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COUNCIL STANDS BY WHARF LEASES

Monterey, CA. – The Monterey City Council has upheld the validity of Waterfront leases, supporting decisions made by previous Councils more than 20 years ago. The Council also found that previous Councils did nothing illegal, corrupt or unethical in negotiating extensions of waterfront leases in the 1990s.

In a statement released May 17, the Council rejected attorney Willard McCrone's claims that some leases on Fisherman's Wharf and the Waterfront are not valid because they were made by past City Councils in an illegal or improper manner. McCrone asked the City to consider voiding the leases and then seek fair market rent for the properties.

The current Council looked into the issue at an extensive public Study Session on March 23, 2011 to determine whether it should take legal action based on McCrone's allegations. Following a public review of the legal theories presented by McCrone, and the legal opinions of the City Attorney, the City's outside legal counsel, the former City Attorney at the time the leases were negotiated, attorneys for some of the leaseholders, and members of the public, the Council decided against pursuing legal action because "the facts and the applicable law do not support it."

McCrone's argument was based on his contention that the City owns the buildings

on the Wharf and other Waterfront locations. The City Council determined that the leases clearly state that the buildings are the property and responsibility of the lease holders.

The statement said, "Based on the facts that the City Council currently knows, ownership of those buildings was properly negotiated as a part of the lease extensions in the early nineties and was not a gift of public funds by the City Council, at that time."

The Council also stated that the City is receiving fair market rent for existing waterfront leases, and noted that, "there will be occasions where the public interest is not necessarily served by maximizing rental return on the lease of the public property. For example, the leases for the Maritime Museum and the Monterey Bay Aquarium have an objective other than maximum lease revenue. At times, lease terms will need to be created to ensure the economic viability of desired city redevelopment on parcels involving city lands."

The Council statement pointed out that it has already made policy decisions on new lease holds that are much more revenue aggressive than past city leases, and thanked McCrone for re-energizing that effort.

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