources to local jurisdictions in attempting to preserve local authority. He said the appellants question the sufficiency of the mitigations of the Negative Declaration. Mr. Jencks stated the appellants only requested relief or action is that the City imposes a moratorium on approval of any permits for the installation of cell sites until local rules and regulations have been developed and approved by the City Council. In addition, the appellants have concern with potential health implications of wireless telecommunications facilities.

Barbara Nordin, appellant, stated at the October 22, 2007 Council meeting, the City Council voted against the location of this proposed wireless telecommunication facility. She said the City should have the welfare of its community in mind rather than giving in to a large corporation.

Scott Yamaguchi, attorney for the applicant, urged the City Council to implement the federal judgment and settlement agreement and proceed with approving the project and submitting the permits. He said the federal courts made clear that the Federal Telecommunications Act must be given force and trumps state and local court decisions. Mr. Yamaguchi stated it could be a costly mistake by the City by incurring legal fees by not following through and implementing the federal judgment.

Mayor Peters opened the hearing for public comment.

The following people expressed support for the construction of a wireless telecommunications facility at 545 Shasta Avenue: Bud Zeuschner, Jerry Anderson, Walter Shoub, Donna Baker, Sandra Gordon, Charles Erickson, Diane Ludin, and Leonore Erickson.

The following people expressed opposition to the construction of a wireless telecommunications facility at 545 Shasta Avenue: Peter Risley and Roger Ewing.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 11, 2008

Michael Jencks, attorney for the appellants, stated one of the primary concerns with the Telecommunications Act is there is no discrimination between cellular service providers. He said the federal court action preempts the act of radiation safety standards. Mr. Jencks stated the conditions of this project are woefully inadequate in environmental and land use issues.

Scott Yamaguchi, attorney for the applicant, stated the federal settlement agreement in this case imposed certain obligations that were approved by the federal judge. He recommended the City implement the judgment made in federal court.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz stated her concern is with impacting property values by placing commercial uses in a residential area. Another concern she has is with the emissions from a cell tower and the affect on the flight patterns of birds. Councilmember Winholtz stated unfortunately the lawsuit places a defining role with this decision and the City has a mild chance of being successful at the federal level. She said it is important to note that Sprint has had a difficult time locating a tower in the City because it is not a desirable use in the locations that are appropriate.

Councilmember Peirce stated his comments remain the same and he continues to support staff's recommendation.

Councilmember Grantham stated he is unwilling to place the City in a precarious position with the federal judicial system. He stated he would support the agreement with Sprint.

Councilmember DeMeritt stated corporations invented the Federal Communication Act. She said the danger of cell phone towers has not been proven. Councilmember DeMeritt stated winning over federal court is not likely and this is a difficult decision.

Mayor Peters stated the original vote on this project was based on land use, which at the time was not in the City's zoning ordinance. She said the City has no evidence over the placement of cell phone towers in residential areas at this time; however, a moratorium has since been enacted. Mayor Peters stated it is the Council's responsibility to protect the public from entering into a federal court lawsuit.

Councilmember Winholtz referred to Exhibit "A" of the staff report and requested to remove findings H and M; Council concurred.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 11, 2008

MOTION: Councilmember Grantham moved the City Council approve a Conditional Use Permit and Coastal Development Permit to allow for the establishment of a wireless telecommunications facility at 545 Shasta Avenue with the amendments made to Exhibit "A", finding H (removal of the word "and"), and the removal of finding "M". The motion was seconded by Councilmember Peirce and carried with Councilmember DeMeritt voting no. (4-1)

C. UNFINISHED BUSINESS ó None.

D. NEW BUSINESS

D-1 CONSIDERATION OF PARTICIPATION IN THE VECTOR CONTROL BENEFIT ASSESSMENT DISTRICT; (ADMINISTRATION)

City Manager Andrea Lueker introduced Curtis Batson, Director of the San Luis Obispo County Environmental Health Agency who gave a report on the County Vector Control Program. Mr. Batson stated on April 1, 2008 the San Luis Obispo County Board of Supervisors authorized the Health Agency's Environmental Health Division to proceed with a property owner assessment ballot measure to create a benefit assessment intended to provide permanent annual funding for a vector control program. The proposed vector control services would consist of public education, surveillance, abatement and response to disease outbreaks for all vectors and vector-borne diseases. The County expects to conduct the ballot measure in May 2009, and each city has the option of participating in the Vector Control Program.

Councilmember Winholtz expressed concern with the control over the City, and the program appears to be expanded without the need being demonstrated.

Councilmember Peirce stated the program's main focus is on abating mosquitoes, which he is comfortable with.

Councilmember Grantham stated the West Nile Virus is a good enough reason to support this program.

Councilmember DeMeritt stated she is opposed in participating in this program because there is no great need in Morro Bay. She said the Department of Fish & Game already maintains the creeks and streams located in the City.

Mayor Peters stated she would support placing this on the ballot so the citizens can decide if they would like to participate in this program.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 11, 2008

MOTION: Councilmember Grantham moved the City Council approve the City's participation in placing the Vector Control Program as a measure on the ballot in May 2009. The motion was seconded by Councilmember Peirce and carried with Councilmember DeMeritt and Councilmember Winholtz voting no. (3-2)

D-2 RESOLUTION NO. 50-08 DETERMINING ISSUANCE OF AN ALCOHOL BEVERAGE CONTROL PERMIT FOR A WINE TASTING ROOM LOCATED AT 307 MORRO BAY BOULEVARD; (ADMINISTRATION)

City Manager Andrea Lueker stated an application was made for a permit from the Department of Alcoholic Beverage Control (ABC) to operate a wine tasting room at 307 Morro Bay Boulevard. ABC automatically denies permits to sell alcohol beverages if there is an "undue concentration" of licenses in the census tract. In order for the ABC to issue the license, they require the local governing body to determine that the "public convenience and necessity" would be served by the issuance of the license. The Police Department has reviewed this application and has no significant concerns at this time with a wine tasting room at this location.

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 50-08 determining issuance of an Alcohol Beverage Control Permit for a Wine Tasting Room located at 307 Morro Bay Boulevard. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

ADJOURNMENT

The meeting adjourned at 9:18 p.m.

Recorded by:

Bridgett Bauer
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION 6 AUGUST 25, 2008
CITY HALL CONFERENCE ROOM - 5:00 P.M.

AGENDA NO.: A-1
Meeting Date: 9/08/08
Action: _____

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

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	Rick Grantham	Councilmember
	William Peirce	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Winholtz moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Grantham 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 as to two (2) parcels.

- Property: Embarcadero/Market.
Negotiating Parties: Potential Buyers and City of Morro Bay.
Negotiations: Voluntary Purchase and Sale.
- Property: Navy Fuel Depot Property along Panorama Drive
Negotiating Parties: US Government and City of Morro Bay.
Negotiations: Voluntary Purchase and Sale.

CS-2 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:55 p.m.

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

The meeting adjourned at 5:55 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	Rick Grantham	Councilmember
	William Peirce	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
	Tim Olivas	Police Commander
	Mike Pond	Fire Chief
	Mike Prater	Planning Manager
	Susan Slayton	Finance Director
	Dylan Wade	Utilities/Capital Projects Manager
	Joe Woods	Acting Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

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

Marla Jo Bruton addressed Item D-1 (Update on the Morro Basin Nitrate Study) stating she and Richard Sadowski questions the analysis made by Cleath & Associates regarding the source of the nitrate contamination in the Morro Basin. She submitted a copy of a presentation made to the Public Works Advisory Board on the Morro Basin Nitrate Study, and a letter to the California Regional Water Quality Control Board dated July 7, 2008 for the record (on file in the City Clerk's office).

Joan Carter stated she is a volunteer at Pacific Wildlife Care and found a pelican on the bait dock that was tied up in fishing line and died from shock of the trauma. She said the City should be responsible for being a bird sanctuary and posting signs to properly dispose of fishing line and do not feed the animals.

Claire Grantham announced raffle tickets are being sold at \$100 each to benefit the Friends of the Fire Department, Friends of the Police Department and Rotary Club. She said the grand prize is a new Prius or \$18,000 cash; second prize is \$3,000 and third prize is \$1,500. Ms. Grantham stated the raffle would be held at the Harbor Festival.

MINUTES - MORRO BAY CITY COUNCIL
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David Nelson stated there would be an alternative energy development seminar in Oregon regarding alternative approaches to power plants, and he would hope someone from staff would attend. He also said the City needs to repair the entrance to the City.

Cathy Novak announced the Central Coast Natural History Association would be hosting its first "One-Eyed Skunk" golf tournament on October 18th and requested participation or sponsorship.

Noah Smukler stated a Rainwater Harvesting workshop would be held on September 2nd, which will discuss ways of turning water scarcity into water abundance.

Roger Ewing stated he attended the Chamber of Commerce Mixer at the Library on Wednesday, August 6th, and the Garden Day event on Saturday, August 9th both of which were wonderful events. He also reminded the City that discussions on the library lease with the County are forthcoming.

Mayor Peters closed the hearing for public comment.

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendize a discussion on signage to be located at the Harbor Department regarding no feeding of animals and proper disposal of fishing line; Councilmember DeMeritt and Mayor Peters concurred.

Mayor Peters requested to agendize the reconsideration of the Palm Avenue right-of-way walkway; Councilmember DeMeritt and Councilmember Winholtz concurred.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 11, 2008; (ADMINISTRATION)

RECOMMENDATION: This item has been pulled from the agenda.

A-2 ANNUAL REVIEW OF MASTER FEE SCHEDULE; (FINANCE)

RECOMMENDATION: Accept the Master Fee Schedule as amended.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

A-3 DISCUSSION ON COST ALLOCATION PLAN UPDATE PROPOSAL FROM REVENUE AND COST SPECIALISTS; (FINANCE)

RECOMMENDATION: Approve the proposal, and direct staff to enter into a service contract.

A-4 RESOLUTION NO. 54-08 OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD öBORROWö LOCAL GOVERNMENT, REDEVELOPMENT AND TRANSPORTATION FUNDS; (COUNCIL)

RECOMMENDATION: Adopt Resolution No. 54-08.

A-5 APPROVAL OF LETTER OF SUPPORT FOR THE COMMERCIAL AIR SERVICE AT THE SAN LUIS OBISPO COUNTY REGIONAL AIRPORT; (COUNCIL)

RECOMMENDATION: Approve sending letter of support to the San Luis Obispo County Air Transportation Alliance

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

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

A-2 ANNUAL REVIEW OF MASTER FEE SCHEDULE; (FINANCE)

Councilmember Winholtz suggested the following amendments to the Master Fee Schedule: A) Public Services ó Tree Removal: include öPrivateö Tree Removal; B) Condominium Conversion Inspection: include Condominium Conversion öSiteö Inspection; and C) Appeals of City decisions excluding Coastal Permits in Coastal Appeal Jurisdiction ó should be listed as a flat fee of \$250.00.

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

A-3 DISCUSSION ON COST ALLOCATION PLAN UPDATE PROPOSAL FROM REVENUE AND COST SPECIALISTS; (FINANCE)

Councilmember Winholtz asked for staff clarification regarding the City preparing its own service cost study.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

Finance Director Susan Slayton responded the City does not have the tools to prepare the initial cost study at this time.

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

A-4 RESOLUTION NO. 54-08 OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD óBORROWö LOCAL GOVERNMENT, REDEVELOPMENT AND TRANSPORTATION FUNDS;
(COUNCIL)

Mayor Peters addressed this Resolution for public information.

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

Mayor Peters called for a break at 7:00 p.m.; the meeting resumed at 7:07 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONCEPT PLAN APPROVAL FOR A CONDITIONAL USE PERMIT FOR THE TEMPORARY HARBOR OFFICE REPLACEMENT PROJECT; (PUBLIC SERVICES)

Planning Manager Mike Prater stated the Harbor Department is proposing to replace the existing Harbor office with a new modular building that will continue to serve the City employees. This project requires the removal/demolition of the existing 966 square foot structure that is 50+ years old and shows signs of wear. It has been found the existing structure contains asbestos, lead paint and mold. The Harbor Department employees have been operating out of the current facility since the 1980s and are running out of room to effectively and efficiently continue City business. The Planning Commission held a public hearing on May 19, 2008 to discuss this project and made a recommendation to the City Council to approve the replacement of the Harbor office with the recommendation that the maximum height of the building not exceed 14-feet. The Planning Commission expressed concern with the aesthetics of the building and felt it should be industrial in nature; that the new building is not attractive and looks almost the same as the existing building from the 1950s, and the project lacks sidewalk access. Mr. Prater recommended the City Council conditionally approve this project.

Mayor Peters opened the hearing for public comment.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

Roger Ewing expressed support for this project, and said the Harbor Department would function better with a building that creates a more peaceful environment.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated he supports the proposed temporary office replacement project.

Councilmember DeMeritt stated she would like a restriction in height added to the conditions of the proposed building; otherwise she supports this project.

Councilmember Peirce stated he is supportive of the proposed temporary building; however, he is not ready to place height or size restrictions at this time.

Councilmember Winholtz stated she would like the height to be restricted to 14-feet. She said she would like a sidewalk and some nautical theme added to the building conditions.

Mayor Peters stated she supports the replacement of the present building.

MOTION: Councilmember DeMeritt moved the City Council approve the Concept Plan for a Conditional Use Permit for the temporary Harbor Office Replacement Project including a condition for a 14-foot height limit and adding another condition that the lot shall be restricted to any future second story of 50% volume of the first floor. The motion was seconded by Councilmember Winholtz.

Councilmember Winholtz stated she could support the motion if the percentage of volume was higher.

VOTE: The motion failed with Councilmember Grantham, Councilmember Peirce, Councilmember Winholtz and Mayor Peters voting no. (1-4)

MOTION: Councilmember Grantham moved the City Council approve the Concept Plan for a Conditional Use Permit for the temporary Harbor Office Replacement Project with the condition that it does not exceed a 14-foot maximum height limit. The motion was seconded by Councilmember Peirce.

Councilmember Peirce asked if the 14-foot height limit was going to be a problem with the modular structure company.

Mr. Prater responded the company would need the additional 8-inches to get the pitch of the roof.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

Councilmember Peirce withdrew his second to the motion.

The motion was seconded by Councilmember Winholtz.

Councilmember Peirce stated the cost is going to go up if the manufactured building becomes a custom building.

Councilmember Grantham amended his motion that the modular building will be no higher than 14 feet if possible at no additional cost; Councilmember Winholtz accepted the amendment to her second.

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

Mayor Peters called for a break at 8:06 p.m.; the meeting resumed at 8:14 p.m.

C. UNFINISHED BUSINESS

C-1 DISCUSSION ON THE STATUS OF THE SALE OF CITY-OWNED PROPERTY AT THE SEC OF CORAL AND SAN JACINTO AND AUTHORIZATION FOR STAFF TO PREPARE AND SOLICIT A REQUEST FOR PROPOSALS FOR REAL ESTATE CONTRACT SERVICES TO ASSIST IN THE SALE OF THE PROPERTY; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City obtained ownership of the property at SEC Coral/San Jacinto Street in September 1996. At the time of the dedication, the property was a possible site for an additional fire station. In 2005, the City Council determined that alternative sites were better suited for a fire station. Therefore, pursuant to Resolution No. 30-05, the City Council authorized the sale of the City-owned property and received a few unacceptable bids for the property. In 2006, the City Council decided to subdivide the property to maximize its value. Mr. Schultz stated due to the lack of interest in the property, he recommends the City Council direct staff to prepare and solicit a Request for Proposals for real estate contract services with the intent that a real estate company can assist the City in finding a buyer for this property at an acceptable price.

MOTION: Councilmember Grantham moved the City Council authorize staff to prepare and solicit a Request for Proposals for real estate contract services with a Morro Bay realtor to assist in the sale of City-owned property located at the southeast corner of Coral Avenue and San Jacinto Street. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

C-2 CONSIDERATION AND CHOICE OF WEBSITE REDESIGN VENDOR;
(FINANCE)

Finance Director Susan Slayton stated at the April 28, 2008 City Council meeting, staff was directed to reissue the Request for Proposal for website redesign with reduced requirements and a top budget of \$10,000. Twenty proposals were submitted and reviewed by the Website Redesign Proposal Review Committee. The following three vendors are recommended for Council consideration: 1) CivicPlus - \$9,930; 2) PMC - \$9,949; and 3) Elements - \$10,000. Ms. Slayton recommended the City Council select a vendor for this task and direct staff to secure a contract and begin the project. She said staff has verified that the project costs can be paid with PEG access fees that are being collected in the General Fund or, since this is a one-time project, General Fund Accumulation money can be authorized.

MOTION: Councilmember DeMeritt moved the City Council direct staff to contact CivicPlus and offer them a contract that would not exceed \$10,000, and to include a site for each department; if that is not accepted, Council directs staff to choose another vendor. The motion was seconded by Councilmember Peirce.

Councilmember Grantham suggested amending the motion to offer a contract not to exceed \$12,000 that would include a site for each department.

Councilmember DeMeritt amended her motion that the contract will not exceed \$12,000; Councilmember Peirce accepted the amendment to his second.

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

D. NEW BUSINESS

D-1 UPDATE ON THE MORRO BASIN NITRATE STUDY; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated earlier this year the City Council adopted the Morro Basin Groundwater Study and provided direction to staff on the approach to take regarding the contamination of the groundwater basin. The update on the Morro Basin Nitrate Study was presented to the Public Works Advisory Board, and they recommended the City Council make resolution of the nitrate issue a top priority for action. Staff has made and will continue to make efforts in working with both the commercial farming interests in the Morro Basin as well as with the Regional Water Quality Control Board; in time these efforts may lead to reductions in the nitrate levels in the groundwater basin. Mr. Wade recommended the City Council review this update and provides direction to staff in regards to remediation of the nitrate levels in the groundwater basin.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

MOTION: Councilmember Peirce moved the City Council continue discussion on the Morro Basin Nitrate Study, and authorize the City Attorney to contact the law firm who handled the Mtbe issues for the City. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Council requested staff return to Council with the Ordinance relating to water conservation measures.

D-2 APPROVAL TO ENTER INTO THE 2008/2009 CENTRAL COAST WATER RELIABILITY AGREEMENT WITH THE COUNTY OF SAN LUIS OBISPO; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the historical practice by the County of San Luis Obispo has been to ensure requested deliveries to the State Water Subcontractors, the largest of which is the City of Morro Bay. They have accomplished this by using the unallocated State water amount allotted to the County of San Luis Obispo as a form of informal drought buffer to benefit the reliability of water delivered to the subcontractors. For the first half of calendar year 2008, the City entered into an agreement for the draft form of this program; the agreement as finalized is now a multi-year agreement serving both 2008/2009. The pricing of the water to be transferred under this agreement will be \$160 an acre-foot. The City under current projections is facing a shortfall of up to 52 acre-feet of State Water Deliveries for the remainder of 2008, which will result in a maximum impact of \$8,320 to the Water Division Operating budget. Mr. Wade recommended the City Council authorize him to enter into the 2008/2009 Central Coast Water Reliability Agreement with the County of San Luis Obispo.

MOTION: Councilmember Grantham moved the City Council authorize the Utilities/Capital Projects Manager to enter into the 2008/2009 Central Coast Water Reliability Agreement with the County of San Luis Obispo. The motion was seconded by Councilmember Peirce.

Councilmember Winholtz stated she would be voting in opposition to this motion because the City already pays for more than enough water with the State. She said she would prefer to promote conservation rather than purchase more water.

VOTE: The motion carried with Councilmember Winholtz voting no. (4-1)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

D-3 DISCUSSION ON TRADEMARKING THE SLOGAN, "DISCOVER YOUR BETTER NATURE"; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City's Community Promotions Committee requested he research the process of an application with the Federal Trademark Commission to trademark the slogan, "Discover Your Better Nature." He noted that obtaining a federal trademark registration is a time-consuming process that may require the expertise of an intellectual property attorney to successfully navigate the numerous obstacles that can arise. Mr. Schultz recommended the City Council review the information provided and directs staff on whether to trademark the slogan, "Discover Your Better Nature."

MOTION: Mayor Peters moved the City Council direct staff to hire an attorney to secure the trademark slogan "Discover Your Better Nature", and consider the cost of \$3,000 be taken from the \$10,000 that may be allocated to the Community Promotions Committee at the mid-year budget review. The motion was seconded by Councilmember Peirce.

Councilmember DeMeritt requested an amendment to the motion to state the cost is to not exceed \$3,000.

Mayor Peters amended her motion to state the cost is to not exceed \$3,000; Councilmember Peirce amended his second.

City Attorney Robert Schultz clarified that the previous motion does not allocate secured funds.

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

MOTION: Councilmember Grantham moved the City Council direct staff to move forward with trademarking the slogan "Discover Your Better Nature", and funding should be taken out of the Community Promotions Committee budget. The motion was seconded by Councilmember Winholtz and failed with Councilmember DeMeritt, Councilmember Peirce and Mayor Peters voting no. (2-3)

MOTION: Councilmember Peirce moved the City Council direct staff to proceed with trademarking the slogan "Discover Your Better Nature" with the cost not to exceed \$3,000. The motion was seconded by Councilmember DeMeritt and carried with Councilmember Grantham voting no. (4-1)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó AUGUST 25, 2008

D-4 CONSIDERATION OF REORGANIZATION OF CITY DEPARTMENTS INCLUDING ADMINISTRATION, FINANCE AND RECREATION & PARKS; AMENDMENTS AND TITLE CHANGE TO THE JOB DESCRIPTIONS FOR THE FINANCE DIRECTOR AND RECREATION AND PARKS MAINTENANCE SUPERINTENDENT AND APPROVAL OF THE PERSONNEL TECHNICIAN JOB DESCRIPTION; (ADMINISTRATION)

City Manager Andrea Lueker stated the City Council contracted with Management Partners in late 2007 to conduct an organizational assessment of the City of Morro Bay. The firm began fact finding and research for the study in early 2008 and produced a document entitled *Assessment of City Organization and Financial Options* in May 2008. A Goal Setting workshop was held in June 2008; and, another workshop on the strategies and recommendations was held on August 13, 2008. Based on the discussions held on cost-saving strategies, Ms. Lueker made recommendations to the City Council on the reorganization of City departments.

MOTION: Councilmember Grantham moved the City Council approve the reorganization of City departments including Administration, Finance and Recreation & Parks; amendments and title change to the job descriptions for the Finance Director and Recreation and Parks Maintenance Superintendent, and approval of the Personnel Technician job description. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Recorded by:

Bridgett Bauer
City Clerk



AGENDA NO: A-2

Meeting Date: 9/8/08 Action:

Staff Report

TO: Honorable Mayor and City Council

DATE: 9/8/08

FROM: Rick Algert, Harbor Director

**SUBJECT: APPROVAL OF A LANDLORD'S ESTOPPEL CERTIFICATE ON
LEASE SITE 53-56/53W-56W, LOCATED AT 501 EMBARCADERO**

RECOMMENDATION: Staff recommends that the City Council adopt Resolution # 55-08 authorizing the Mayor to execute a Landlord's Estoppel Certificate for Lease Site 53-56/53W-56W located at 501 Embarcadero, tenant Estero Landing, Incorporated.

FISCAL IMPACT: None

SUMMARY: Estero Landing executed a 40-year lease agreement for Lease Sites 53-56/53W-56W in June 2008. Permitting on the Lease Site redevelopment is complete and construction will begin within the next few months. The tenant has completed financing for the construction project and is requesting City approval of financing security agreements with the lender, San Luis Trust Bank.

DISCUSSION: Most major lease redevelopment projects require the City agreeing to secure the lease for collateral purposes to a financing institution. The City has previously executed estoppel agreements on other Lease Sites to facilitate the tenant's capability of obtaining favorable financing. The proposed Landlord's Estoppel Certificate meets the City's requirements for this type of security agreement.

CONCLUSION: Staff recommends that the City Council adopt Resolution No. 55. 08, approving the attached Landlord's Estoppel Certificate for Lease Site 53-56/53W-56W, located at 501 Embarcadero.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Page 1 of 2

RESOLUTION NO. 55-08

**APPROVAL AUTHORIZING THE MAYOR TO EXECUTE A
LANDLORD'S ESTOPPEL CERTIFICATE FOR
LEASE SITE 53-56/53W-56W,
LOCATED AT 501 EMBARCADERO**

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

WHEREAS, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as Lease Site 53-56/53W-56W and Lease Site 53-56/53W-56W; and,

WHEREAS, the lessee of said Lease Sites is the Estero Landing Incorporated; and,

WHEREAS, the lease of said Lease Sites required certain building improvements be made; and,

WHEREAS, the lessee is financing the building improvements and the lender, San Luis Trust Bank, is requesting that the City authorize execution of a Landlord's Estoppel Certificate for Lease Site 53-56/53W-56W; and,

WHEREAS, the City Attorney has reviewed and approved the Landlord's Estoppel Certificate for said Lease Sites.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the Landlord's Estoppel Certificate for Lease Site 53-56/53W-56W is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute said document.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 8th day of September 2008, by the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, MAYOR

BRIDGETT BAUER, CITY CLERK



AGENDA NO.: A-3
Meeting Date: 9/08/08
Action: _____

**PROCLAMATION DECLARING
SEPTEMBER 21 - SEPTEMBER 27, 2008
AS THE 6th SEA OTTER AWARENESS WEEK**

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

WHEREAS, the sea otter is a symbol of wilderness, an integral part of California's natural ecosystem, and serves as an indicator for the overall health of California's near shore marine ecosystem; and

WHEREAS, a growing awareness of the benefits of maintaining the health of the near shore marine ecosystem has raised public interest in the sea otter; and

WHEREAS, disease from a variety of sources, including land-based biological pathogens, accounts for approximately 40% of the mortality for California sea otters in a given year; and

WHEREAS, the survival of the sea otter in California remains dependent upon continued public support and increased understanding of the essential role sea otters play in nature.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby proclaim the week of September 21 ó 27, 2008 to be "Sea Otter Awareness Week".

IN WITNESS WHEREOF I have hereunto set my hand and caused the Seal of the City of Morro Bay to be affixed this 8th day of September 2008.

JANICE PETERS, Mayor
City of Morro Bay, California



AGENDA NO: _____

Meeting Date: 9/8/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** August 29, 2008

FROM: MIKE PRATER, PLANNING MANAGER

SUBJECT: ZONING ORDINANCE AMENDMENT FOR NEIGHBORHOOD COMPATIBILITY STANDARDS

RECOMMENDATION: Staff recommends the City Council accept the Planning Commission's recommendation and direct staff to work on the zoning amendments.

FISCAL IMPACT: In July 2007, staff began working on identifying neighborhood compatibility concerns by conducting workshops and followed up with public hearings to develop solutions. Up to this point, no specific funding has been identified, however staff has spent approximately 120 hours and anticipates an additional 60 hours to complete the amendments.

SUMMARY: A series of public meetings were conducted to solicit and engage community input dealing with neighborhood standards and the growing concern of "mansionsization." After careful consideration of the physical lot sizes, characteristics of the community, planning policy and ordinance framework, and the substantial amount of information available on the topic the Planning Commission recommends to the City Council that threshold(s) be developed to heighten the review process and elevate projects to the Planning Commission review level. This recommendation is similar to the current interim ordinance that elevates single-family residences greater than 2,500 square feet obtain a Conditional Use Permit.

BACKGROUND: In December of 2007, staff presented a brief outline for adopting a concept that addressed building articulation (creating interesting spaces by breaking the building modules up) and fenestration (window and door openings and the like) with second story-stepped standards, which zone

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

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districts these compatibility standards should apply in, and the process for adoption. The concept also melded the interim urgency ordinance that modified the development review for larger homes in R-1 districts.

In June of 2008, staff returned to address the concerns and questions that arose at the December meeting. The Planning Commission recommended staff provide further study of floor-area-ratios (FAR) by having staff explain the analysis and methodology that lead staff to the opinion that FARs are not the most effective means for addressing the problem with large homes on small lots in Morro Bay. Staff attempted to illustrate the characteristics of the built environment and draw conclusions about the implications that changes to the ordinances could have. Real life examples were given to demonstrate the character of various neighborhoods and the impacts if new regulations were adopted.

In August of 2008, the Planning Commission requested staff demonstrate massing studies that reflected the current development standards under the adopted zoning ordinance. Then use these studies to visually represent the changes initially proposed by staff to reduce the upper floors and compare the resulting FAR numbers to the actual FAR numbers in the various neighborhoods. The FAR numbers highlighted a stark contrast to the ratios the advocates were requesting. The community and Planning Commission began to understand developing such a new approach would cause large-scale nonconformities in existing neighborhoods.

To better address neighborhood character and compatibility and provide greater public input, the Planning Commission unanimously voted to develop threshold(s) and establish expectations for acceptable development by articulating them in an ordinance. Projects that would trigger the threshold(s) would be required to obtain a Conditional Use Permit and go before the Planning Commission where clearer directions and expectations would give the Commission guidance in reviewing and evaluating these projects.

Staff has attached the minutes from all the meetings covering this topic to give the Council an understanding of the conversations that have occurred. Because of the wide array of material covered through this process staff has also made all reports available in the Council read file. All reports and minutes regarding neighborhood compatibility have been and continue to be available on the City's web site.

CONCLUSION: The City Council is requested to accept the Planning Commission's recommendation. This would provide staff and Commission direction to begin work on developing threshold(s) and expressing what expectations are desired. The Council could direct staff to work towards another approach or continue to provide information as well.



Staff Report

AGENDA NO:

Meeting Date: 09/08/08 **Action:** _____

TO: Honorable Mayor and City Council **DATE:** August 26, 2008

FROM: Susan Slayton, Administrative Services Director

SUBJECT: FURTHER DISCUSSION OF RESPONSIBLE PARTY ON UTILITY ACCOUNTS AND WATER DEPOSIT

RECOMMENDATION: Council to reconsider the August 11 decision and direct Staff accordingly.

FISCAL IMPACT: None.

SUMMARY: At the August 11, 2008 City Council meeting, Council voted against a tenant utility deposit and for requiring utility accounts to be carried in the property owner's name. Staff has concerns about the latter, primarily related to water conservation. Council is asked to reconsider the motion made on August 11th and provide direction to Staff.

DISCUSSION: At the July 14, 2008 City Council meeting, an agenda item was presented that requested amendments to the Master Fee Schedule, one of which was the establishment of a Water Utility Deposit. Council chose to lower the suggested deposit amount from the recommended \$150 to \$100, and require the deposit to be paid with new tenant signups. Current tenants, whose water is turned-off for non-payment and where a deposit has not previously been collected, would be required to pay the deposit, past due balance and reconnection fee before service will be restored. Staff was directed to bring back a resolution adopting the amendments.

On August 11, 2008, Staff returned with Resolution 49-08, adopting the changes approved at the July 14th meeting. Council approved the resolution with the exception of the utility deposit, which was deleted. Staff was directed to return with an ordinance that would require property owners to be the responsible party on the water bill. The motion was unanimously approved.

Staff has concerns over this motion primarily due to water conservation. Tenants will no longer be responsible for their water bill nor will they see the water bill. Without seeing their bill and usage, tenants will not be properly informed to remain mindful of water conservation.

Staff asks that Council reconsider that motion and the utility deposit of \$100. This will keep the bill in the tenants' name, keeping them focused on the amount of water used and the cost of that usage. Adding the deposit will reduce the City's exposure with bad debt write-offs, as a tenant could potentially owe a closing bill as much as \$192. While the amount of deposit would not completely cover that closing bill estimate, it would at least minimize the amount of money that is owed on a final bill.

Prepared By: _____	Dept Review: _____
City Manager Review: _____	
City Attorney Review: _____	Page 1 of 1



AGENDA NO: D-1

Meeting Date: 9/08/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 2, 2008

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Consideration of Channel Streaming and Purchase of Replacement Equipment for Local Government Channel Insertion Point

RECOMMENDATION:

Staff recommends the City Council do the following:

1. Approve purchase of replacement equipment outlined in the attached memorandum from AGP Video for a twin computer system for channel operations/community calendar; and
2. Provide direction to staff as to whether or not to authorize AGP Video to begin streaming Channel 20 as described in the staff report and attached memorandum.

FISCAL IMPACT:

Pursuant to the memorandum from AGP Video, the cost for the replacement equipment for the insertion point is estimated to not exceed \$4,500, including purchase and installation. Funding for the replacement equipment would come from the Public, Educational and Government (PEG) access fund so no general funds would be needed.

With regard to channel streaming, there would be no additional fiscal impact to the general fund at this time until a new agreement is negotiated which would include web streaming for Council consideration.

DISCUSSION:

At the June 8, 2008 meeting, Council approved a month-to-month extension of the Video Production Services and Local Government Channel Insertion Point Management Agreement with AGP Video. In addition, Council directed staff to return at the September 22 meeting with an update on negotiations of a new agreement after information was received from AGP Video regarding upgrading the channel insertion point, camera system automation and web streaming of Council meetings.

Prepared By: _____

Dept Review: _____

City Manager Review:

City Attorney Review: _____

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The City Manager, City Attorney and Management Analyst met with AGP Video in August to discuss options and information needed from AGP Video to bring to Council for consideration. AGP Video indicated information pertaining to the scope of work and cost estimate for upgrading the insertion point equipment, camera system automation and web streaming would be submitted in the first couple weeks of September; however, during the meeting it came to light that the channel operations control and community calendar computer needs replacing directly (see attached memorandum from AGP Video).

The current control computer was part of the original equipment installation package in the late 1990s and the numerous band-aid repairs and parts replacements over the years are no longer feasible. There is no back-up system and should the control computer fail, Channel 20 would not be functional until a new control computer is purchased and installed.

Staff is recommending Council approve purchasing a new channel operations control and community calendar twin computer system described in AGP Video's attached memorandum using the PEG funds that are specifically designed for just such a purchase.

During the discussion of replacing the control computer, AGP Video also noted that the new control computer would have the ability to allow for streaming Channel 20 content should the Council authorize streaming to occur. This would mean that people who do not have Charter cable in Morro Bay would have access to Morro Bay Channel 20 programming on their computer (all Morro Bay brown act meetings, community calendar information and other Channel 20 community programs such as the 4th of July fireworks, lighted boat parade, etcí).

Should the Council authorize streaming Channel 20, AGP Video has agreed to begin streaming the channel as a pilot project once the new twin computer system has been installed at no additional charge to the City until such time as a new agreement is negotiated and web streaming is added as part of the insertion point scope of work.

CONCLUSION:

Staff recommends the City Council do the following:

1. Approve purchase of replacement equipment outlined in the attached memorandum from AGP Video for a twin computer system for channel operations/community calendar; and
2. Provide direction to staff as to whether or not to authorize AGP Video to begin streaming Channel 20 as described in the staff report and attached memorandum.



AGENDA NO.: D-2
Meeting Date: 9/08/08
Action: _____

Staff Report

TO: MAYOR AND CITY COUNCIL

FROM: COUNCILMEMBER WINHOLTZ

DATE: SEPTEMBER 4, 2008

SUBJECT: DISCUSSION ON COUNCIL MEMBER REPORTS FROM OTHER COUNTY AND AGENCY MEETINGS

RECOMMENDATION

1. City Council amend its agenda to include an item toward the end of the meeting where members will report on their work as City liaisons with government, nonprofit, and other recognized bodies that each attends as a representative.
2. Amend City Council Guidelines/Bylaws to reflect the intent that members will report to the body as a whole each month.

FISCAL IMPACT - None.

DISCUSSION

Currently, members use their discretion on whether and what to report to the Council in their assignments as liaisons to government agencies, non-profits, and other recognized entities to which members represent the City. Member appointments are made in January of each year. A few are informal, like the monthly mayors' meetings, or temporary, like the "10-year Plan to end Homelessness."

All other cities in the County already have a time designated toward the end of their meetings for reporting back to their respective Councils. I checked City websites and then called a member of each body to check on the intent of the item.

Arroyo Grande: "Council Communications," "Correspondence/Comments as presented by the City Council."

Atascadero: "Council Announcements and Reports," "a brief report on their own activities."

Grover Beach: "Council Committee Reports."

el Paso de Robles: "Council Comments," "(including oral reports on conferences attended)"

Pismo Beach: "Council Subcommittee Reports."

San Luis Obispo: "Communications," "(not to exceed 15 minutes)," "...report briefly on his or her activities."

No communications were mandatory, but all set the expectancy that information was expected. In addition, several agendas stated that questions could be asked of the presenter regarding an item.

To make this topic a regular agenda item will facilitate communication amongst the Council, staff, and public.

Prepared By: Councilmember Winholtz Dept Review: _____

City Manager Review: _____

City Attorney Review: _____



AGENDA NO: D-3

Meeting Date: 09/08/2008 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 3, 2008
FROM: Andrea K. Lueker, City Manager
SUBJECT: Consideration of a Date for a Joint City Council/Community Promotions Committee Meeting

RECOMMENDATION

Staff recommends the City Council choose a date to schedule a joint meeting with the Community Promotions Committee.

FISCAL IMPACT

None.

BACKGROUND

During the review of the report from Management Partners, *Assessment of City Organization and Financial Options* held on August 13, 2008, the City Council consensus was to schedule a joint meeting with the Community Promotions Committee.

DISCUSSION

During the discussion of Recommendation #35 *Coalesce a vision of the City's future, building on the City's environmental advantages*, the City Council suggested a joint meeting with the Promotions Committee to discuss City promotion.

The Promotion Committee meets on the third Thursday of the month beginning at 8:00 a.m. at the Veterans Memorial Hall. The upcoming meeting dates are September 18th, October 16th, November 20th and December 18th. Should the City Council determine they prefer the Community Promotions Committee to meet prior to a regularity scheduled City Council meeting, staff will agendize this item at the next Community Promotions meeting for discussion.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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