NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

CLOSED SESSION MEETING AGENDA

Wednesday, February 14, 2024, 5:00 P.M.

(Adjourned from February 7, 2024)

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

PACIFIC GROVE MEETINGS ARE CONDUCTED IN PERSON AT CITY HALL COUNCIL CHAMBER AND VIRTUALLY.

PLEASE NOTE THE MEETING WILL PROCEED AS NORMAL EVEN IF THERE ARE TECHNICAL DIFFICULTIES ACCESSING ZOOM.
THE CITY WILL DO ITS BEST TO RESOLVE ANY TECHNICAL ISSUES AS QUICKLY AS POSSIBLE.

Join the Zoom Meeting to participate live at:
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AGENDA

CALL TO ORDER

APPROVAL OF AGENDA

CLOSED SESSION

PUBLIC COMMENT ON CLOSED SESSION MATTERS

Comments from the public will not receive Council action. Comments must deal with matters on the Closed Session agenda and will be limited to three minutes

1. Written Public Comment

A. Conference with Labor Negotiators (Government Code Section 54957.6)
City Negotiators: Robert Perrault, Interim City Manager, Tori Hannah, Administrative Services Director/Assistant City Manager, and Katy Suttorp, Esq.
Employee Organization: Police Officers Association

B. Conference with Real Property Negotiators Pursuant to Government Code Section 54956.8 Property: 618 Ocean View Boulevard, the Grill at Lovers Point
City Negotiators: Robert Perrault, Interim City Manager; Tori Hannah, Administrative Services Director/Assistant City Manager, James Minshew, Management Analyst
Parties: Joseph F. Cavallaro
Under Negotiation: Price and terms of payment

C. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code Section 54956.9 (d)(2)
One potential case (Employee Complaint)

ADJOURNMENT

NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

AMENDED REGULAR MEETING AGENDA

Wednesday, February 14, 2024, 6:00 P.M.

(Adjourned from February 7, 2024.)

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

The Council will not begin consideration of any item on this agenda later than 10:00 p.m. unless such consideration is approved. Any items on this agenda not considered this evening will be continued to a future meeting.

Copies of the agenda packet are available for review at the Pacific Grove Library, in the Finance Department, and electronically at www.cityofpacificgrove.org/agendas. The most effective method of communication with the City Council is by sending an email to citycouncil@cityofpacificgrove.org. In order to allow the City Council adequate time to review communication related to an agenda item, it is recommended that the communication be sent no later than 9:00 AM on the day prior to the City Council meeting.

PACIFIC GROVE COUNCIL MEETINGS ARE CONDUCTED IN PERSON AT CITY HALL COUNCIL CHAMBER AND VIRTUALLY.

PLEASE NOTE THE MEETING WILL PROCEED AS NORMAL EVEN IF THERE ARE TECHNICAL DIFFICULTIES ACCESSING ZOOM.
THE CITY WILL DO ITS BEST TO RESOLVE ANY TECHNICAL ISSUES AS QUICKLY AS POSSIBLE.

THE PUBLIC MAY ALSO VIEW THE MEETING ON PENINSULA CHANNEL 25.

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AMENDED AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE: Councilmember Coletti

1. **APPROVAL OF AGENDA**

2. **PRESENTATIONS**

3. **COUNCIL AND STAFF ANNOUNCEMENTS (City-Related Items Only)**

A. Report on Closed Session by City Attorney

B. Other

4. **GENERAL PUBLIC COMMENT**

General Public Comment must deal with matters subject to the jurisdiction of the City and the Council that are not on the Regular Agenda. This is the appropriate place to comment as to items on the Consent Agenda, only if you do not wish to have the item pulled for individual consideration by the Council. Comments from the public will be limited to three minutes and will not receive Council action. Comments regarding items on the Regular Agenda shall be heard prior to Council's consideration of such items at the time such items are called. Whenever possible, written correspondence should be submitted to the Council in advance of the meeting, to provide adequate time for its consideration.

A. Written General Public Comment

CONSENT AGENDA

The Consent Agenda deals with routine and non-controversial matters, and may include action on resolutions, ordinances, or other public hearings for which testimony is not anticipated. The vote on the Consent Agenda shall apply to each item that has not been removed. Any member of Council, staff, or the public may remove an item from the Consent Agenda for individual consideration. When items are pulled for discussion, they will be automatically placed at the end of their respective section within the Regular Agenda. One motion shall be made to adopt all non-removed items on the Consent Agenda.

5. **APPROVAL OF CITY COUNCIL MEETING MINUTES**

Items pulled from this section will be placed under 12. Unfinished and Ongoing Business

A. Minutes of the January 17, 2024 Special and Regular Meetings PG 10

Reference: Sandra Kandell, City Clerk

Recommended Action: Approve minutes.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

6. **RESOLUTIONS**

Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business

A. Adopt a Resolution Ratifying the Actions of the City Manager/ Emergency Services Director Declaring a State of Emergency and Authorizing the Mayor to Send a Letter to the Office of Emergency Services Requesting Assistance PG 20

Reference: Robert Perrault, City Manager

Recommended Action: Adopt a Resolution Ratifying the Actions of the City Manager/Emergency Services Director

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

7. ORDINANCES

Items pulled from this section will be placed under 11. Public Hearings

8. REPORTS – INFORMATION ONLY

Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business

A. Second Quarter Treasurer's Quarterly Report PG 28

Reference: Jazelle Johnson, Accountant

Recommended Action:

1. Receive the report.
2. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

B. Second Quarter Budget Report PG 32

Reference: Tori Hannah, Administrative Services Director/Assistant City Manager

Recommended Action: Receive the report.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

C. Second Quarter FY 23/24 Purchase Order Report PG 39

Reference: James Minshew, Management Analyst

Recommended Action:

1. Receive the FY 23/24 Second Quarter Purchase Order Report.
2. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

D. Second Quarter 23/24 Workers' Compensation Report PG 46

Reference: Tori Hannah, Administrative Services Director / Assistant City Manager

Recommended Action:

1. Receive the report.
2. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

E. Safety Lighting at Robert Down Elementary School Project PG 50

Reference: Joyce Halabi, Deputy Public Works Director

Recommended Action:

1. Receive Report
2. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

F. Housing Element Monthly Status Update PG 54

Reference: Alyssa Kroeger, Housing Program Manager

Recommended Action:

1. Receive the report.
2. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

9. REPORTS – REQUIRING ACTION

Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business

A. Authorization to Participate in a Joint Subcommittee with the Pacific Grove Unified School District PG 66

Reference: Robert Perrault, Interim City Manager

Recommended Action: Authorization to Participate in Joint Subcommittee with the School Board and Appoint the Mayor and Mayor Pro Tempore to the Committee.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

10. MEETING MINUTES OF COMMISSIONS, BOARDS, AND COMMITTEES

Items pulled from this section will be placed under 13. New Business

A. Architectural Review Board Minutes: November 14, 2023 PG 68

Reference: Laurel O'Halloran, Planner

Recommended Action: Receive the minutes.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

REGULAR AGENDA

11. PUBLIC HEARINGS

For public hearings involving a quasi-judicial determination by the Council, the proponent of an item may be given 10 minutes to speak and others in support of the proponent's position may be given three minutes each. A designated spokesperson for opposition to the item may be given 10 minutes to speak and all others in opposition may be given three minutes each. Very brief rebuttal and surrebuttal may be allowed in the sole discretion of the Council. In public hearings not involving a quasi-judicial determination by the Council, all persons may be given three minutes to speak on the matter.

12. UNFINISHED AND ONGOING BUSINESS

A. Public Comment at Meetings of Legislative Bodies ***This item was continued from the Council's January 17, 2024 meeting.*** PG 72
Reference: Brian Pierik, City Attorney
Recommended Action: Discuss permissible public comment at meetings of legislative bodies and consider providing direction to the City Attorney to return to the Council with a Resolution amending Council Policy 000-017.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

B. Direct to City Attorney to return to the City Council with an ordinance to amend Pacific Grove Municipal Code Section 2.04.050 or other actions related to this Agenda item. ***This item was continued from the Council's January 17, 2024 meeting.*** PG 86
Reference: Nick Smith, Mayor Pro Tem
Recommended Action: Motion to direct the City Attorney to return to the Council with an ordinance to amend Pacific Grove Municipal Code Section 2.04.050 or other actions related to this Agenda item.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

C. Boards, Committees and Commissions Handbook Revision ***This item was continued from Council's January 17, 2024 meeting.*** PG 89
Reference: City Manager Robert Perrault, City Attorney Brian Pierik, and Mayor Bill Peake
Recommended Action:

1. Direct the City Attorney to prepare a resolution adopting revised Boards, Committees and Commissions Handbook 1/17/24.
2. Direct the City Manager and City Attorney to provide committee training.
3. Alternative, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

D. Codifying Council Member Inquiry Authority PG 158
Reference: Interim City Manager Robert Perrault, Special Counsel Jenica Maldonado

Recommended Action:

1. Discuss draft Ordinance regarding Ordinance Codifying Provisions of Article 21 of the City Charter.
2. Discuss related draft Council Policy Establishing Procedures for Council Members to Make an Inquiry Pursuant to Pacific Grove Municipal Code Section 2.04.110.
3. Provide direction to City Attorney to finalize draft Ordinance and draft Policy and return to City Council for first reading on Ordinance.
4. Other action as related to this agenda item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

E. Recommendations from Parklet Subcommittee PG 170

Reference: Councilmembers Luke Coletti, Lori McDonnell: Daniel Gho PW Director, Deputy CM

Recommended Action:

1. Receive Report describing the design of the proposed curb extension and expanded sidewalk dining project prepared by the Parklet Subcommittee and City staff, and
2. Direct staff to complete the remaining items necessary to finalize the project and bring back a final package to the City Council for approval prior to release of a Request for Proposals, and
3. Direct staff to prepare a Parklet and Sidewalk Dining Program Manual, to be adopted by Council Resolution, that thoroughly describes the program, including but not limited to, permitting, types of use, design standards, safety standards, amenities, and compliance and enforcement measures.
4. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

F. David Avenue Sidewalk Project PG 181

Reference: Joyce Halabi, Deputy Public Works Director

Recommended Action:

1. Receive report
2. Direct staff to proceed with phasing the installation of sidewalks on the school side of David Avenue
3. Alternatively, discuss and take other action related to this item

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

G. Skatepark Project – City Hall Parking Lot PG 185

Reference: Daniel Gho, Public Works Director/Deputy City Manager

Recommended Action:

1. Receive report and provide direction
2. Alternative, take other action related to this item

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

13. NEW BUSINESS

A. First Reading of Ordinance Repealing Section 2.06.020 of the Pacific Grove Municipal Code Relating to the Removal of the City Manager PG 194

Reference: Jenica Maldonado, Special Counsel, Brian Pierik, City Attorney

Recommended Action:

1. Request the City Attorney read the title of the ordinance;
2. Motion to waive further reading of the ordinance and introduce an Ordinance Repealing Section 2.06.020 of the Pacific Grove Municipal Code Relating to the Removal of the City Manager;
3. Direct a summary of a proposed ordinance be published as approved by the City Attorney;
4. Other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

14. FULL PRESENTATIONS

15. CLOSED SESSION

ADJOURNMENT

NOTICE OF ADA COMPLIANCE: Pursuant to Title II of the Americans with Disabilities Act (Codified At 42 United States Code Section 12101 and 28 Code of Federal Regulations Part 35), and Section 504 of the Rehabilitation Act of 1973, the City of Pacific Grove does not discriminate on the basis of race, color, religion, national origin, ancestry, sex, disability, age or sexual orientation in the provision of any services, programs, or activities. The City of Pacific Grove does not discriminate against persons with disabilities. City Hall is an accessible facility. A limited number of assisted listening devices will be available at this meeting. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Sandra Kandell, City Clerk/DEI Coordinator

MEETING DATE: February 14, 2024

SUBJECT: Minutes of the January 17, 2024 Special and Regular Meetings

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Approve minutes.

Attachments

Draft Minutes 1-17-24

DRAFT MEETING MINUTES

CITY OF PACIFIC GROVE

CITY COUNCIL

CLOSED SESSION MEETING

Wednesday, January 17, 2024, 5:00 P.M.
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

PACIFIC GROVE MEETINGS ARE CONDUCTED IN PERSON AT CITY HALL COUNCIL CHAMBER AND VIRTUALLY.

Join the Zoom Meeting to participate live at:
https://us02web.zoom.us/j/692219855

DRAFT

CALL TO ORDER
Mayor Peake called the meeting to order at 5:00 p.m. Present in Chamber: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Beck, Coletti, McDonnell, and Poduri.

APPROVAL OF AGENDA
Action: Upon motion by Councilmember Amelio and seconded by Mayor Pro Tem Smith, Council voted 7-0 to approve the agenda.

CLOSED SESSION
PUBLIC COMMENT ON CLOSED SESSION MATTERS
No public comment received.

1. Written Public Comment

A. Conference with Labor Negotiators (Government Code Section 54957.6)
City Negotiators: Robert Perrault, Interim City Manager, Leticia Livian, Human Resources Director, and Council Special Appointed Attorney Jenica Maldonado, Esq.
Employee Organization: General Employees Association

B. Conference with Legal Counsel – Anticipated Litigation Significant Exposure to Litigation (Government Code §54956.9(d)(2))
Number of Cases: Two Cases (Complaints by Employees)

DRAFT MEETING MINUTES

CITY OF PACIFIC GROVE

CITY COUNCIL

REGULAR MEETING

Wednesday, January 17, 2024, 6:00 P.M.
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

PACIFIC GROVE MEETINGS ARE CONDUCTED IN PERSON AT CITY HALL COUNCIL CHAMBER AND VIRTUALLY.

JOIN THE ZOOM WEBINAR TO PARTICIPATE LIVE AT:
https://us02web.zoom.us/j/209579290

DRAFT

CALL TO ORDER
Mayor Peake called the meeting to order at 6:00 p.m. Present in Chamber: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Beck, Coletti, McDonnell, and Poduri.

PLEDGE OF ALLEGIANCE
Councilmember Beck led the pledge of allegiance.

1. **APPROVAL OF AGENDA**
Action: Upon motion by Councilmember Beck and seconded by Mayor Pro Tem Smith, Council voted 7-0 to approve the agenda.

2. **PRESENTATIONS**

3. **COUNCIL AND STAFF ANNOUNCEMENTS (City-Related Items Only)**

A. Report on Closed Session by City Attorney

Conference with Labor Negotiators (Government Code Section 54957.6)
City Negotiators: Robert Perrault, Interim City Manager, Leticia Livian, Human Resources Director, and Council Special Appointed Attorney Jenica Maldonado, Esq.
Employee Organization: General Employees Association

Conference with Legal Counsel – Anticipated Litigation Significant exposure to litigation (Government Code §54956.9(d)(2))
Number of Cases: Two Cases (Complaints by Employees)

City Attorney Brian Pierik stated no reportable action.

B. Council and staff made general announcements.

4. **GENERAL PUBLIC COMMENT**
General public comments received from Vince Tuminello, Dr. Marshall Fullbright, Dan Miller, Robert Pacelli, Mike Gibbs, Adam de Boor and Charlene Willams.

A. Written General Public Comment

1. Written Public Comment

Action: Receive written public comment if applicable.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

CONSENT AGENDA

Action: Consent Agenda items 9A and 9B were pulled and considered immediately following the Consent Agenda. Consent Agenda item 9C was pulled and considered as Regular Agenda item 13B.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Amelio, Council voted 7-0 to approve the Consent Agenda as modified.

5. **APPROVAL OF CITY COUNCIL MEETING MINUTES**

A. Minutes of the November 15, 2023 Closed Session and Regular City Council Meetings
Action: Approved minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

B. Minutes of the December 6, 2023 Closed Session and Regular City Council Meeting
Action: Approved minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

C. Minutes of the December 20, 2023 City Council Regular Meeting
Action: Approved minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

6. **RESOLUTIONS**

A. Council Policy 400-5 Investments
Action: Adopted Resolution No. 24-001 approving Council Policy 400-5 Investments
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

7. **ORDINANCES**

8. **REPORTS – INFORMATION ONLY**

A. Core Revenue Report for December
Action: Received the report.
CEQA: Does not constitute a "Project" per California Environmental Quality Act

DRAFT

Guidelines Section 15378

B. December 2023 Check Register.
Action: Received the Check Register.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

C. Monterey Salinas Transmit Meeting Minutes: November 13, 2023
Action: Received minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

9. **REPORTS – REQUIRING ACTION**

A. Appointments to City Boards, Committees, Commissions, and Task Force
Reference: Bill Peake, Mayor
Recommended Action: Approve appointments to City Boards, Committees, Commissions, and Task Force listed below:

- Library Board -Karin Locke
- Planning Commission -David Sweigert
- Architectural Review Board -Sarah Boyle
- AEHOP -Kathleen Balke, Carmelita Garcia, Crystal Gaudette, Mary Goblirsch, John Carminati
- Task Force on DEI- Kim Bui, Bruce Doneux
- Economic Development Commission -Kelsea Richmond
- Historic Resources Committee -Jean Anton, Nina Grannis, Glynis Greening, Rick Steres
- Traffic Safety Commission -Lester Brown, Anthony Greening

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

B. Amending an Agreement with Robert Half International, Inc.
Reference: James Minshew, Management Analyst
Action: 1. Authorize the Mayor to sign an amendment to the agreement with Robert Half International, Inc. to provide temporary staffing services in an amount not to exceed $106,000; 2. Alternatively, discuss and take other action related to this item.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

C. Boards, Committees and Commissions Handbook Revision ***This item was pulled and considered as Regular Agenda item 13B.***
Reference: City Manager Robert Perrault, City Attorney Brian Pierik, and Mayor Bill Peake
Recommended Action:
1. Direct the City Attorney to prepare a resolution adopting revised Boards, Committees and Commissions Handbook 1/17/24.
2. Direct the City Manager and City Attorney to provide committee training.
3. Alternative, discuss and take other action related to this item.

DRAFT

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

D. Establishment of Budget Schedule for FY24-25
Action: Adopted by Motion Proposed Schedule for the Development of the FY 24-25 Budget.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

E. Appointments to AMBAG Board of Directors
Action: Approved appointments to Association of Monterey Bay Area Governments (AMBAG) Board of Directors effective immediately.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

10. **MEETING MINUTES OF COMMISSIONS, BOARDS, AND COMMITTEES**

A. Diversity Equity and Inclusion Meeting Minutes: September 11, 2023, October 9, 2023, November 13, 2023, and December 11, 2023
Action: Received minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

B. Library Board Minutes: November 7, 2023
Action: Received the minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

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Items pulled from Consent Agenda:

9.A. Appointments to City Boards, Committees, Commissions, and Task Force
Public comments received from Mike Gibbs, Kelly, Fred Jealous, Vince Tuminello, Bruce Doneux, Carmelita Garcia, Lisa Ciani, Beth Walker, and Mari Adams.

Action: Upon motion by Councilmember Amelio and seconded by Mayor Pro Tem Smith, the Council voted 7-0 to approve appointments, with terms in accordance with Charter and Ordinance, to City Boards, Committees, Commissions as listed below:

- Library Board -Karin Locke
- Planning Commission -David Sweigert
- Architectural Review Board -Sarah Boyle
- AEHOP -Kathleen Balke, Carmelita Garcia, Crystal Gaudette, Mary Goblirsch, John Carminati
- Task Force on DEI- Kim Bui, Bruce Doneux
- Economic Development Commission -Kelsea Richmond
- Historic Resources Committee -Jean Anton, Nina Grannis, Glynis Greening, Rick Steres
- Traffic Safety Commission -Lester Brown, Anthony Greening

DRAFT

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

9.B. Amending an Agreement with Robert Half International, Inc.
Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Amelio, the Council voted 7-0 to authorize the Mayor to sign an amendment to the agreement with Robert Half International, Inc. to provide temporary staffing services in an amount not to exceed $106,000.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

REGULAR AGENDA

11. **PUBLIC HEARINGS**

A. Appeal of Coastal Development Permit 23-0221 for 270 Central Ave (APN# 006-214-002)

Mayor Peake opened the public hearing and defined it as a Quasi-Judicial Hearing.

Councilmember McDonnell reported ex parte communication with the Moe Ammar, Councilmember Amelio reported ex parte communication with Moe Ammar.

Planner Aaron Campbell presented to Council.

Appellant Anthony Ciani was allowed 10 minutes to present to Council.

Applicants Architect Hunter Eldridge was allowed 10 minutes to present to Council.

Public comments received from Moe Ammar, Inge Lorentzen Daumer, Lisa Ciani, Jeffrey Becom, and Lewis.

Applicant's Architect Hunter Eldridge and Attorney Alex Lorca were allowed 5 minutes for rebuttal.

Appellant Anthony Ciani was allowed 5 minutes for rebuttal.

Mayor Peake closed the public hearing.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Amelio, Council voted the motion to deny the appeal, affirm the Planning Commission determination, and approve Coastal Development Permit (CDP) 23-0221 based on findings, conditions of approval, and Class 1 and Class 31 Categorical Exemptions (CEQA Guidelines Section 15301 - Existing Facilities and Section 15331 - Historical Resource Restoration/Rehabilitation), the motion was substituted by a motion from Councilmember Coletti.

Action: Upon motion by Councilmember Coletti Smith and seconded by Councilmember McDonnell, Council voted to deny the appeal, affirm the Planning Commission determination, and approve Coastal Development Permit (CDP) 23-0221 based on findings, conditions of approval, and Class 1 and Class 31 Categorical Exemptions (CEQA Guidelines Section 15301 - Existing Facilities and Section 15331 - Historical

DRAFT

Resource Restoration/Rehabilitation), adding a condition to the CDP/Use Permit for monthly housekeeping reports to the City showing occupants utilizing the low cost units.

Motion failed 4-3, by the following roll call vote:

AYES: Councilmember Beck, Coletti, and McDonnell.
NOES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio and Poduri.
ABSENT: None.

Council therefore voted on the original motion.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Amelio, Council voted to deny the appeal, affirm the Planning Commission determination, and approve Coastal Development Permit (CDP) 23-0221 based on findings, conditions of approval, and Class 1 and Class 31 Categorical Exemptions (CEQA Guidelines Section 15301 - Existing Facilities and Section 15331 - Historical Resource Restoration/Rehabilitation).

Motion carried 6-1, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Beck, McDonnell, and Poduri.
NOES: Councilmember Coletti.
ABSENT: None.

CEQA: Categorical Exemption, CEQA Guidelines Section 15301, Class I, Existing Facilities

B. Appeal of Coastal Development Permit 22-0264 for 111 10th St (APN 006-218-001-000)

Mayor Peake opened the public hearing and defined it as a Quasi-Judicial Hearing.

No ex parte communication was reported.

Planner Aaron Campbell presented to Council.

Appellant Dan Rudolf and Representative were allowed 5 minutes to present to Council.

Applicant's Designer Claudio Ortiz was allowed 10 minutes to present to Council.

Public comments received from Ethan Hare, Ruben Mendoza, Inge Lorentzen Daumer, Lisa Ciani, Rebecca Lee, and Jeffrey Becom.

Applicant's Designer Claudio Ortiz was allowed 5 minutes for rebuttal.

Appellant Dan Rudolf and Representative Dale Ellis were allowed 5 minutes for rebuttal.

Appellant Anthony Ciani was allowed 5 minutes for rebuttal.

DRAFT

Mayor Peake closed the public hearing.

Action: Upon motion by Councilmember Amelio and seconded by Mayor Pro Tem, Council voted to deny the appeal, affirm the Planning Commission determination, and approve Coastal Development Permit (CDP) 22-0264 based on findings, conditions of approval, and Class 1 and Class 31 Categorical Exemptions (CEQA Guidelines Section 15301 - Existing Facilities and Section 15331 - Historical Resource Restoration/Rehabilitation).

Motion carried 6-1, by the following roll call vote:

AYES:	Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Beck, Coletti, and Poduri.
NOES:	Councilmember McDonnell.
ABSENT:	None.

CEQA: Categorical Exemption, CEQA Guidelines Section 15301, Class I, Existing Facilities

12. **UNFINISHED AND ONGOING BUSINESS**

A. Public Comment at Meetings of Legislative Bodies ***By unanimous vote, this item was continued to the Council's February 7, 2024 meeting.***
Reference: Brian Pierik, City Attorney
Recommended Action: Discuss permissible public comment at meetings of legislative bodies and provide direction to the City Attorney to return to the Council with a Resolution amending Council Policy 000-017.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

13. **NEW BUSINESS**

A. Direct to City Attorney to return to the City Council with an ordinance to amend Pacific Grove Municipal Code Section 2.04.050 or other actions related to this Agenda item ***By unanimous vote, this item was continued to the Council's February 7, 2024 meeting.***
Reference: Nick Smith, Mayor Pro Tem
Recommended Action: Direct the City Attorney to return to the Council with an ordinance to amend Pacific Grove Municipal Code Section 2.04.050 or other actions related to this Agenda item.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

B. Boards, Committees and Commissions Handbook Revision ***This item was pulled from the Consent Agenda. By unanimous vote, this item was continued to the Council's February 7, 2024 regular meeting.***
Reference: City Manager Robert Perrault, City Attorney Brian Pierik, and Mayor Bill Peake
Recommended Action:
1. Direct the City Attorney to prepare a resolution adopting revised Boards, Committees and Commissions Handbook 1/17/24.

DRAFT

2. Direct the City Manager and City Attorney to provide committee training.
3. Alternatively, discuss and take other action related to this item.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

14. **FULL PRESENTATIONS**

15. **CLOSED SESSION**

A. Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9 (d)(1)
Name of Case Enayati v. City of Pacific Grove, Case No. 21CV002786

No public comment received.

ADJOURNMENT

Upon motion by Councilmember Coletti and seconded by Councilmember Amelio, Council voted 7-0 to adjourn the meeting at 10:10 p.m. continuing 12A, 13A and the new 13B (former 9C) to the Council's February 7, 2024 meeting.

Respectfully Submitted,

Sandra Kandell
City Clerk

Approved by Mayor: _____Date_____

Attest by Interim City Manager Pro Tempore: _____Date_____

DRAFT

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Robert Perrault, City Manager

MEETING DATE: February 14, 2024

SUBJECT: Adopt a Resolution Ratifying the Actions of the City Manager/ Emergency Services Director Declaring a State of Emergency and Authorizing the Mayor to Send a Letter to the Office of Emergency Services Requesting Assistance

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Adopt a Resolution Ratifying the Actions of the City Manager/Emergency Services Director

DISCUSSION

Commencing on February 4th, the city was impacted by an atmospheric river event bringing winds approaching 80 miles per hour and torrential rains. The winds and rain impacted the city. There were a number of downed trees and power lines that cut power to the entire city. Coastal flooding closed several city streets. The downed power lines and debris made ingress and egress to the city nearly impossible. Emergency calls for service exceeded 100 calls on February 4th and 5th. The loss of power and lack of access impacted every resident and most businesses within our city for an extended period of time. Working with the County's Office of Emergency Services and State Parks, the city and its partners opened a warming and charging center that accommodated residents' basic needs for a number of days. At the suggestion of the Office of Emergency Services and Chiefs of Police and Fire, and acting as the City's Emergency Services Director, I issued a proclamation indicating that a state of emergency exists. This proclamation is in keeping with the Municipal Code which empowers the City Manager to take such action when the Council is not in session. The Municipal Code and State Law require the Council to ratify the City Manager's actions at its next regular meeting.

The attached resolution has been drafted for your approval. The resolution also authorizes the Mayor to send a letter requesting state assistance to California's Office of Emergency Services. Sending the letter will assist in opening the door for state programs that assist residents, businesses, and the city with funding costs associated with the event.

OPTIONS

1. The Council could adopt the resolution as proposed.
2. Choose not to adopt the resolution.
3. Provide alternative direction.

FINANCIAL IMPACT:

The City is undergoing the process of analyzing costs associated with the event. Declaring the State of Emergency and sending the letter to the Office of Emergency Services will open the door for the City to be reimbursed for incurred costs.

FOCUSED PRIORITY AREA: Affordable Housing

Attachments

Proposed Resolution

Resolution No. 24-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE RATIFYING THE ACTIONS TAKEN BY THE CITY MANAGER / EMERGENCY SERVICES DIRECTOR IN DECLARING THE EXISTENCE OF A STATE OF EMERGENCY AND DIRECTING THAT A LETTER BE SENT SEEKING FUNDING THROUGH THE CALIFORNIA DISASTER ASSISTANCE ACT

WHEREAS, The California Emergency Services Act (Government Code section 8630 et seq.) establishes procedures for proclaiming emergencies and for responding promptly to the needs that arise during emergencies; and

WHEREAS, Pacific Grove Municipal Code section 3.20.080 (a) (1) empowers the City Manager acting as the Emergency Services Director to proclaim the existence or threatened existence of a "local emergency if the Council is not in session and requires the City Council to ratify the proclamation at the next regular Council meeting; and

WHEREAS, an atmospheric River event commencing on February 4, 2024, and continuing to the current time, has resulted in heavy rainfall, extremely strong winds, coastal flooding, and high surf hazards, all of which are threatening residents, public and private property. critical infrastructure, and transportation systems within the City of Pacific Grove; and

WHEREAS, the City Manager of the City of Pacific Grove acting in his capacity as Emergency Services Director has determined that as of February 4,2024 a State of Emergency exists based on the following facts:

1. Heavy rainfall, extremely strong winds and coastal flooding have threatened the residents and businesses within Pacific Grove in the following manner:
    a) Loss of safe ingress and egress throughout the city
    b) Downed trees and power lines have disrupted basic utilities disabling electricity, and communication throughout the entire City.
    c) Basic heat and power have been disabled.
    d) The ability to communicate and document life threatening issues has been rendered inoperable.
    e) Falling trees and debris have compromised the ability of residents to move around the city freely and safely.
    f) Fallen trees have damaged residential dwellings to the point where they are no longer habitable.
    g) Residents are unable to obtain the necessities of life.
    h) Emergency responses have been delayed especially on February 4, and 5, 2024 due to the high volume of calls,
    i) Flooding and coastal hazards have created the potential to inundate the sewer collection and distribution system.
    j) Businesses were rendered inoperable for extended periods of time.

Whereas, the foregoing facts identify conditions that are likely to be beyond the control of the services, personnel, equipment and facilities of the City of Pacific Grove; and

WHEREAS, the aforesaid conditions of extreme peril warrant and necessitate the proclamation of a local emergency and immediate action is necessary to mitigate public calamity and other effects of the emergency.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL O THE CITY OF PACIFIC GROVE:

1. The attached proclamation declaring the existence of a State of Emergency dated February 7, 2024 and signed by the City Manager is hereby ratified;

2. The Mayor is hereby authorized to sign the attached letter to the California Governor's Office of Emergency Services requesting funding assistance through the California Disaster Assistance Act.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this _____ day of February, 2024, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:
DATED:_____

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN A. PIERIK, City Attorney

DocuSign Envelope ID: 9A5C2058-DF9B-44A1-87CF-A8D3D7B5CDDD

PROCLAMATION OF LOCAL EMERGENCY

A PROCLAMATION OF THE CITY MANAGER OF THE CITY OF PACIFIC GROVE, CALIFORNIA ACTING AS THE DIRECOR OF EMERGENCY SERVICES, DECLARING THE EXISTANCE OF A LOCAL EMERGENCY

WHEREAS, The California Emergency Services Act (Government Code section 8630 et seq.) establishes procedures for proclaiming emergencies and for responding promptly to the needs that arise during emergencies; and

WHEREAS, Pacific Grove Municipal Code section 3.20.080(a)(1) empowers the City Manager acting as the Emergency Services Director to proclaim the existence or threatened existence of a "local emergency" if the Council is not in session and requires the City Council to ratify the proclamation at the next regular Council meeting; and

WHEREAS, an atmospheric River event commencing on February 4, 2024, and continuing to the current time, has resulted in heavy rainfall, extremely strong winds, coastal flooding, and high surf hazards, all of which are threatening residents, public and private property, critical infrastructure, and transportation systems within the City of Pacific Grove; and

WHEREAS, the City Manager of the City of Pacific Grove acting in his capacity as Emergency Services Director has determined that as of February 4, 2024 a State of Emergency exists based on the following facts:

1. Heavy rainfall, extremely strong winds, and coastal flooding have threatened the residents and businesses within Pacific Grove in the following manner:
    a) Loss of safe ingress and egress throughout the City.
    b) Downed trees and power lines have disrupted basic utilities disabling electricity, and communication throughout the entire City.
    c) Basic heat and power have been disabled.
    d) The ability to communicate and document life threatening issues has been rendered inoperable for the entire City.
    e) Falling trees and debris have compromised the ability of residents to move around the City freely and safely.
    f) Fallen trees have damaged residential dwellings to the point where they are no longer habitable.
    g) Residents are unable to obtain the necessities of life.
    h) Emergency responses have been delayed especially on February 4, and 5, 2024 due to the high volume of calls,
    i) Flooding and coastal hazards have created the potential to inundate the sewer collection and distribution system.

WHEREAS, the foregoing facts identify conditions that are likely to be beyond the control of the services, personnel, equipment and facilities of the City of Pacific Grove; and

WHEREAS, The City Council is not in session as of the date of this proclamation; and

WHEREAS, the aforesaid conditions of extreme peril warrant and necessitate the proclamation of a local emergency and immediate action is necessary to mitigate public calamity and other effects of the emergency.

NOW THEREFORE, IT IS PROCLAIMED, as defined in Government Code section 8558(c) and Public Contract Code Section 1102 that a local emergency exists throughout the City.

That during the existence of said local emergency the powers, functions, and duties of the City Manager and the Emergency Services Office of this City shall be those prescribed by State law and the ordinances, resolutions, and approved plans of the City of Pacific Grove to mitigate the effects of said local emergency; and

During the existence of said local emergency the powers, functions and duties of the City Manager, or his designee, the Police Department, Department of Public Works, Fire Department, Administrative Services Department, Department of Community Development of the City of Pacific Grove shall be those prescribed by State law and the ordinances, resolutions, and approved plans of the City of Pacific Grove in order to mitigate the effects of the local emergency; and

Pursuant to the Public Contract Code and City of Pacific Grove Purchasing Code 2.16.400 and 2.16.155, the Public Works Director and the Administrative Services Director or their designees are hereby authorized to engage independent contractors to complete all necessary work to mitigate the effects of said local emergency. Contracts for this work may be executed without prior Council approval of the plans specifications and working details without giving notice for bids or let contracts.

SIGNED AND SUBSCRIBED at Pacific Grove California this 7th day of February 2024.

Approved as to Form:

DocuSigned by:
Brian A. Pierik
01871FB17BD8435...

Brian Pierik, City Attorney

Executed:

DocuSigned by:
Robert Perrault
BCFAE657A723468...

Robert J Perrault, Interim City Manager

CITY OF PACIFIC GROVE
300 Forest Avenue ▫ Pacific Grove, California

February 14, 2024

Ms. Nancy Ward, Director
California Governor's Office
3650 Schriver Ave.
Mather, CA 95635

Re: Funding Assistance Through the California Disaster Assistance Act

Dear Director Ward:

On February 4, 2024, Pacific Grove experienced extreme wind and rain conditions, leading to conditions of extreme peril to the safety of life and property. Due to this emergency, the city respectfully requests the Governor include the city in his proclaimed State of Emergency related to this February 2024 Storm and requests that recovery assistance be made available to the City under the California Disaster Assistance Act (CDAA).

Hurricane force winds, over 80 miles per hour, and torrential rains threatened residents, property, critical infrastructure, and key resources, throughout the City. According to Pacific Gas and Electric there were 181 power outages impacting the 15,000 City residents and shutting down businesses in the commercial areas of the city. Downed power lines and trees made ingress and egress throughout the city nearly impossible. In addition to the power outages most utilities were disrupted making communication between residents, businesses, and service providers extremely difficult. During February 4th and 5th over 100 calls for service were handled. This is an extremely high number for this small community. For an extended period, residents were unable to obtain the necessities of life. Working with the County of Monterey and State Parks, a warming and charging center was established at Asilomar State Park for a period of 4 days serving hundreds of residents. A total of six residential structures were compromised due to falling trees and were deemed by the city to be uninhabitable.

On February 7, 2024, the interim City Manager, using the City's authorized emergency powers in accordance with the Municipal Code declared a State of Emergency. The City Council ratified this action on February 14th and authorized me to send this letter requesting the California's Office of Emergency Services provide assistance with activating the FEMA Public Assistance Program, FEMA Individual Assistance Program, Small Business Administration Disaster Loan Program and the California Disaster Assistance Act (CDDA) fund. This assistance is vitally needed to assist the city, residents and businesses to recover from this devastating emergency.

Phone (831) 648-3106 ▫ Fax (831) 657-9361 ▫ www.cityofpacificgrove.org

For questions or additional information, please contact Interim City Manager Robert Perrault at 831-648-3147 or rperrault@cityofpacificgrove.org.

Sincerely,

Bill Peake
Mayor

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Jazelle Johnson, Accountant

MEETING DATE: February 14, 2024

SUBJECT: Second Quarter Treasurer's Quarterly Report

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive the report.
2. Alternatively, discuss and take other action related to this item.

DISCUSSION

Article 19, Section (K) of the City Charter requires that a quarterly statement of all funds in the treasury be submitted to the Council. The Treasurer's report allows the Council and public to verify that the City's funds are invested in a safe and prudent manner, and that such investments comply with City policy and state law. The Treasurer's Report is different from a budget report, as its purpose is to report on cash balances.

This report reflects the City's balances as of December 31, 2023 and shows that cash and investments held citywide, with a market value of $ 33,724,029. All investments are in government securities, certificates of deposit (CD), or other approved investment vehicles. The maturity dates are laddered, to ensure liquidity. All bank balances are insured. The City does not actively trade either certificates of deposits or federal agency securities but hold investments in the portfolio for maturity.

Date	Description	Rate	Dollar Amt/ Face Value	Activity
10/30/23	Federal Home Ln Bank	4.77%	$250,000	Purchase
11/21/23	Federal Farm Cr Bank	4.40%	$500,000	Purchase
11/21/23	Federal Agric MTG Corp	4.50%	$334,000	Purchase
12/06/23	Morgan Stanley Private Bk Natl, NY	3.55%	245,000	Maturity
11/08/23	Raymond James Bnk Natl Assn, FL	1.75%	247,000	Maturity

Investment Notes:

- The average yield on the City's portfolio for the quarter is 3.18%. This represents a yield rate that is 0.12% greater than the prior quarter and 0.76% greater in the same quarter of the prior year.

OPTIONS

N/A – This is an informational report.

FINANCIAL IMPACT:

There is no fiscal impact. This is informational only.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Second Quarter Treasurers Report

City of Pacific Grove
Treasurers' Report
As of December 31, 2023

DEPOSITORY	ACCOUNT	DESCRIPTION OF SECURITY	MATURITY DATE	INTEREST RATE/YIELD	DOLLAR/PAR AMOUNT	MARKET VALUE
State of California	Local Agency Investment Fund (LAIF)		Immediate	3.93%	12,000,854.17	12,000,854.17
					12,000,854.17	12,000,854.17
Bank of America	Checking	Pooled Cash	Immediate	0.00%	830,291.80	830,291.80
					830,291.80	830,291.80
N/A	Petty Cash	General	Immediate	0.00%	685.00	685.00
					685.00	685.00
Concourse Financial Group	Cash	Dreyfus Govt Cash Mngt		4.99%	2,759,988.02	2,759,988.02
Concourse TVI	Certificate of Deposit	Alabama Cr Un Tuscaloosa Ala Sh Ctf	11/22/2024	4.90%	248,000.00	247,464.32
Concourse TVI	Certificate of Deposit	All In Fed Cr Un Daleville AL Sh Ctf	12/20/2027	4.40%	249,000.00	246,223.65
Concourse TVI	Certificate of Deposit	Alliant Cr Un Chicago Ill Sh Ctf	12/30/2027	4.85%	249,000.00	250,376.97
Concourse TVI	Certificate of Deposit	Ally Bk Sandy Utah	6/9/2026	3.00%	246,000.00	235,648.32
Concourse TVI	Certificate of Deposit	Amerant Bk Natl Assn Coral Gables FL	12/3/2025	0.45%	249,000.00	229,080.00
Concourse TVI	Certificate of Deposit	American Express Natl Bk	7/13/2027	3.25%	246,000.00	233,685.24
Concourse TVI	Certificate of Deposit	Austin Telco Fed Cr Un Tex Sh CTF	12/16/2026	4.95%	249,000.00	249,353.58
Concourse TVI	Certificate of Deposit	BMW Bk North Amer Salt Lake City Utah	11/20/2025	0.50%	249,000.00	229,754.79
Concourse TVI	Certificate of Deposit	BMO Harris Bk Natl Assn Chicago Ill	6/10/2024	2.80%	246,000.00	243,439.14
Concourse TVI	Certificate of Deposit	Bank Baroda New York Brh	7/22/2025	0.65%	249,000.00	233,081.43
Concourse TVI	Certificate of Deposit	Baxter Cr Un Vernon Hills Ill Sh CTF	11/30/2026	5.00%	248,000.00	248,736.56
Concourse TVI	Certificate of Deposit	Baycoast Bnk Swansea Mass CTF	1/24/2025	1.70%	247,000.00	238,238.91
Concourse TVI	Certificate of Deposit	Bridgewater Bk St Louis Pk, MN	11/28/2025	0.45%	249,000.00	229,226.91
Concourse TVI	Certificate of Deposit	Capital One Natl Assn McLean VA CTF	8/7/2024	2.25%	247,000.00	242,788.65
Concourse TVI	Certificate of Deposit	Capital One Natl Assn Glen Allen VA CTF	6/9/2025	3.00%	246,000.00	239,225.16
Concourse TVI	Certificate of Deposit	Celtic Bk Salt Lake City Utah	3/17/2027	4.70%	249,000.00	247,807.29
Concourse TVI	Certificate of Deposit	Comerica BK Dallas TX	5/3/2024	5.05%	238,000.00	237,762.00
Concourse TVI	Certificate of Deposit	Direct Fed Cr Un Needham Mass SH CTF	11/9/2026	4.75%	249,000.00	248,116.05
Concourse TVI	Certificate of Deposit	Discover BknGreenwood Del	6/7/2027	3.15%	246,000.00	233,087.46
Concourse TVI	Certificate of Deposit	Dort Finl CR Grand Blanc MI	1/12/2026	4.50%	247,000.00	245,678.55
Concourse TVI	Certificate of Deposit	1ST Finl Bk Dakota Dunes SD	7/11/2024	2.90%	249,000.00	246,143.97
Concourse TVI	Certificate of Deposit	First Natl Bk Middle TENN	5/19/2027	4.45%	244,000.00	241,115.92
Concourse TVI	Certificate of Deposit	First Technology FED CR Mtn View CA	2/18/2025	4.85%	249,000.00	248,320.23
Concourse TVI	Certificate of Deposit	Flagstar BK Hicksville New York	4/24/2025	5.25%	243,000.00	243,631.80
Concourse TVI	Certificate of Deposit	Greenwood Cr Un Warwick RI SH CTF	5/28/2024	4.95%	248,000.00	247,828.88
Concourse TVI	Certificate of Deposit	Honolulu Fire Dept Fed CR UN	6/22/2027	4.65%	249,000.00	247,742.55
Concourse TVI	Certificate of Deposit	Ideal Cr Un Woodbury MN SH CTF	12/29/2027	4.50%	249,000.00	247,187.28
Concourse TVI	Certificate of Deposit	Industrial & Coml Bk China USA Natl Assn NY CTF	2/11/2026	0.45%	249,000.00	227,441.58
Concourse TVI	Certificate of Deposit	JPMorgan Chase BK NA Columbus OH CTF Dep	12/15/2025	0.50%	248,000.00	228,246.80
Concourse TVI	Certificate of Deposit	Latino Cmnty Cr Un Durham NC SH CTF	12/21/2027	4.50%	249,000.00	247,130.01
Concourse TVI	Certificate of Deposit	Liberty Fed Cr Un Evansville IN SH CTF	12/9/2024	4.90%	249,000.00	248,424.81
Concourse TVI	Certificate of Deposit	Liberty First Cr Un Lincoln Neb	1/20/2026	4.55%	249,000.00	247,874.52
Concourse TVI	Certificate of Deposit	Live Oak Bkg Co Wilmington NC CTF Dep	11/27/2024	1.85%	249,000.00	241,701.81
Concourse TVI	Certificate of Deposit	Lyons Natl BK NY	3/16/2026	4.75%	244,000.00	243,704.76
Concourse TVI	Certificate of Deposit	Manufacturers & Traders Buffalo NY	1/31/2025	4.50%	244,000.00	242,294.44
Concourse TVI	Certificate of Deposit	Medallion Bk Salt Lake City UTAH	6/16/2027	4.50%	249,000.00	246,532.41
Concourse TVI	Certificate of Deposit	Merrick Bk South Jordan Utah	1/31/2025	1.70%	249,000.00	240,265.08
Concourse TVI	Certificate of Deposit	Minnwest Bk Redwood Falls Minn Ctf Dep	7/15/2025	0.50%	249,000.00	232,551.06
Concourse TVI	Certificate of Deposit	Morgan Stanley Bk N A Salt Lake City Ut CTF	3/23/2028	4.90%	244,000.00	246,540.04
Concourse TVI	Certificate of Deposit	Mountain Amer Fed Cr Un West Jordan UT SH CTF	5/28/2024	5.00%	248,000.00	247,880.96
Concourse TVI	Certificate of Deposit	New York Cmnty Bk Westbury N Y	7/1/2026	0.70%	249,000.00	224,966.52
Concourse TVI	Certificate of Deposit	Preferred Bk Los Angeles Calif Ctf Dep	8/16/2024	2.00%	249,000.00	244,219.20
Concourse TVI	Certificate of Deposit	Signature FED Cr Un Alexandria VA	1/31/2028	4.40%	249,000.00	246,495.06
Concourse TVI	Certificate of Deposit	Southern Bk Poplar Bluff MO CTF DEP	11/8/2024	4.70%	249,000.00	248,081.19
Concourse TVI	Certificate of Deposit	Synchrony Bk Retail CTF Dep Citigroup Instl CTF Dep	12/10/2026	1.25%	248,000.00	223,666.24
Concourse TVI	Certificate of Deposit	Technology CR UN San Jose CA	1/21/2025	5.00%	248,000.00	247,680.08
Concourse TVI	Certificate of Deposit	Texas Exchange Bk SSB Crowley Ctf Dep	11/25/2025	0.60%	249,000.00	229,249.32
Concourse TVI	Certificate of Deposit	Truliant FED Cr Un Winston Salem NC	3/27/2026	5.00%	247,000.00	247,948.48
Concourse TVI	Certificate of Deposit	UBS Bk USA Salt Lake City Ut	6/23/2026	0.75%	249,000.00	225,222.99
Concourse TVI	Certificate of Deposit	US Alliance FCU Rye New York SH CTF	9/30/2027	4.00%	249,000.00	242,570.82
Concourse TVI	Certificate of Deposit	University Bk Ann Arbor MICH CTF DEP	11/30/2027	4.20%	249,000.00	244,415.91
Concourse TVI	Certificate of Deposit	Univest Natl Bk TR Souderton PA	5/5/2028	4.10%	249,000.00	244,298.88
Concourse TVI	Certificate of Deposit	Wells Fargo Bk N A Sioux Falls S D	5/1/2024	5.05%	238,000.00	237,762.00
Concourse TVI	U.S. Treasury Securities	United Sts Treas NTS	9/30/2025	0.60%	250,000.00	232,870.00
Concourse TVI	U.S. Treasury Securities	United Sts Treas NTS	5/31/2026	0.70%	250,000.00	230,860.00
Concourse TVI	U.S. Treasury Securities	United Sts Treas NTS	4/15/2025	3.35%	500,000.00	487,830.00

City of Pacific Grove
Treasurers' Report
As of December 31, 2023

DEPOSITORY	ACCOUNT	DESCRIPTION OF SECURITY	MATURITY DATE	INTEREST RATE/YIELD	DOLLAR/PAR AMOUNT	MARKET VALUE
Concourse TVI	U.S. Government Bonds	Federal Farm Cr Bks	1/11/2027	1.470%	530,000.00	489,036.30
Concourse TVI	U.S. Government Bonds	Federal Home Ln Bks	9/8/2028	4.770%	250,000.00	258,955.00
Concourse TVI	U.S. Government Bonds	Federal Farm Cr Bks	11/27/2028	4.400%	500,000.00	514,040.00
Concourse TVI	U.S. Government Bonds	Federal Agric MTG Corp	10/4/2027	4.500%	334,000.00	331,120.92
Total Concourse - General					18,492,988.02	18,082,610.82
TOTAL GENERAL INVESTMENTS					31,324,818.99	30,914,441.79
Concourse TVI Yount	Cash	Sweep Money Market Fund		4.99%	757.61	504.79
Concourse TVI Yount	Fixed Income	Bank Hapoalim B M New York BRH Ctf Dep	12/15/2025	0.50%	205,000.00	188,679.95
Concourse TVI Yount	U.S.Treasury Securities	United Sts Treas NTS	4/30/2024	2.50%	180,000.00	178,354.80
Concourse TVI Yount	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide BDS	9/16/2025	0.55%	96,000.00	89,881.92
Concourse TVI Yount	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide	5/13/2026	0.88%	170,000.00	156,862.40
Concourse TVI Yount	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide BDS	1/11/2027	1.47%	97,000.00	89,502.87
Concourse TVI Yount	U.S. Government Bonds	Federal Agric Mtg Corp Medium Terms Nts Fed	1/15/2026	0.48%	95,000.00	88,135.30
Total Concourse - Endowments					843,757.61	791,922.03
TOTAL INVESTMENTS HELD FOR ENDOWMENTS					843,757.61	791,922.03
Umpqua Bank	Money Market			0.01%	2,017,665.18	2,017,665.18
Total Umpqua Bank					2,017,665.18	2,017,665.18
TOTAL RESERVE INVESTMENT					2,017,665.18	2,017,665.18
GRAND TOTAL					34,186,241.78	33,724,029.00

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Tori Hannah, Administrative Services Director/Assistant City Manager

MEETING DATE: February 14, 2024

SUBJECT: Second Quarter Budget Report.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive the report.

DISCUSSION

The Administrative Services Department produces quarterly financial reports to assist in evaluating the City's fiscal condition. The attached report provides details on General Fund revenues and expenditures, as well as a summary related to enterprise funds.

The Fiscal Year 23/24 Mid-Year Budget update is planned to be presented at the February 21, 2024 Council Meeting, with a Special Budget Workshop following on February 28, 2024. This will provide the Council and community with an additional opportunity to review City finances.

City financial reports can also be accessed from the following link: City Finance Information

OPTIONS

N/A. This is informational only.

FINANCIAL IMPACT:

There is no fiscal impact. The report is informational only.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

FY 23.24 Second Quarter Budget Report

City of Pacific Grove

Second Quarter Budget Report – Fiscal Year 23/24

Fund Summaries

The following tables provide an overview of current revenues and expenditures for each major fund. A summary of each fund, along with additional details on the General Fund are provided in the subsequent sections.

Revenues		FY 23/24 Amended	YTD Transactions	% of Budget	Prior YTD Transactions
01	General Fund	$31,263,187	$15,548,517	50%	$14,651,598
74	Local Water Project	1,576,187	731,102	46%	415,859
75	Cemetery	656,500	320,770	49%	455,873
76	Sewer Fund	4,436,000	933,056	21%	80,447
77	Golf	731,500	235,938	32%	271,283

Expenditures		FY 23/24 Amended	YTD Transactions	% of Budget	Prior YTD Transactions
01	General Fund	$34,117,976	$15,135,134	44%	$15,169,315
74	Local Water Project	1,636,449	392,168	16%	336,792
75	Cemetery	684,119	295,912	43%	287,034
76	Sewer Fund	5,771,105	1,049,391	18%	1,263,981
77	Golf	695,598	297,153	43%	191,663

General Fund Overview

General Fund revenues and expenditures are trending relatively consistent with the budgetary projections. The Fiscal Year 23/24 quarterly revenues are $897,000 greater than the prior year. In Fiscal Year 22/23, there was an $800,000 interfund transfer of ARPA funds to assist with the pandemic revenue losses. In Fiscal Year 23/24, City finances were projected to stabilize, and supplementary funds were not needed to balance the budget. If the Fiscal Year 22/23 revenues are reduced by the one-time ARPA funds, the on-going revenues would be $1.7 million greater than the prior year. This annual increase can primarily be attributed to the addition of the new Measure A transactions and use tax (sales tax); a $277,882 single construction permit receipt, FEMA reimbursements, interest earnings, and increased tax performance. The annual increase in expenditures align with the planned budgetary projections. At the close of the second quarter, revenues exceeded expenditures by approximately $413,000.

The City continually monitors the budget on a regular basis. If any significant budgetary variances are identified, a budget amendment will be requested as part of the mid-year budget process; or through a separate budget amendment during the year.

Specific information related to major revenue categories and departmental expenditures are provided within this section.

General Fund Revenues

The following chart provides an overview of the General Fund revenue receipts. All revenues are trending fairly consistent with the prior year or the annual budget. Any significant variances are listed below the chart.

Revenues	Amended Budget	YTD Transactions	% Used / Rec'd	Prior YTD Transactions
Taxes:				
Property Taxes	$9,609,000	$5,521,808	57%	$5,299,212
Transient Occupancy Tax	6,463,000	3,375,954	52%	3,237,205
Transient Use Licenses	99,000	1,197	1%	3,036
Sales and Use Tax	5,957,000	2,010,287	34%	1,602,735
Business License Tax	370,000	380,473	103%	233,779
Franchise Tax	1,585,000	324,116	20%	338,088
Utility User Tax	2,005,000	779,101	39%	795,159
Cannabis Tax	100,000	-	0%	-
Other Tax	176,000	71,245	40%	77,134
Total Taxes	**$26,364,000**	**$12,464,181**	**47%**	**$11,586,348**
Other:				
Licenses and Permits	838,000	851,660	102%	515,165
Intergovernmental	58,000	204,003	352%	6,717
Charges for Services	2,072,000	1,058,586	51%	999,361
Fines and Forfeitures	125,000	5,544	4%	97,134
Interest, Rents, Conc.	435,000	432,689	99%	269,185
Other Revenues	1,371,187	531,854	39%	377,688
Interfund Transfers	-	-	-	800,000
Totals	**$31,263,187**	**$15,548,517**	**50%**	**$14,651,598**

Property Taxes

Property tax revenues are received primarily in December and April, with a minor receipt in June. The first property tax receipt was 4% or $223,000 greater than the prior year.

Sales Tax

The annual sales tax difference of $407,552 represents a 20% increase over the prior year. This is largely due to the addition of Measure A. This new tax became effective on October 1, 2022. Measure A receipts for Fiscal Year 22/23 will begin to appear in the third quarter.

Franchise and Utility Users Tax (UUT)

Franchise and Utility Users Tax receipts do not typically align with the percentage of the year that has elapsed. The Franchise Taxes received through the second quarter represent one payment from refuse and cable providers, while the UUT amount represents five monthly payments. This is consistent with prior year reporting patterns.

Business License Taxes

The majority of Business License revenues are typically received at the beginning of the year. The annual difference of $146,694 is primarily related to the timing of receipts and accounting accrual entries. It is anticipated that these taxes will trend fairly consistently with prior year amounts and the budget.

Cannabis Tax

In Fiscal Year 23/24, the City anticipated receiving a partial year of cannabis tax revenues. The budget will be amended at mid-year to allow for additional time to complete the regulatory framework, develop the associated fees, and later permit a storefront.

Licenses and Permits

Licenses and Permits are $336,495 or 39.5% greater than the prior year. Construction permits represent the largest source of revenue within this category. In Fiscal Year 23/24, the City received a single payment of $277,882 related to a construction permit for a hotel. This single receipt, as well as strong performance, contributed to the significant annual and budgetary difference.

Intergovernmental

Intergovernmental revenues can vary based on the timing of grant reimbursements. The revenues through the first two quarters of Fiscal Year 23/24 are approximately $146,000 greater than the budgeted amount and $197,000 more than the prior year. This increase can be largely attributed to the receipt of $150,000 in FEMA grant revenues to reimburse the City for the prior year winter storm operational costs.

Fines and Forfeitures

Revenues within this category vary. In Fiscal Year 22/23, the City received a single $80,414 payment related to a code enforcement case. In Fiscal Year 23/24, the City did not receive any significant one-time receipts.

Interest, Rents, and Concessions

Revenues are trending greater than the percentage of year elapsed primarily due to increased interest earnings and positive market value adjustments. The budget will be amended at mid-year to reflect the updated performance.

Other Revenues

Other revenues include water entitlement sales, indirect charges, unique one-time receipts, as well as various miscellaneous revenues. In Fiscal Year 23/24, 39% or $531,854 of the budgeted revenues have been received. The Fiscal Year 23/24 Budget of $1.4 million includes $625,187 in developer promissory note proceeds for water entitlements. These revenues will be received upon the sale of each developed unit. In the first half of the fiscal year, the City received $125,000 in promissory note proceeds. These proceeds will be transferred to the Local Water Project Fund. These pass-through revenues contribute to the annual difference of $154,166.

Interfund Transfers

In Fiscal Year 22/23, a transfer of $800,000 in American Rescue Plan Act funds was appropriated to assist with revenue recovery. In Fiscal Year 23/24, no additional funds were needed to supplement operations.

Expenditures

In the first half of the fiscal year, department expenditures may not trend with the percentage of year that has elapsed. The primary exception is the underlying salary and benefit costs, which are trending consistent with the number of completed payperiods. Additional information specific to departments are listed below the table.

Expenditures	FY 23-24 Amended	YTD Transactions	% of Budget	Prior YTD Transactions
City Council	318,600	118,388	37%	151,239
City Manager	1,455,696	621,821	43%	515,464
City Attorney	1,144,480	198,059	17%	218,276
Economic Development	369,815	113,653	31%	31,432
Finance	1,450,956	676,884	47%	554,270
Information Services	1,034,941	414,198	40%	326,454
Police	8,347,338	3,868,413	46%	3,828,945
Fire	4,403,000	2,393,837	54%	2,316,052
Public Works	5,044,698	1,993,385	40%	1,847,120
Community Development	4,049,815	1,141,296	28%	760,968
Library	1,167,695	588,329	50%	554,531
Recreation	1,194,749	572,393	48%	404,067
Museum	337,400	164,575	49%	94,435
Subtotal	$30,319,183	$12,865,231	42%	$11,603,253
Capital Outlay	365,140	148,417	41%	891,011
Transfers to CIP Fund	850,000	425,000	50%	287,500
Debt Service	1,428,466	1,414,486	99%	2,225,551
Interfund Transfers	1,155,187	282,000	24%	162,000
Total Expenditures	$34,117,976	$15,135,134	44%	$15,169,315

City Manager

During the first two quarters of Fiscal Year 23/24, a partial payment for a separation agreement was allocated to the City Manager and Economic Development Department budgets. This expenditure, which was equivalent to one year of compensation; and was partially offset by staffing vacancies, contribute to the annual departmental variance.

Economic Development

The Economic Development Department expenditures are approximately $82,000 greater than the prior year; however they are 31% below the current year budget. The Fiscal Year 23/24 increase in expenditures reflects a percentage of the separation agreement compensation; the distribution of $20,000 in economic development grants, and $37,973 for contract costs associated with the Monterey County Convention and Visitor's Bureau (MCCVB). The MCCVB charges were allocated to the City Council budget in the first half of Fiscal Year 22/23.

City Attorney

In the first half of the fiscal year, the City Attorney Department expenditures were 17% of the budgeted amount. The expended funds reflect three months of City Attorney contract services, as well as specialized legal services. The timing of billing and payments, as well as expenditures, are similar to the prior year.

Finance

The Finance Department is trending relatively consistent with the budget. Variances between years reflect planned payments for the Comprehensive Fee Study and Cost Allocation Plan and the implementation of a new accounting pronouncement; and costs associated with the implementation of Measure A.

Information Technology (IT)

The Fiscal Year 23/24 IT expenditures are trending relatively consistent with the budget. The annual difference of $87,744 was primarily related to timing of contract services and software subscription payments.

Community Development

In the first half of the fiscal year, Community Development expenditures were 28% of the budgeted amount. This budgetary difference reflects the addition of funds to support the amended 6th Cycle Housing Element contract, as well as operating costs for the remainder of the year. The year-to-date growth in expenditures was $380,328 or 33% more than the prior year. This annual difference represents approximately $287,000 in additional contract/professional services that are related to the timing of two monthly building contract service payments and the use of funds to support the Housing Element contract; and $72,000 in salaries and benefits related to filled positions.

Recreation

Recreation expenditures are trending relatively consistent with the budget; however they are $168,326 greater than the prior. This includes a planned increase in salaries and benefits to assist in ramping-up recreation programs and staffing to meet Council goals. In the first two quarters of the fiscal year, this accounts for approximately $148,000 of the annual difference in expenditures.

Capital Outlay

Capital outlay expenditures are approximately $743,000 less than the prior year. This is primarily due to the purchase of a new fire engine in Fiscal Year 22/23.

Debt Service

In Fiscal Year 23/24, the annual debt service payments were $811,065 less than the prior year. This difference is primarily related to a reduction in the City's Pension Obligation Bond payment.

Interfund Transfers

In Fiscal Year 23/24, the budgeted transfers represent $625,187 in water entitlement revenues to the Local Water Project to assist with the repayment of the Sewer/LWP Interfund Loan; and $314,000 in transfers to the Public Safety Augmentation Fund for emergency dispatch services. The water entitlement revenues represent the proceeds from a developer promissory note. The $625,187 amount will be transferred upon receipt of the funds. The transfers within the first two quarters represent 50% or $157,000 of the annual transfer for emergency dispatch fees and $125,000 for the partial receipt of promissory note proceeds.

Other Funds

Local Water Project (LWP)

In Fiscal Year 23/24, the first two quarters of LWP revenues include a $125,000 transfer of water entitlement proceeds; and operating revenues of $606,102. The Fiscal Year 22/23 operating revenues for the same two-month period were $368,859. This annual difference is primarily related to an increase in the recycled water fees to assist with fiscal sustainability efforts. This fee increase became effective on July 1, 2023; and adjusted the per gallon rate from $0.018 to $0.029. The annual expenditures were approximately $55,000 more than

the prior fiscal year. This increase is primarily related to a $125,000 payment to the Sewer fund for the Interfund Loan; net of the timing of contract service payments and decreased utility costs.

Cemetery

The Cemetery revenues and expenditures are trending relatively close to the budget. The first two quarters of Cemetery receipts were 49% of the budgeted amount; however they are approximately $135,000 less than the prior year. In Fiscal Year 22/23, the City added 36 new single burial sites; and sold ten sites within the first quarter. This contributed to the annual variance in sales. The Fiscal Year 23/24 first quarter revenues are more representative of a traditional level of sales.

Sewer Fund

In the first two quarters of Fiscal Year 23/24 Sewer revenues were $852,609 greater than the prior year. This revenue increase can be largely attributed to a single payment of Sewer Service Charges. In the prior year, these revenues were not received in the first two quarters. Factors that also contribute to the increase include greater investment earnings and a $125,000 payment from the Local Water Project to pay for debt service on the Sewer/LWP Interfund Loan. While the annual revenues were approximately 21% of the budgeted amount, this variance is consistent with revenue receipting patterns. The City contracts with Monterey One Water to collect sewer use fees. Due to the timing associated with collecting and remitting bi-monthly payments to the City, the amount of revenues received are not consistent with the percentage of the year that has elapsed. The Sewer Fund has sufficient fund balance to manage any cash flow requirements. The $398,445 reduction in expenditures is primarily related to the timing of capital project expenditures and the elimination of approximately $88,000 in pension obligation bond payments.

Golf Course

In the first half of the fiscal year, Golf Course revenues were $34,000 above the prior year primarily due to increased rental receipts; however they were also 32% below the budgeted amount. This budgetary variance is primarily related to a one-time percentage-based revenue that is received in the third quarter. It is anticipated that this receipt will assist in bringing the revenues into better alignment with the budget. The Fiscal Year 23/24 expenditures were $105,490 or 35% greater than the prior year. This annual increase in expenditures is primarily related to approximately $143,000 in recycled water charges, net of prior year capital expenditures. These new charges to the Golf Course Fund resulted from recycled water costs that were in excess of the lessee's agreed upon cap. In this fiscal year, it is anticipated that there should be sufficient revenues and/or fund balance to support these increased costs. Additional information will be provided as part of the mid-year budget presentation.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	James Minshew, Management Analyst
MEETING DATE:	February 14, 2024
SUBJECT:	Second Quarter FY 23/24 Purchase Order Report
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive the FY 23/24 Second Quarter Purchase Order Report.
2. Alternatively, discuss and take other action related to this item.

DISCUSSION

The Second Quarter Purchase Order Report includes information on purchase orders that were issued under $40,000. This report is intended to be consistent with the reporting requirement in Section 2.16.160 of the City's Purchasing Systems and Procedures.

Purchase orders are required for purchases of supplies, services, materials, equipment, and contractual services over $5,000.

The Purchase Order Report includes:

- Vendor name
- Date the purchase order was issued
- Description of the encumbered funds
- Purchase order amount
- Year-to-date expenses through the Second Quarter

OPTIONS

N/A - This is informational only

FINANCIAL IMPACT:

There is no financial impact associated with receiving this report.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Second Quarter Purchase Order Report

Purchase Orders - Less Than $40,000
Second Quarter FY 23/24

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSES	STATUS
24000048	CITY ATTORNEY	111		ATKINSON, ANDELSON, LOYA, RUUD ROMO	9/27/23	FY24 LEGAL SERVICES	39,999.00	38,726.12	OPEN
24000064	CITY ATTORNEY	121		NOLAND, HAMERLY, ETIENNE & HOSS	10/04/23	LEGAL SERVICES - ENAYATI 21CV2786/22CV1	17,297.27	12,584.77	OPEN
24000142	CITY COUNCIL	101		ONE WORKPLACE L. FERRARI	12/18/23	CITY COUNCIL CHAMBER CHAIRS	39,841.06	39,841.06	CLOSED
24000047	CITY COUNCIL	101		RENNE PUBLIC MANAGEMENT GROUP	9/26/23	CARRY FORWARD PO 23000158	7,601.68	4,620.00	OPEN
24000140	CITY MANAGER	121		BEST BEST & KRIEGER ATTORNEYS	12/15/23	LEGAL SERVICES, DEVELOPMENT, REAL ESTATE	39,000.00	79.00	OPEN
24000006	CITY MANAGER	121		BRYCE CONSULTING INC.	7/19/23	COMPENSATION STUDY	8,151.00	7,885.00	OPEN
24000043	CITY MANAGER	121		CUSTOM INK	9/13/23	80 FLEECE VESTS WITH CITY LOGO	5,373.79	5,373.79	CLOSED
24000133	CITY MANAGER	121		GOOD CITY COMPANY	11/14/23	CITY-WIDE WILDLIFE & HABITAT PROTECTION	10,000.00	5,021.25	OPEN
24000046	CITY MANAGER	121		OPPENHEIMER INVESTIGATIONS GRP LLC	9/15/23	CONFIDENTIAL INVESTIGATION	25,000.00	5,076.50	OPEN
24000109	COMMUNITY DEVELOPMENT	201		BENEVATE INC	11/06/23	NEIGHBORLY SOFTWARE	9,700.00	-	OPEN
24000105	COMMUNITY DEVELOPMENT	201		BEST BEST & KRIEGER ATTORNEYS	11/06/23	HOUSING POLICY CITY'S 6TH CYCLE HOUSING ELEMENT	30,094.50	-	OPEN
24000108	COMMUNITY DEVELOPMENT	201		DECKARD TECHNOLOGIES, INC	11/06/23	SOFTWARE FOR SHORT TERM RENTALS	6,500.00	-	OPEN
24000019	COMMUNITY DEVELOPMENT	201	TRC23-03	GOOD CITY COMPANY (1)	7/26/23	420 LA CALLE CORTE	17,130.00	15,653.75	OPEN
24000022	COMMUNITY DEVELOPMENT	201	TRC19-04	HR & ASSOCIATES (1)	7/28/23	ATC PLANNING SERVICES FY24	9,112.50	4,637.50	OPEN
24000094	COMMUNITY DEVELOPMENT	201		IWORQ SYSTEMS	11/06/23	IWORQ-ANNUAL LICENSING FOR PERMIT SOFTWARE	21,375.00	22,375.00	CLOSED
24000107	COMMUNITY DEVELOPMENT	201		R.L. HASTINGS & ASSOCIATES, LLC	11/06/23	ENVIRONMENTAL REVIEW FOR PROJECTS	600.00	-	OPEN
24000092	COMMUNITY DEVELOPMENT	201		RINCON CONSULTANTS, INC	11/06/23	PROVIDE ON-CALL CEQA	20,000.00	-	OPEN
24000090	COMMUNITY DEVELOPMENT	201	TRC23-03	RINCON CONSULTANTS, INC (1)	11/06/23	420 LA CALLE CORTE-INITIAL STUDY (IS)	15,218.50	15,217.25	OPEN
24000083	FINANCE	131		CENTRALSQUARE TECHNOLOGIES, LLC	10/25/23	SOFTWARE UPGRADE PROJECT	2,000.00	1,566.00	OPEN
24000146	FINANCE	131		CHAVAN & ASSOCIATES, LLP	12/22/23	IMPLEMENTATION ASSIST GASB 96, YEAR-END	26,000.00	13,425.00	OPEN
24000143	FIRE	351		CITY OF MONTEREY	12/18/23	WILDFIRE PROTECTION STUDY	33,117.33	33,117.33	CLOSED
24000071	INFORMATION TECHNOLOGY	133		CAPE ROMAIN SOLUTIONS INC	10/25/23	WATCHGUARD SOFTWARE SU	17,926.50	17,926.50	CLOSED
24000044	INFORMATION TECHNOLOGY	133		CITIES DIGITAL, INC	9/15/23	FY24 LASERFICHE CLOUD DOC MANAGEMENT	25,750.00	25,750.00	CLOSED
24000134	INFORMATION TECHNOLOGY	133		CLIENT FIRST CONSULTING GROUP, LLC	11/15/23	IT INFRASTRUCTURE HIGH AVAILABILITY ASSESSMENT	15,000.00	12,585.00	OPEN

Purchase Orders - Less Than $40,000
Second Quarter FY 23/24

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSES	STATUS
24000136	INFORMATION TECHNOLOGY	133		ESRI, INC.	11/21/23	ESRI GIS LICENSING REN	9,240.00	9,240.00	CLOSED
24000063	INFORMATION TECHNOLOGY	133		GEOGRAPHIC TECHNOLOGIES GROUP INC.	10/03/23	GIS SUPPORT SERVICES	10,000.00	-	OPEN
24000018	INFORMATION TECHNOLOGY	133		GEOGRAPHIC TECHNOLOGIES GROUP INC.	7/26/23	GIS IMPLEMENTATION PHASE 2	26,350.00	4,040.00	OPEN
24000003	INFORMATION TECHNOLOGY	133		JCG TECHNOLOGIES INC	7/6/23	AGENDAQUICK, PUBLIC RECORDS, S-VIEW SOFTWARE	13,751.00	13,751.00	CLOSED
24000045	INFORMATION TECHNOLOGY	133		MK SOLUTIONS, INC.	9/15/23	LIBRARY SELF CHECKOUT KIOSK	9,372.50	4,659.19	OPEN
24000139	INFORMATION TECHNOLOGY	133		PROTELESIS	12/05/23	PHONE SYSTEM MAINT/UPG	7,323.07	7,323.07	CLOSED
24000005	INFORMATION TECHNOLOGY	133		QUEST SOFTWARE INC	7/19/23	KACE PRODUCTS REMOTE CONSULTING	3,916.20	3,916.20	CLOSED
24000004	INFORMATION TECHNOLOGY	133		SHI INTERNATIONAL CORP [(2)]	7/19/23	HPE SUPPORT RENEWALS	19,000.00	18,376.68	CLOSED
24000002	INFORMATION TECHNOLOGY	131		WELLS FARGO VENDOR FINANCE SERVICES	7/6/23	FY 23/24 CITYWIDE KONICA LEASE	15,550.00	7,710.53	OPEN
24000011	LIBRARY	401		BYWATER SOLUTIONS, LLC	7/25/23	KOHA HOSTING AND SUPPORT	8,166.00	8,166.00	CLOSED
24000012	LIBRARY	401		CALIFA GROUP	7/25/23	EBSCO DATABASE PACKAGE	9,183.16	9,183.16	CLOSED
24000014	LIBRARY	401		CASEWERKS, LLC	7/25/23	CUSTOM LOCAL HISTORY DISPLAY CASE	14,070.00	14,070.00	CLOSED
24000141	LIBRARY	401		CHRISTINE LEONORA CROZIER	12/18/23	INSTALL EXHIBIT	6,720.00	6,720.00	CLOSED
24000015	LIBRARY	401		CHRISTINE LEONORA CROZIER	7/25/23	ART CURATION & INSTALLATION	7,750.00	1,470.00	OPEN
24000013	LIBRARY	401		OVERDRIVE, INC.	7/25/23	DIGITAL BOOKS & MATERIALS	6,800.00	3,500.00	OPEN
24000034	LIBRARY	401		OVERDRIVE, INC.	8/3/23	DIGITAL BOOKS & MATERIALS	3,300.00	44.85	OPEN
24000010	LIBRARY	401		PACIFIC LIBRARY PARTNERSHIP	7/25/23	PLP MEMBERSHIP FEES	8,641.00	8,641.00	CLOSED
24000016	LIBRARY	401		VANESSA K SONNICHSEN	7/25/23	MOBILE OUTREACH VEHICLE METAL	9,165.50	9,165.50	CLOSED
24000147	POLICE DEPARTMENT	301		ANDREA M. MORELAND	12/27/23	BACKGROUND INVESTIGATIONS	19,429.27	7,453.48	OPEN
24000082	POLICE DEPARTMENT	301		ARAMARK UNIFORM & CAREER APPAREL	10/25/23	LINEN SERVICE	8,000.00	3,099.27	OPEN
24000070	POLICE DEPARTMENT	301		AT&T MOBILITY	10/24/23	DEPARTMENT CELLPHONES	25,000.00	9,312.35	OPEN
24000026	POLICE DEPARTMENT	301		ENTERPRISE FM TRUST	7/31/23	P.D. LEASED VEHICLES (4)	25,624.44	12,850.92	OPEN
24000120	POLICE DEPARTMENT	301		GOGOV, INC.	11/09/23	PERMIT SYSTEM	7,500.00	-	OPEN
24000121	POLICE DEPARTMENT	301		IPS GROUP, INC	11/09/23	METER MAINTENANCE	10,000.00	5,672.00	OPEN
24000122	POLICE DEPARTMENT	301		IPS GROUP, INC	11/09/23	METER BANK FEES	25,000.00	1,195.88	OPEN

Purchase Orders - Less Than $40,000
Second Quarter FY 23/24

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSES	STATUS
24000123	POLICE DEPARTMENT	301		LEXIPOL LLC	11/09/23	LEXIPOL SUITE	13,000.00	7,067.51	OPEN
24000069	POLICE DEPARTMENT	301		MAACO COLLISION REPAIR & AUTO PAINT	10/18/23	POLICE VEHICLE REPAIR	5,551.74	5,551.74	CLOSED
24000077	POLICE DEPARTMENT	301		MPRSRU	10/25/23	REGIONAL RESPONSE TEAM	5,000.00	5,000.00	CLOSED
24000084	POLICE DEPARTMENT	301		SPCA OF MONTEREY COUNTY	10/30/23	COUNTY ANIMAL SHELTER	12,000.00	7,176.00	OPEN
24000125	POLICE DEPARTMENT	301		SPEAK WRITE BILLING DEPT	11/09/23	TRANSCRIPTION SERVICES	7,000.00	5,338.31	OPEN
24000126	POLICE DEPARTMENT	301		TRACNET CORPORATION	11/09/23	RECORDS MANAGEMENT SYSTEM	19,000.00	-	OPEN
24000073	POLICE DEPARTMENT	301		VERIZON BUSINESS	10/25/23	PORT ACCESS	9,000.00	3,361.10	OPEN
24000074	POLICE DEPARTMENT	301		VERIZON WIRELESS	10/25/23	WIRELESS MOBILE CONNECTION	8,000.00	2,970.44	OPEN
24000135	PUBLIC WORKS	513		4LEAF	11/15/23	OUTDOOR DINING - LIGHTHOUSE	37,500.00	843.75	OPEN
24000101	PUBLIC WORKS	513		ALBION ENVIRONNMENTAL, INC.	11/06/23	ARCHEO MONITORING	12,603.52	759.83	OPEN
24000061	PUBLIC WORKS	513		ALLSTAR PAINTING & MAINT	10/03/23	ANIMAL KENNEL REPAIR	9,250.00	9,250.00	CLOSED
24000062	PUBLIC WORKS	513		ALLSTAR PAINTING & MAINT	10/03/23	PARKS & REC BUILDING	13,800.00	13,800.00	CLOSED
24000150	PUBLIC WORKS	513		BEAR ELECTRICAL SOLUTIONS	12/27/23	LOVERS POINT LIGHT REP	9,994.50	9,994.50	CLOSED
24000030	PUBLIC WORKS	513		BEAR ELECTRICAL SOLUTIONS	8/2/23	19TH & SUNSET CROSSWALK SAFETY	29,500.00	29,500.00	CLOSED
24000056	PUBLIC WORKS	513		BEAR ELECTRICAL SOLUTIONS	9/29/23	FY24 TRAFFIC SIGNAL MAINTENANCE	7,000.00	3,720.00	OPEN
24000038	PUBLIC WORKS	513		BRIAN WHITSON	8/21/23	FY23/24 JANITORIAL SERVICE - PG MUSEUM	23,100.00	12,945.00	OPEN
24000039	PUBLIC WORKS	513		BRIAN WHITSON	8/31/23	FY23/24 SUPPLEMENTAL CLEANING - CITY HALL	6,800.00	2,070.00	OPEN
24000113	PUBLIC WORKS	513		CALIFORNIA MARINE SANCTUARY FOUNDATION	11/06/23	ANNUAL WATER QUALITY	12,425.40	6,700.04	OPEN
24000114	PUBLIC WORKS	513		CALNON PAINTING	11/06/23	FIRE STATION PAINTING	6,875.00	6,875.00	CLOSED
24000115	PUBLIC WORKS	513		CALNON PAINTING	11/06/23	CHAUTAUQUA HALL BELL	5,175.00	-	OPEN
24000130	PUBLIC WORKS	513		CHRISTOPHER DINNER HEATING INC	11/09/23	SHEET METAL REPLACEMENT	14,920.00	14,920.00	CLOSED
24000144	PUBLIC WORKS	513		COASTAL ROOFING AND SOLAR	12/21/23	CITY HALL ROOF REPAIR	16,646.00	16,646.00	CLOSED
24000100	PUBLIC WORKS	513		COMMERCIAL PUMP SERVICES INC	11/06/23	LWP EQUIPMENT	9,268.55	-	OPEN
24000066	PUBLIC WORKS	513		CREEKSIDE CENTER	10/04/23	ANNUAL MONARCH SANCTUARY	10,000.00	7,050.00	OPEN
24000145	PUBLIC WORKS	513		DENISE DUFFY & ASSOCIATES, INC.	12/21/23	CRESPI POND BIOLOGICAL	5,448.00	-	OPEN

Purchase Orders - Less Than $40,000
Second Quarter FY 23/24

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSES	STATUS
24000054	PUBLIC WORKS	513		GACHINA LANDSCAPE MANAGEMENT	9/28/23	FY23/24 PARK MOWING SERVICES	15,351.00	8,297.63	OPEN
24000053	PUBLIC WORKS	513		GHD INC	9/28/23	GHD LOVERS POINT PIER - CARRY FORWARD PO	8,789.56	1,196.21	OPEN
24000035	PUBLIC WORKS	513		HECTOR VARELAS	8/16/23	BATHROOM REPAIRS AT CHATAUQUA HALLL	20,394.00	20,394.00	CLOSED
24000059	PUBLIC WORKS	513		INTERSTATE TRAFFIC CNTL PROD	9/29/23	STREET PAINT FY23/24	12,000.00	11,603.21	OPEN
24000148	PUBLIC WORKS	513		KATHY'S LIFT TRUCK & LIGHTING SVC.	12/27/23	LIGHTPOLE REPLACEMENT	22,500.00	-	OPEN
24000098	PUBLIC WORKS	513		MARK'S BARN AUTO BODY	11/06/23	PD02 - REPAIR	9,375.00	6,990.41	OPEN
24000129	PUBLIC WORKS	513		MARK'S BARN AUTO BODY	11/09/23	PD UNIT 2 REPAIRS	6,990.41	-	OPEN
24000017	PUBLIC WORKS	513		MISSION LINEN SUPPLY INC.	7/26/23	FD LINEN CLEANING FY24	4,000.00	2,221.78	OPEN
24000008	PUBLIC WORKS	513		MISSION UNIFORM SERVICE INC.	7/24/23	LINEN & UNIFORM CLEANING CITYWIDE FY24	20,000.00	14,401.82	OPEN
24000131	PUBLIC WORKS	513		MONTEREY BAY PEST CONTROL, INC.	11/13/23	ANNUAL PEST CONTROL SERVICES	9,660.00	6,935.00	OPEN
24000111	PUBLIC WORKS	513		MONTEREY PENINSULA ENGINEERING,INC.	11/06/23	EMERGENCY SEWER WORK	21,588.00	-	OPEN
24000127	PUBLIC WORKS	513	CIP18-46	MONTEREY PENINSULA ENGINEERING,INC.	11/09/23	POINT PINOS COASTAL TRAIL	37,953.00	11,875.00	OPEN
24000132	PUBLIC WORKS	513		MONTEREY PENINSULA ENGINEERING,INC.	11/14/23	EMERGENCY SEWER WORK	21,588.00	21,588.00	CLOSED
24000102	PUBLIC WORKS	513		MY PRO DRY LLC	11/06/23	CITY HALL VENT CLEANING	6,000.00	-	OPEN
24000049	PUBLIC WORKS	513		MY PRO DRY LLC	9/27/23	FIRE DEPT DUCT CLEANING FY24	6,000.00	1,350.00	OPEN
24000097	PUBLIC WORKS	513		NEILL ENGINEERS CORP.	11/06/23	FY23/24 ENGINEERING REPORT	12,000.00	2,000.00	OPEN
24000118	PUBLIC WORKS	513		NEILL ENGINEERS CORP.	11/06/23	NEIL ENGINEERS RETAINER	12,000.00	2,000.00	OPEN
24000080	PUBLIC WORKS	513		RENTAL DEPOT MONTEREY	10/25/23	RENTAL EQUIPMENT	13,000.00	9,685.00	OPEN
24000093	PUBLIC WORKS	513		REPUBLIC ELEVATOR, INC.	11/06/23	ELEVATOR REPAIRS AT YOUTH CENTER	10,511.00	2,047.08	OPEN
24000116	PUBLIC WORKS	513		REPUBLIC ELEVATOR, INC.	11/06/23	ELEVATOR INSPECTIONS	8,200.00	2,047.08	OPEN
24000075	PUBLIC WORKS	513		RINCON CONSULTANTS, INC	10/25/23	ARCHEO PROTOCOL - PO CARRYFORWARD	4,477.25	2,035.00	OPEN
24000119	PUBLIC WORKS	513		RINCON CONSULTANTS, INC	11/06/23	ARCHAEOLOGICAL & TRIBAL	7,921.04	-	OPEN
24000001	PUBLIC WORKS	513		SENTRY ALARM SYSTEMS INC.	7/6/23	FY 23/24 ALARM SERVICES	19,674.00	19,674.00	CLOSED
24000149	PUBLIC WORKS	513		STATE WATER RESOURCES CONTROL BOARD	12/27/23	STATE PERMITS & FEES	22,000.00	18,100.00	OPEN
24000065	PUBLIC WORKS	513		STRESSCRETE	10/04/23	DOWNTOWN STREET LAMPS	16,694.60	16,694.60	CLOSED

Purchase Orders - Less Than $40,000
Second Quarter FY 23/24

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSES	STATUS
24000099	PUBLIC WORKS	513		TERMCO SPRAY TECHNOLOGY	11/06/23	B&G EQUIPMENT - SPRAYER	5,623.46	-	OPEN
24000137	PUBLIC WORKS	513		TOM'S SITE SERVICES	11/29/23	FY 23/24 PORTAPOTTY RENTALS	4,283.99	4,283.99	CLOSED
24000042	PUBLIC WORKS	513		TOM'S SITE SERVICES	9/11/23	FY 23/24 PORTAPOTTY RENTALS - PUBLIC	4,569.51	4,569.51	CLOSED
24000117	PUBLIC WORKS	513	CIP24-05	TOPE'S TREE SERVICE	11/06/23	GWP TREE WORK CIP24-05	9,860.00	9,860.00	CLOSED
24000050	PUBLIC WORKS	513		WISS, JANNEY, ELSTNER ASSOC., INC.	9/27/23	CIP23-17 CHAUTAUQUA HALL PRESERVATION	37,250.00	29,935.88	OPEN

(1) This contract is reimbursed through an agreement.
(2) Reviewing contract details and purchases, adjustment may be pending.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Tori Hannah, Administrative Services Director/Assistant City Manager

MEETING DATE: February 14, 2024

SUBJECT: Second Quarter 23/24 Workers' Compensation Report

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive the report.
2. Alternatively, discuss and take other action related to this item.

DISCUSSION

On November 4, 2015, the Council approved a five-year Workers' Compensation phased refunding plan to bring the designated internal service fund into compliance with the Council's Budget and Financial Management Policy. At that time, Staff recommended that Council receive a quarterly status report on case statistics and Workers' Compensation Fund balances. Case statistics for the quarter ending December 31, 2023 is included in Attachment 1.

The City Workers' Compensation program is a type of insurance that provides compensation and medical care for employees who become injured during the course of their employment. The City is now a member of the California Joint Powers Insurance Authority (CJPIA). This Authority provides excess Workers' Compensation liability coverage above the City's self-insured retention amount of $150,000 per occurrence. Workers' Compensation provides for: Payments in place of wages functioning as a type of disability insurance, compensation for past and future economic loss, reimbursement or payment of medical expenses, and benefits payable to the dependents of workers killed during employment functioning as a form of life insurance.

OPTIONS

N/A - Informational only.

FINANCIAL IMPACT:

There is no financial impact. This is informational only.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Fiscal Year 23/24 Second Quarter Workers Comp. Report

City of Pacific Grove

Second Quarter Workers' Compensation Statistics – Fiscal Year 23/24

Projected Fund Balance

The Workers' Compensation Internal Service Fund (ISF) is used to separately budget and account for services provided to General Fund departments, as well as Enterprise Funds. Contributions to the ISF are calculated on a cost recovery basis, with charges apportioned to City departments based on claim trends and number of participants.

The status of the internal service fund for Workers' Compensation is provided in the tables below.

Workers' Compensation Fund (Fund 71)	Amount
Preliminary Fund Balance, July 1st, 2023	$ 286,266
Revenues: Through December 31, 2023	$269,647
Expenditures: Through December 31, 2023	($579,740)
Preliminary Estimated Fund Balance, Second Quarter	($23,827)

The Workers' Compensation expenditures through the second quarter of FY 23/24 represent approximately 79% of the budgeted amount. The higher percentage of expenditures are related to a one-time insurance premium payment due at the beginning of the Fiscal Year, as well as a Council-approved compromise and release settlement of $100,000. A budget amendment may be needed as part of the Mid-Year Budget process to fund the unanticipated settlement. The revenues reported represent approximately 37% of the budgeted amount; and reflect departmental contributions and excess claim refunds. The estimated ending fund balance is anticipated to be positive at the end of Fiscal Year 23/24.

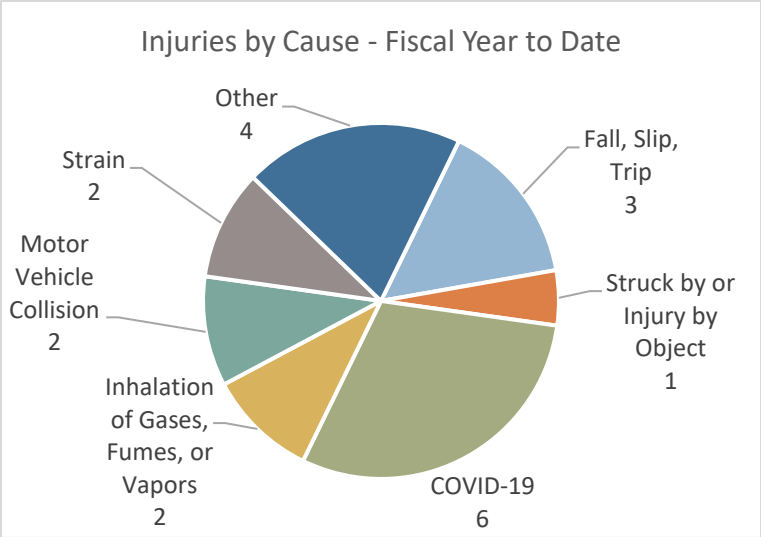
Cumulative Claims Outstanding

The City meets quarterly with the City's third-party administrator to evaluate and proactively manage claims. At the close of the second quarter, the number of outstanding claims decreased by two to 47. This included an increase of one claim in the Future Medical/Litigated category and a decrease of three claims in the Disability or Lost Time/Non-Litigated classification.

Summary of Open/Reopen Claims as of 12/31/2023			
	Non-Litigated	Litigated	Total
Future Medical	15	16	31
Disability or Lost Time	9	4	13
Medical Only	3	0	3
First Aid	0	0	0
Total Open Claims	27	20	47

New Claims – Second Quarter

In the second quarter of the Fiscal Year 23/24, there were three new claims from the Police Department and one new claim from the Recreation Department. The adjacent chart provides an overview of the claims by cause. Although Covid 19 represents the highest number of claims for the fiscal year to date, many of these incidents are filed for reporting purposes only. While there were sixteen new claims were filed within this fiscal year, there were only three open at the end of the second quarter.



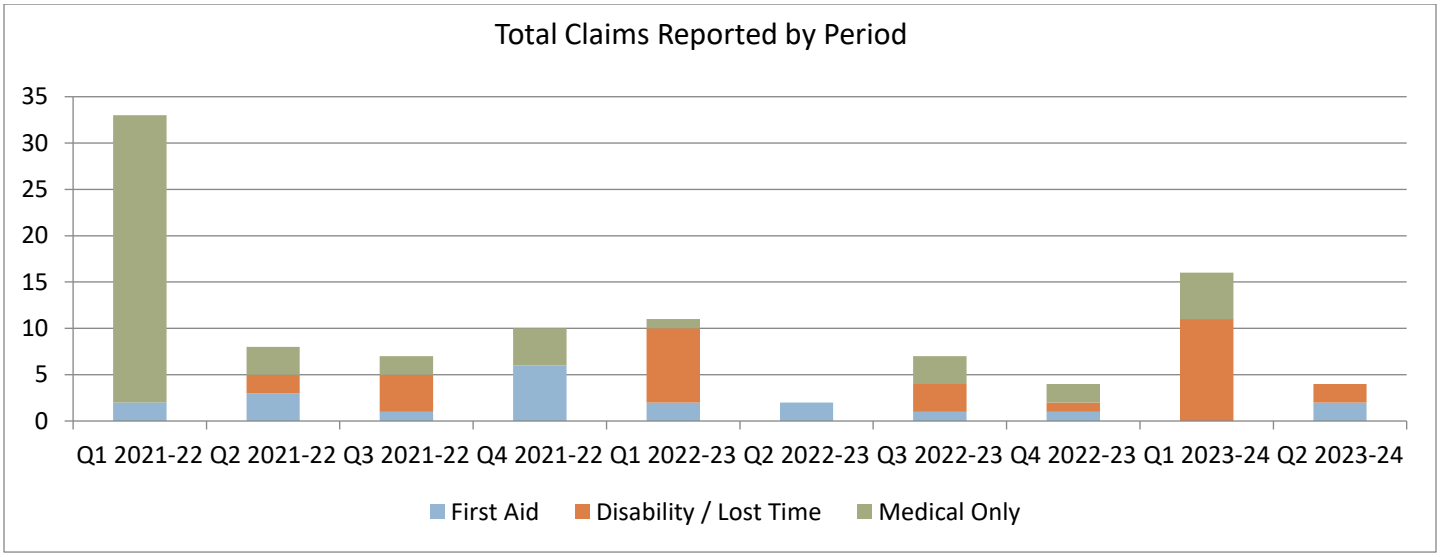
In the first two quarters of FY 23/24, several training opportunities have taken place, including but not limited to, ergonomics, driver safety, ladder safety and hot works safety. Staff continue to work with CJPIA on a review and update of City safety policies, as well as training courses. The 2024 Safety Awareness Calendar is planned to be distributed at the Annual Employee Safety Program Luncheon scheduled in early February.

The table listed below provides a comparison of claims over the last two fiscal years. In Fiscal Year 23/24, there are five more claims when compared to the prior Fiscal Year.

New Claims by Type

	Quarter to Date		Year to Date	
	Current Year	Prior Year	Current Year	Prior Year
New Claims Received During the Period				
Disability or Lost Time	2	-	13	8
Medical	-	-	5	1
First Aid	2	2	2	2
Total Claims by Type	4	2	16	11

The following chart provides an overview of quarterly trends.



CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Joyce Halabi, Deputy Public Works Director
MEETING DATE:	February 14, 2024
SUBJECT:	Safety Lighting at Robert Down Elementary School Project
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive Report
2. Alternatively, discuss and take other action related to this item.

DISCUSSION

As part of the FY22/23 Capital Improvement Plan (CIP), the Council approved the "Wig Wag Lights at Robert Down" project. The project was approved with a $20,000 budget derived from American Rescue Plan Act (ARPA) funding. The purpose of the project is to enhance safety for all users of the roadway.

The proposed scope of work for the project, submitted by the City's Traffic Safety Commission, included the installation of "Wig-Wag" lights to the crosswalks in front of Robert Down Elementary School. The vision was for the lights to be similar to those located adjacent to the Lovers Point Coastal Access Project, at the corner of Ocean View Blvd and Forest Ave.

At the June 7, 2023, City Council meeting, staff reported to the council that an initial assessment of the intersection by the traffic engineer revealed that wig-wag lighting would be counterproductive to pedestrian safety and would not improve conditions. The Council discussed the project and asked City staff to analyze the potential for inclusion of any type of alternative safety lighting. The project was subsequently renamed as Safety Lighting at Robert Down Elementary School.

Following this meeting, Staff re-engaged the City's on-call traffic engineer to review the intersection and recommend appropriate safety treatments, including any potential for safety lighting. An overview of the Traffic Engineer's assessment is provided below.

Ultimately, the Traffic Engineer has recommended several improvements to reduce driver confusion and improve safety for all roadway users. The improvements largely focus on reconfiguring the area to enhance safety; the safety improvements do include the installation of flashing stop sign at the reconfigured intersection. No additional safety lighting is proposed due it's likelihood to further create confusion and distraction for drivers.

Below is a high-level overview of the traffic engineer's assessment of the current conditions and recommended treatments.

Current Conditions

Current traffic conditions on Pine Street in the vicinity of Robert Down Elementary School include:

- School crosswalks at Pine / Fountain with all-way stop control,
- Uncontrolled school crosswalk with a crosswalk warning system at Pine / 15th Street, and
- Uncontrolled school crosswalk with a crosswalk warning system at Pine / 13th Street.

The Police Department has reported numerous incidents of eastbound drivers failing to stop at the stop sign on Pine Street at Fountain Avenue, which were confirmed by the Traffic Engineer's observations.

The Traffic Engineer further observed that the visual presence of the stop signs and stop markings were overwhelmed by the numerous fluorescent yellow-green school warning signs and flashing yellow crosswalk warning systems at each of the uncontrolled intersections of Pine / 15th Street and Pine / 13th Street. Eastbound drivers were observed failing to stop at Fountain, did not appear to intentionally run the stop signs, but did not recognize the stop controls.

For this reason, the Traffic Engineer recommends the following proposed improvements to reduce driver confusion within the school zone and in school crosswalks on Pine Street.

Pine Avenue & Fountain Intersection

- Relocate the all-way stop control (the stop on Pine at Fountain) to Pine at 15th Street
- Remove the remaining uncontrolled school crosswalks across Pine at Fountain.
- Retain stop signs and crosswalks across Fountain, at the Pine Ave intersection

Pine Avenue &15th Street Intersection

- Remove the yellow crosswalk warning system and extra school warning signs
    - Per Manual on Uniform Traffic Control Devices (MUTCD) Standards, yellow flashing warning lights cannot be placed at a controlled intersection; a flashing red stop sign will be installed at the newly controlled intersection.
- Install 48" stop signs with red flashing lights, along with stop and stop ahead markings on each approach of Pine / 15th Street.

This will also include various marking improvements to:

- Adjust the lane widths on Pine Street to enhance driver visibility of pedestrians waiting to cross Pine Street.
- Notify drivers of upcoming movements (stop signs)

The results of these actions will fully control the school crosswalk at Pine / 15th Street for safer pedestrian crossings, eliminate unnecessary warning signs on the approaches to reduce driver confusion and increase the visual conspicuity of the all-way stop at the west boundary of Robert Downs School. One crosswalk warning system will remain at Pine / 13th Street at the east boundary of the school.

Attachment 1, provides the Traffic Engineer's drawings for the improvements.

NEXT STEPS

Staff has incorporated these safety elements into the annual crack and slurry seal project. This will allow the existing striping to be removed, the intersection to be crack sealed and slurried, and subsequently striping to implement the above-referenced intersection improvements.

Engineering for these safety improvements is complete. The crack and slurry seal project is scheduled to be released in early February. The bid period will close in early March and be subsequently brought before the City Council for contract award.

OPTIONS

Provide alternative direction.

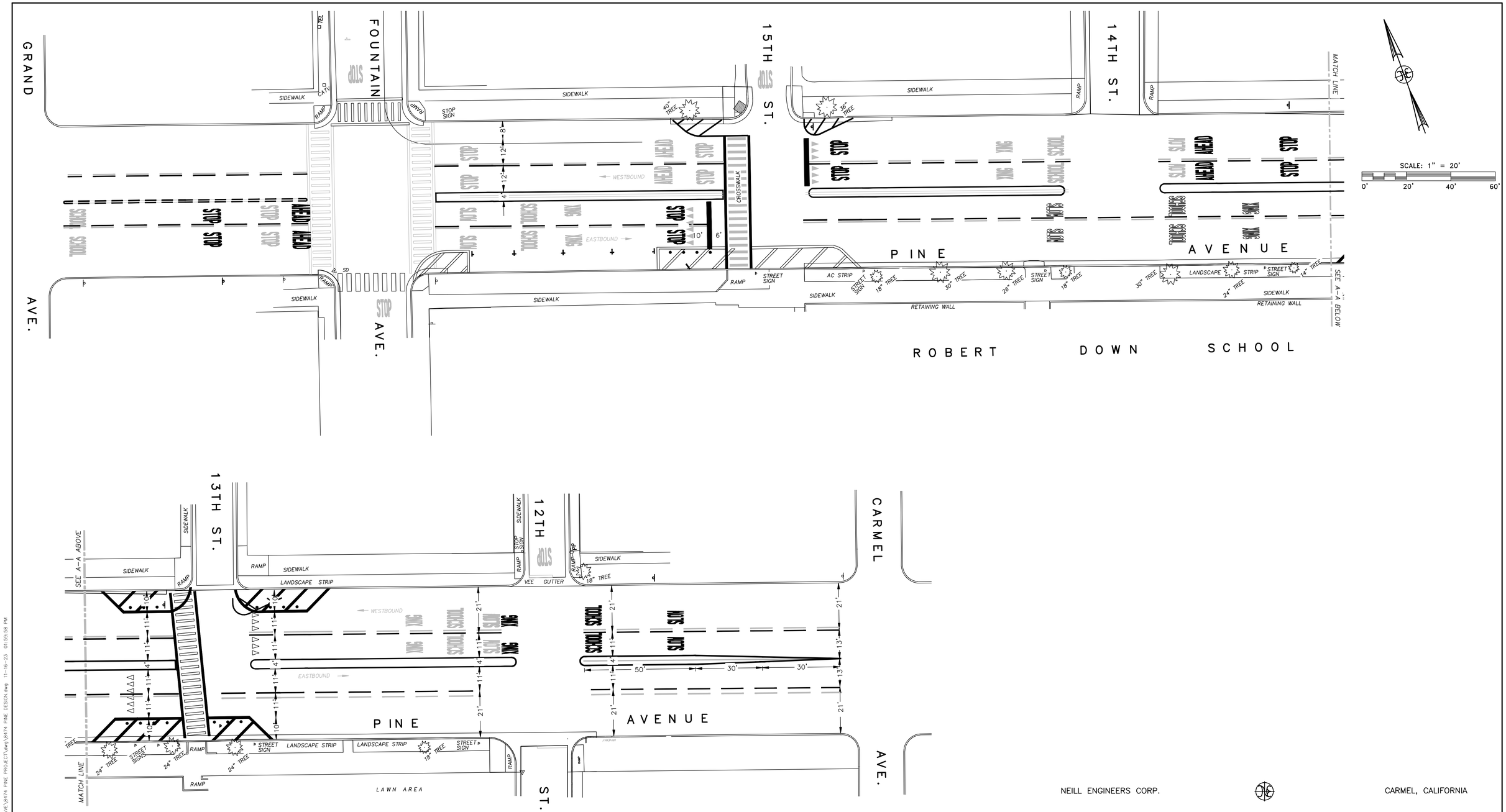
FINANCIAL IMPACT:

There is no fiscal impact associated with receiving this report. The $20,000 ARPA project funding will be used to fund these improvements via the annual crack and slurry seal, as noted above.

FOCUSED PRIORITY AREA: Infrastructure

Attachments

Pine Ave Traffic Safety Improvements



NEILL ENGINEERS CORP. CARMEL, CALIFORNIA

TRAFFIC STRIPING & MARKINGS PINE AVENUE

PINE AVENUE IN FRONT OF ROBERT DOWN SCHOOL

BETWEEN CARMEL AVENUE AND GRAND AVENUE

CITY OF PACIFIC GROVE, CALIFORNIA

W.O. 8474 AUGUST 2023 SCALE: 1"=10'

SHEET 1 OF 1

Y:\PROJECTS\dwg\PacificGrove\8474 PG TRAFFIC STRIPING PINE AVE\8474 PINE PROJECT\dwg\8474 PINE DESIGN.dwg 11-16-23 01:59:58 PM

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Alyssa Kroeger, Housing Program Manager
MEETING DATE:	February 14, 2024
SUBJECT:	Housing Element Monthly Status Update
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive the report.
2. Alternatively, discuss and take other action related to this item.

DISCUSSION

On December 20, 2023, City Council approved the first amendment to the contract with Rincon Consultants for the preparation of the Housing Element Update (HEU), HEU-related General Plan Amendments, HEU-related Zoning Amendments and Environmental Impact Report (EIR). Immediately after, City Staff and Rincon began/continued work on the following tasks:

- Revised the Submitted Draft 6th Cycle Housing Element based on preliminary feedback from HCD;
- Gathered, summarized and shared public comments with HCD and the community via email and website postings;
- Ongoing coordination and communication with HCD during their 90-day review period (See attached formal comment letter from HCD, dated January 31, 2024);
- Internal EIR kick-off meeting on January 5, 2024;
- Publication of the Notice of Preparation (NOP) for the EIR on January 26, 2024, which opens the 30-day public comment period on the scope of the EIR (Jan. 26 – Feb. 26, 2024);
- EIR Public Scoping Session scheduled with the Planning Commission on February 15, 2024, for receipt of verbal comments on the scope of the EIR (written comments on the scope may be submitted to the Housing Division ATTN: Alyssa Kroeger or via email to housing@cityofpacificgrove.org anytime during the 30-day comment period).

Staff will provide a monthly status update to the Council throughout the process, leading to an adopted and certified Housing Element. For more information, please visit the Housing Element Webpage: https://www.cityofpacificgrove.org/our_city/departments/community_development/housing/housing_element.php

OPTIONS

N/A - This is information only.

FINANCIAL IMPACT:

There is no fiscal impact associated with receiving this report.

FOCUSED PRIORITY AREA: Affordable Housing

Attachments

HCD Comment Letter 1/31/2024

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

January 31, 2024

Alyssa Kroeger, Housing Program Manager
Community Development Department
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Dear Alyssa Kroeger:

RE: City of Pacific Grove's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Pacific Grove's draft housing element received for review on November 2, 2023, along with revisions received on January 26, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on January 10, 2024, with you, Joe Sidor, Robert Perrault, Veronica Tam, and Mary Wagner. In addition, HCD considered comments from LandWatch and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft element, with revisions, addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (December 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element

process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Affordable Housing and Sustainable Communities program, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: https://www.opr.ca.gov/planning/general-plan/guidelines.html.

HCD appreciates the effort and cooperation the City's housing element team provided during the review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Mao Lee, of our staff, at Mao.Lee@hcd.ca.gov.

Sincerely,

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX
CITY OF PACIFIC GROVE

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at https://www.hcd.ca.gov/planning-and-community-development/hcd-memos. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks),* available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the evaluation of programs in the past cycle, the element must also provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2…shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

   Fair Housing Enforcement and Outreach: While the element describes the City as having not been found in violation of fair housing laws, it should also describe how the City proactively complies with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

   Disparities in Access to Opportunity: The element reports data on disparities in access to education, economic, and environmental opportunities. However, the element should also address disparities in access to transportation opportunities, including accessibility and combined transportation and housing costs experienced by protected groups. Please refer to page 35 of the AFFH guidebook (link: https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf).

Disproportionate Housing Needs (Substandard Housing Conditions): While the element included some data regarding housing conditions, it must also identify any concentrations of substandard housing units or concentrations of older units in need of rehabilitation at the local level.

Disproportionate Housing Needs (Homeless): The element included data on the number of homeless individuals in the City but should also describe any concentrations of homeless individuals in the City. The analysis should also include proximity to transit and services.

Identified Sites and AFFH: While the element provides some analysis regarding how sites AFFH, it should quantify the number of units by income category and location in the City. For example, the element can describe the data by neighborhood. Then, the element should evaluate the impacts of identified sites on existing patterns, including addressing any isolation of the regional housing need allocation (RHNA) by income group, lack of identified sites by income groups in any areas of the City and whether the identification of sites improves or exacerbates existing patterns of socio-economic characteristics.

Contributing Factors to Fair Housing Issues: Upon a complete analysis of AFFH, the element should re-assess and prioritize contributing factors to fair housing issues.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

   Sites Inventory: The element identifies sites in the inventory with the same address with different anticipated developments (Sites 7 and 8). The element should provide additional information on whether these are the same or different parcels.

   Realistic Capacity: The element mentions an assumption of 70 percent of maximum allowable densities to calculate residential capacity on identified sites and includes a few examples of recent developments. However, it is unclear how the City determined this number absent a reference to Table 2-3. Therefore, the element should include additional and clear supporting information on typical densities of existing or approved residential developments at a similar affordability level. For example, the element could clearly list other recent projects, the zone, acreage, built density, allowable density, level of affordability and presence of exceptions such as a density bonus. In addition, the element must look at the total development (residential and nonresidential) when factoring the realistic capacity for zones that allow for nonresidential uses.

   As mentioned above, the element assumes 70 percent of maximum allowable density on sites; however, the element lists various sites that are assumed to redevelop at 100 percent the maximum allowable density without a clear analysis of how this was determined. The element must first establish a realistic capacity assumption for sites, then apply this assumption to sites to determine whether there are sufficient suitable

sites for the planning period. Upon a complete analysis, the element may need to add or modify programs to offset a shortfall of suitable sites to meet the RHNA.

Suitability of Nonvacant Sites: The element identified nonvacant sites to accommodate the regional housing need for households of all incomes (p. 2-6). However, a complete analysis should describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

In addition, while the element included some analysis demonstrating the potential redevelopment of nonvacant sites, additional information is required to address this finding. Specifically, the description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element needs to also analyze the extent that existing uses may impede additional residential development. For example, the element includes prior redevelopment trends in Table 2-3 but must also relate those trends to sites identified in the inventory. For example, the element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. The element could also consider indicators such as age and condition of the existing structure expressed developer interest, low improvement to land value ratio, and other factors.

Lastly, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Small Sites: The element identified Site #1 as a 0.39-acre site consisting of five parcels and Site #2 as a 0.46-acre consisting of six parcels (p. 2-11). Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element includes some discussion on lot consolidation, it should also provide specific examples with the

densities, affordability, and if applicable, circumstances leading to lot consolidation or subdivision. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. Programs should be revised accordingly based on the outcomes of a complete analysis.

Publicly-Owned Sites: The element identified Site 11 as a 1.16-acre site consisting of three parcels, two under the same ownership (p. 2-14). The site consists of the Light House Four Cinema (0.28 acres) and an adjacent large surface parking lot owned by the City (0.88 acres). The element should include additional and clear supporting information on where development would occur, whether in the City's site or both the City and Cinema sites.

Religious Institution Sites: The element identifies Site 51 as a 5.76-acre site, consisting of one parcel (p. 2-27). The site is owned by First United Methodist Church and only 10 percent of the site is occupied by existing church structures, giving the potential for housing to be developed on remaining areas of the site. The element should include supporting information that there is discussion with the Church regarding development.

Accessory Dwelling Units (ADU): The element projected 272 ADUs over the planning period or approximately 34 ADUs per year over the eight-year planning period. The element also noted permitting 9 ADUs in 2018, 4 in 2019, 20 in 2020, 40 in 2021, and 43 in 2022, for an average of 27 ADUs per year (page 2-2). These trends are inconsistent with HCD records (5 ADUs reported in 2018, 1 in 2019, 20 in 2020, and 40 in 2021) and do not support an assumption of 34 ADUs per year. To support assumptions for ADUs in the planning period, the element should reduce the number of ADUs assumed per year and reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate. Further, programs should commit to additional incentives and strategies beyond zoning incentives for deed restricted ADUs.

In addition, the element relies on the number of ADU permit approvals as information to inform the potential for ADUs in the planning period. However, the element should also describe the number of ADUs that are built and compare to the number of ADUs permitted as supporting information on ADU potential.

Availability of Infrastructure: While the element included programs to maintain and augment the existing water supply (p. 1-61), it should also discuss whether there is sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA during the planning period.

Environmental Constraints: While the element generally described potential environmental constraints (p. 1-62), it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period (e.g., shape, contamination, easements, conditions, compatibility, etc.).

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at https://www.hcd.ca.gov/planning-and-community-development/housing-elements for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element indicated that emergency shelters are conditionally permitted in the C-2 zone (p. 1-48). However, the element must also describe and analyze the development standards of the C-2 zone and analyze concentrations of homeless individuals and proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability. The element must also analyze whether there is sufficient and suitable capacity in the C-2 zone to accommodate emergency shelters.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

   Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking, heights, lot coverage and limits on allowable densities. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

   On/Off-Site Improvements: While the element described necessary improvements such as road construction, installation of sewer, water, and other utilities (p. 1-57). However, the element must also analyze their impact and cost as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at: https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks.

   Codes and Enforcement: The element must describe and analyze which building code (e.g., 2022) is enforced, any local amendments to the building code and their enforcement for impacts on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/codes-and-enforcement-and-onsite-offsite-improvement-standards.

   Historic Preservation: While the element describes the general process for historic preservation review, the element should also state whether any sites listed in the inventory are subject to historic preservation review. In addition, the element should

discuss any impacts on approval certainty, timing, and ability to achieve maximum densities, as appropriate.

Site Plan Review Committee: The element described the purpose of the Site Plan Review Committee (SPRC) is to encourage well-designed multi-family residential, commercial, and industrial development. However, the element must specifically discuss the impacts on approval certainty, timing, and density.

Housing for Persons with Disabilities (Large Residential Care Facilities (Seven or more persons): While the element revised Program 12 (Zoning Code Amendments) to permit large residential facilities with a Conditional Use Permit (CUP) based on objective standards, the element must also allow large residential care facilities in all zones that allow residential uses. Currently, the element limits this housing type to multifamily zones.

State Density Bonus Law (SDBL): The element should describe the City's ordinance to implement SDBL (Gov. Code, § 65915), evaluate compliance and, if necessary, add or modify programs to revise the ordinance.

Other Locally Adopted Ordinances: Upon receipt of public comments, it appears that sites located within the O District (Open Space) and the U District (Unclassified) are subject to voter approval if they are to be rezoned, creating a potential constraint for the availability of these sites for the planning period. While the element includes Program 5 (Adequate Sites for RHNA and Monitoring of No Net Loss) to rezone these sites, the element does not analyze the voter approval requirement for rezoning as a constraint. The element must provide this analysis and add or modify programs to address the identified constraint such as a schedule of actions for receiving necessary approvals, as necessary.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element…(Gov. Code, § 65583, subd. (c).)*

   To achieve a beneficial impact during the planning period, programs should include, where appropriate, specific commitment toward housing outcomes and discrete timing (e.g., at least annually). Programs should be revised as follows:

   - *Program 9 (Accessory Dwelling Units)*: The Program should include discrete timing for when pre-approved plans will go online on the City's website and given reliance, should also add additional actions to promote ADUs.

- *Program 11 (Sewer System Capacity)*: The Program should list out capital improvement plan actions specific to additional sewer capacity, with appropriate timing.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (*Gov. Code, § *65583, subd. (c)(1).)*

   As noted in Finding B2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis; the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

   - *Publicly-Owned Sites*: The element identified City-owned sites to accommodate a portion of the RHNA. The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-Owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

   - *Program 8 (Lot Consolidation)*: The Program should list which incentives will be considered to facilitate the consolidation of small lots and add a mid-term evaluation of the effectiveness of those incentives, including completing alternative actions by a specified date if necessary.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

   As noted in Findings B3, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics…(Gov. Code, § 65583, subd. (c)(5).)*

   As noted in Finding B1, the element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high-opportunity areas, place-based strategies for community preservation and revitalization, and displacement protection.

   In addition, promoting housing mobility removes barriers to higher opportunity areas and strategically enhances access to housing choices and affordability to promote more inclusive neighborhoods, cities, and regions. Among other factors, the City is wholly the highest resource community in contrast to the rest of the region. As a result, the element should include significant and robust actions with numerical targets (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City. Examples include promoting more housing choices and affordability in lower density areas, religious institutional sites and enhancing ADUs and junior accessory dwelling units (JADU) and home sharing strategies.

D. <u>Coastal Zone Requirements</u>

Coastal localities shall document the number of low- and moderate-income units converted or demolished, and the number of replacement units provided. (Gov. Code, § 65588, subd. (d).)

The element does not meet the statutory requirements. To determine whether the City's affordable housing stock in the coastal zone is being protected and provided as required by Government Code section 65588, the element must be revised to include the following:

1. The number of new housing units approved for construction within the coastal zone since January 1982.

2. The number of housing units for persons and families of low- and moderate-income required to be provided in new housing developments either within the coastal zone or within three miles.

3. The number of existing residential dwelling units occupied by low- and moderate-income households either within the coastal zone or three miles of the coastal zone that have been authorized to be demolished or converted since January 1982.

4. The number of residential dwelling units for low- and moderate-income households that have been required for replacement.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Robert Perrault, Interim City Manager

MEETING DATE: February 14, 2024

SUBJECT: Authorization to Participate in a Joint Subcommittee with the Pacific Grove Unified School District

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

By Motion Authorize the City to Participate In the City/ School Sub committee and Appoint the Mayor and Mayor Pro Tem. to Serve on the Sub Committee

DISCUSSION

In December, I met with Dr. Linda Adamson, the new Superintendent of Schools for the Pacific Grove Unified School District. The topics covered during the meeting were wide-ranging, and beneficial to both the city and the district. One of the topics we discussed was the possibility of forming a City / School Subcommittee.

The establishment of a subcommittee could serve as a venue for the exploration of common approaches to deal with issues we share including student and community safety, demographics, future planning, and shared facilities. During our meeting we discussed a committee structure that would consist of two elected officials and possibly an alternate representing the School Board and two plus an alternate representing the City Council. The elected members would be supported by the Superintendent and the City Manager and other staff as may be deemed necessary. Designated staff would meet to prepare the agendas and any meeting materials. Initially, I am suggesting the Subcommittee meet at a minimum on a quarterly basis. The frequency of the meetings could vary according to the number of items needing to be addressed. Each component of the Subcommittee: School / City would then report back to their respective board/ Council.

Earlier this month, Superintendent Adamson communicated that she had taken the creation of the joint subcommittee to her Board who supported the committee's formation. Dr. Adamson confirmed that two trustees and an alternate have been identified to serve on the committee. The trustees identified include PGUSD Clerk, Elliott Hazen, PGUSD President Ottmar and alternate PGUSD President, Brian Swanson. Dr. Adamson also noted that she had asked Assistant Superintendent Josh Jorn to serve on the committee along with Dr. Adamson as administrative support.

Based on the School District's actions, I am recommending the Council authorize participation and appoint the Mayor and the Mayor Pro Tempore to represent the Council on the Subcommittee for the

remainder of the calendar year and appoint an alternate. I would also like to have Deputy City Manager Dan Gho work alongside me to provide administrative support.

OPTIONS

The Council could choose not to participate in a joint subcommittee;
The Council could provide alternative direction to staff;
The Council could appoint subcommittee members other than those recommended.

FINANCIAL IMPACT:

There will be some use of staff resources associated with the preparation of agenda materials and attendance at meetings.

GOAL ALIGNMENT: Not Applicable.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Laurel O'Halloran, Associate Planner/Economic Development Coordinator
MEETING DATE:	February 14, 2024
SUBJECT:	Architectural Review Board Minutes: November 14, 2023
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive the minutes.

Attachments

11.14.23 ARB Minutes

NOTICE OF MEETING

CITY OF PACIFIC GROVE

ARCHITECTURAL REVIEW BOARD

MINUTES

Tuesday, November 14, 2023, 3:00 P.M.

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

AGENDA

1. **CALL TO ORDER & ROLL CALL**

Chair Boyle called the meeting to order at 3:00 p.m. Planner Laurel O'Halloran conducted roll call with the following Board members present in Chamber: Sarah Boyle, Hunter Eldridge, Anna Bornstein, Scott Brooks, Christi Sutphen.

2. **APPROVAL OF THE AGENDA**

Action: Upon motion by secretary Sutphen and seconded by member Brooks, the Board voted to approve the agenda.

Motion carried 5-0, by the following roll call vote:

AYES: Chair Sarah Boyle, Vice Chair Hunter Eldridge, Anna Bornstein, Scott Brooks, Christi Sutphen

NOES: None.

ABSENT: None.

3. **BOARD AND STAFF ANNOUNCEMENTS (City-Related Items Only)**

4. **COUNCIL LIAISON ANNOUNCEMENTS**

Council member Debby Beck gave a Council update.

5. **GENERAL PUBLIC COMMENT**

A. Written General Public Comment

Reference: Laurel O'Halloran, Associate Planner

Recommended Action: Receive correspondence.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

6. **CONSENT AGENDA**

Action: Upon motion by Member Borstein seconded by secretary Sutphen, The Board voted to approve the Consent Agenda.

Motion carried 5-0, by the following roll call vote:

AYES: Chair Sarah Boyle, Vice Chair Hunter Eldridge, Anna Bornstein, Scott Brooks, Christi Sutphen.

NOES: None.

ABSENT: None.

7. REPORTS REQUIRING ACTION

A. Draft August 8, 2023, ARB Minutes
Reference: Laurel O'Halloran, Planner
Recommended Action: Receive and approve the Draft August 8, 2023, ARB Minutes.
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

REGULAR AGENDA

8. **PUBLIC HEARINGS**

A. Architectural Permit (AP) 22-0007 for 150 14th St (APN 006-177-003)
Zoning District/General Plan Designation: R-3-PGR
Coastal Zone: No
Historic Resources Inventory: No
CEQA: Categorical Exemption, CEQA Guidelines Section 15301, Class I, Existing Facilities
Recommended Action: Staff recommends that the Architectural Review Board approve AP 22-0007 subject to findings, conditions of approval, and CEQA Guidelines Section 15301, Class 1 Categorical Exemption for Existing Facilities.
Reference: Aaron Campbell, Associate Planner

Aaron Campbell, project Planner introduced the project.
The Chair allowed the architect's representative, William Mefford, to speak to the project.
The Chair opened the floor to public comment:

Shelagh Sullivan
Written correspondence received:
Inge Lorentzen Daumer
Marie Hayward
Jim & Jeanne Olin
Roy & Claudia Ridgway

Chair Boyle made a motion, seconded by Secretary Sutphen to approve Architectural Permit 22-0007 including the following conditions pursuant to Architectural review Guidelines 33,34 and 35:

1. Reduce the width of the windows on the first and second level facing the street from 8' to 6'
2. Reduce the roof overhang from 2' to 1'6"

and subject to the recommended findings, conditions of approval and a Class 1 CEQA exemption.

Motion carried 4-1, by the following roll call vote:

AYES: Chair Sarah Boyle, Vice Chair Hunter Eldridge, Scott Brooks, Christi Sutphen.

NOES: Anna Borstein

ABSENT: None

9. **CONTINUED AND ONGOING BUSINESS**

10. **NEW BUSINESS**

11. **PRESENTATIONS**

12. **NEXT MEETING - December 12, 2023**

13. **ADJOURNMENT: 3:45 PM**

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Brian Pierik, City Attorney
MEETING DATE:	February 14, 2024
SUBJECT:	Public Comment at Meetings of Legislative Bodies ***This item was continued from the Council's January 17, 2024 meeting.***
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Discuss permissible public comment at meetings of legislative bodies and consider providing direction to the City Attorney to return to the Council with a Resolution amending Council Policy 000-017.

DISCUSSION

On October 18, 2023, the City Council meeting was disrupted by remote speakers, via Zoom, who used the public comment period to voice hateful, racist speech that violated the permissible scope of public comment under the Ralph M. Brown Act ("Brown Act").

On November 15, 2023, the City Council directed the City Attorney to return with possible amendments to City Policy 000-017 regarding public comment from remote participants at meetings of legislative bodies. The City Council also voted at that meeting to allow for public comment via zoom.

This Agenda Report addresses the subject of what options are available to the City in regard to public comments and behavior during meetings of a legislative body that are disruptive or otherwise violate the permissible scope of public comment under the Brown Act.

A. <u>Law Regarding Public Comment</u>

1. <u>A City Council Meeting is a Limited Public Forum</u>

A meeting of a City Council or other local legislative body is a limited public forum for purposes of speech under the First Amendment. Legislative bodies may impose reasonable time, place, and manner restrictions on public comments at meetings of the legislative body, such as rules of decorum, the imposition of an agenda, reserving the forum for the intended purpose of the meeting, and prohibiting the public from speaking on matters not within the subject matter jurisdiction of the legislative body.

2. <u>Permitted Scope of Public Comment Under the Brown Act</u>

The Brown Act gives the public a right to address the legislative body at regular and special meetings.

However, the scope of public comment is limited. During public comment for a particular agenda item, the public comment must relate to that agenda item. (Government Code § 54954.3(a).) During the general public comment period, the public comment must be within the subject matter jurisdiction of the legislative body. (Government Code § 54954.3(a).)

3. Rules and Regulations of Legislative Body Regarding Public Comment

The Brown Act allows the legislative body to adopt reasonable regulations to ensure that public comment remains within the permitted scope. (Government Code § 54954.3(b).) Article 13 of the City's Charter directs the City Council to adopt rules for the conduct of its proceedings. Section 2.04.050(d)(1) of the Pacific Grove Municipal Code provides that the City Council may adopt policies to ensure that the public will be provided an opportunity to address the City Council, and other legislative bodies of the City, on matters on the agenda and on matters not on the agenda that are within the subject matter jurisdiction of the legislative body.

Pursuant to these rules, the City has adopted various policies, including Council Policy 000-17 (Order of Agenda for Council Meetings), copy attached to this Agenda Report. The City Council may amend these policies.

4. Council Can Limit Disruptive Speech

The City Council can take action when an individual or group engage in behavior which disrupts a City Council meeting as currently addressed in City Policy 000-017, summarized here.

a. Definition of "Disrupting"

The Brown Act defines "disrupting" as "engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting," including, but not limited to, failing to comply with reasonable and lawful regulations adopted by the legislative body or "[e]ngaging in behavior that constitutes use of force or a true threat of force." (Government Code § 54957.95(b).) The Brown Act defines "true threat of force" as "a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat." (Government Code § 54957.95(b)(2).)

b. Disruption by an Individual

The Brown Act outlines a process in which the presiding member of a legislative body may remove an individual for disrupting the meeting. First, the presiding member of the legislative body must warn the offending individual that their behavior is disrupting the meeting, and that their failure to cease their behavior may result in their removal. (Gov. Code, § 54957.95(a)(2).) If the individual does not promptly cease their disruptive behavior, the presiding member may order the individual's removal. (Government Code, § 54957.95(a)(2).) If an individual engages in behavior that constitutes use of force or a true threat of force, they can be removed without a warning. (Government Code, § 54957.95(a)(2).)

c. Disruption by a Group

If a public meeting is "willfully interrupted" by *groups* of individuals such that the "orderly conduct" of the meeting becomes unfeasible, the Brown Act allows the legislative body to remove the individuals who are willfully interrupting the meeting. (Government Code, § 54957.9.) If order cannot be restored after removing the offending individuals, the legislative body may order the meeting room cleared and continue in session. (Government Code, § 54957.9.)

The legislative body may only consider matters appearing on the agenda during such a session. (Government Code, § 54957.9.) Representatives of the press must be allowed to attend this session unless they participated in the disturbance. (Government. Code, § 54957.9.) The legislative body may establish a procedure for readmitting an individual or individuals who were not responsible for willfully disturbing the orderly conduct of the meeting. (Government Code, § 54957.9.) Additionally, any person who willfully disturbs or breaks up any assembly or meeting is guilty of a misdemeanor. (Penal Code, § 403.)

5. Council Cannot Prohibit Criticism

The legislative body may not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Government Code § 54954.3(c); Pacific Grove Municipal Code section 2.04.050(d)(2)

B. Options Regarding Public Comment

1. Add Statement to Agenda

The City can add a statement to its Agendas that describes the scope of public comment allowed under the Brown Act. Sample statement reads as follows:

> "Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. This is a warning that if a member of the public attending this meeting remotely or in-person violates the Brown Act by failing to comply with these requirements of the Brown Act, then the Mayor may request that speaker be muted. If a member of the public attending this meeting in-person engages in disruptive behavior that disturbs the orderly conduct of the meeting, they may be removed from the meeting after a warning, pursuant to Council Policy 000-17."

As noted above, the legislative body may not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Therefore, speakers who present comments which constitute such criticism should not be muted.

2. Require Pre-Registration by Remote Speakers

There is a long-standing rule under the Brown Act that registration may not be required for in-person participation at public meetings. (Government Code § 54953.3.) However, recognizing the practical considerations of hosting meetings through online third-party platforms during the COVID-19 pandemic, the legislature recently amended the Brown Act to require individuals to register for public comment before being allowed to comment where the body uses a third-party platform (i.e., Zoom) for the meeting.

The Brown Act now provides that "an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate." (Government. Code § 54953(e)(1)(D), (f)(1)(F).)

If the City elects to implement a pre-registration system that requests information beyond what is

required to register with the third-party platform, that pre-registration system should remain voluntary. For example, the Coastal Commission has a pre-registration process entailing a series of questions which potentially go beyond what is required by Zoom for a speaker to register (e.g., campaign contributions information). However, Coastal Commission's pre-registration procedure is largely voluntary.

The California Coastal Commission has virtual hearing procedures and public participation rules that "strongly encourage" anyone wishing to speak to submit a request form by 5:00 pm the day before the hearing item to assist with meeting management. The Coastal Commission will accept a request to speak the day of a hearing item. Of note, the California Coastal Commission is not governed by the Brown Act but by the Bagley-Keene Open Meeting Act, which covers all State boards and commissions. The Bagley-Keene Open Meeting Act contains similar rules to the Brown Act, such as allowing registration to the extent the online platform requires it. (See Government Code §§ 11123.2, 11124.)

Therefore, the City could require pre-registration for remote participants, to the extent it is required by the third-party platform, while not requiring in-person speakers to register. Any required pre-registration for remote participation must be limited to the information required by the third-party platform. If the City desires to implement a pre-registration process for remote attendance that requires information above and beyond what is required by the third-party platform, the pre-registration process should remain voluntary.

3. Mute Remote Speaker(s)

The City has the option to mute a remote speaker who is either disrupting the meeting or speaking beyond the scope of permissible public comment under the Brown Act. If a speaker offers public comment violating the Brown Act in regard to permissible public comment, then the Mayor can ask whoever is in charge of the remote video platform to mute the speaker. The Mayor may then give a verbal reminder of the scope of public comment permitted under the Brown Act and refer to the statement in the Agenda, and then move to the next speaker.

There is a distinction between muting speakers and the removal provisions of the Brown Act for disruptive behavior based on the fact that a muted speaker has not been removed from the meeting. A muted speaker can still observe the meeting and listen to the meeting, but cannot speak any further at the meeting based on their violation of the Brown Act requirements regarding the permitted scope of public comment.

4. Implement a Time Delay

In radio and television, a time delay or a broadcast delay is an intentional delay when broadcasting live material. Such delays are used in radio and television to prevent mistakes or unacceptable content, usually profanity or obscenity, from being broadcast, in order to avoid FCC penalties.

Instituting a time delay for an official two-way teleconference of the public meeting may violate the Brown Act, as the public would no longer be attending the meeting at the same time as the in-person events, or be able to interact with the legislative body in real time. (See Gov. Code, §§ 54952.2, 54953.8(a)(3)(C).)

However, the City could consider implementing a time delay for a one-way broadcast or webcast of the public meeting. If the City elects to implement a time delay and edit any footage, it will need to retain an unedited version of the footage as its official public record, subject to inspection under the Public

Records Act. Whether or not implementing a time delay is technologically feasible for the City would need to be addressed with a technology consultant.

OPTIONS

N/A

FINANCIAL IMPACT:

None.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Staff Slides

Council Policy 000-017

Public Comment at Meetings of Legislative Bodies

City Council
City of Pacific Grove

January 17, 2024

Brian Pierik, City Attorney

OPTIONS

- Add Statement to Agenda
- Require Pre-Registration by Remote Speakers
- Mute Remote Speakers who violate Brown Act requirements.
- Implement a Time Delay.

LANGUAGE OF ADD TO AGENDA

"Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. This is a warning that if a member of the public attending this meeting remotely or in-person violates the Brown Act by failing to comply with these requirements of the Brown Act, then the Mayor may request that speaker be muted. If a member of the public attending this meeting in-person engages in disruptive behavior that disturbs the orderly conduct of the meeting, they may be removed from the meeting after a warning, pursuant to Council Policy 000-17."

Questions?

City Council
City of Pacific Grove

City of Pacific Grove

Council Policy

Subject	Policy	Effective Date	Page
Order of Agenda for Council Meetings	**000-17**	**December 20, 2017**	**Page 1 of 4**

A. Council meeting agendas are designed to facilitate the orderly conduct of City business, provide adequate time for the City Council to make informed, deliberative decisions, and provide members of the public an opportunity to present information to the City Council on any matter within the subject matter jurisdiction of the City.

B. This policy establishes the general practice to be followed with respect to the management of agenda items before the City Council. This policy shall not be construed to limit or impair rights of the public as set forth in the Ralph M. Brown Act, the Public Records Act, or any other provision of law.

C. In the development of a specific meeting's agenda, the City Manager may adjust this order, when warranted. The Mayor and Council may also adjust the order in which matters are considered at the meeting. Deviation from the order of the agenda set in this policy, by itself, shall not provide a basis to reverse or invalidate any action of the City Council.

D. The standard order of the City Council agenda shall be as follows:

Call to Order

Pledge of Allegiance

1. **Approval of the Agenda**
   Councilmembers shall have an opportunity to request changes to the order of items, to postpone items to a future meeting, or to add new matters in accord with the emergency or urgency requirements set forth in the Government Code.

2. **Presentations**
   Presentations shall be made on behalf of the City to persons or organizations, and/or brief presentations (not to exceed 5 minutes, each) made to the Council by others upon approval of the City Manager. Presentations shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

3. **Council and Staff Announcements**
   Announcements shall be limited to City-related items and shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

Report out of any closed session held prior to the Regular meeting will be provided as the first announcement.

4. Public Comment

These are comments from the public on matters that are on the agenda (including the Consent Agenda) as well as for matters not on the agenda during General Public Comment which are within the subject matter jurisdiction of the City.

Persons who wish to address the Council shall use the microphone and are asked to state their name. It is helpful if speakers also indicate the subject matter of their comments. (Note: Even if a speaker refuses to state his or her name or the subject matter of the comment, the speaker shall not be denied the right to speak.) Accommodations will be made for persons with disabilities.

Public comment shall be limited to three minutes per speaker for each item on the Agenda. For General Public Comment, each speaker shall be limited to three minutes.

In the discretion of the Mayor, the length of the public comment on an item on the Agenda may be reduced to lower than three minutes when appropriate based on the number of speakers for an item and/or the Mayor may limit the total time for public comment on an item on the Agenda.

Communication to the Council under General Public Comment will be received without comment while the public comment period is open. When public comment during General Public Comment Communications is closed, questions from the public may be referred to staff for a brief response.

Pursuant to Government Code Section 54954.3 (c), the City Council shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.

Pursuant to Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Mayor may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. After the meeting room has been cleared, the Mayor may readmit an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Pursuant to Government Code Section 54957.95, the Mayor may cause the removal of any individual for disrupting the meeting subject to the following rules:

(1) Prior to removing an individual, the Mayor shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior

may result in their removal.

(2) The Mayor may then cause the removal of the individual if they do not promptly cease their disruptive behavior.

(3) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following: (A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law. (B) Engaging in behavior that constitutes use of force or a true threat of force.

(4) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(5) If there has been a use of force or a true threat of force, there is no obligation for the Mayor to provide a warning to the individual before causing the individual to be removed from the meeting.

Consent Agenda

The Consent Agenda deals with routine and noncontroversial matters, and may include action on resolutions and second readings of ordinances, provided no public comment is anticipated on those items. The purpose of the Consent Agenda is to make efficient use of available time by considering all routine and non-controversial items under one motion. The Consent Agenda is structured so that any Councilmember, staff, or the public may pull an item for discussion or questions.

A single vote on the Consent Agenda shall apply to each item that has not been removed.

Councilmembers may notify the City Clerk if they want a specific vote or abstention recorded as to any individual item.

The standard elements of the Consent Agenda are:

5. **Approval of City Council Meeting Minutes**

6. **Resolutions**

7. **Ordinances**

8. **Reports – Information Only**

9. Reports – Requiring Action

10. Meeting Minutes of Commissions, Boards, and Committees

When a Councilmember wishes to remove an item the Councilmember will discuss his/her question(s) with staff prior to the meeting in order for staff to research the answer(s), which shall be provided ahead of time to all members (e.g., in the blue folders).

The Mayor will first ask the members of the Council, then members of the public if anyone wants to pull an item from consent. The person pulling the item will simply state the item number and subject.

Unless a specific item is pulled for discussion, the Council shall ordinarily approve all action items or recommendations on the entire Consent Agenda under a single motion. Council's vote to approve the Consent Agenda is a direction to staff to proceed with each action as recommended.

Items Removed from the Consent Agenda

The Council shall separately consider and act on each item removed from the Consent Agenda. Such items shall be heard in their normal place on the Regular Agenda. That placement will be noted on each consent item. The discussion format for those items will follow the protocol for the Regular Agenda.

Regular Agenda

The protocol for deliberation on regular agenda items is:

1) The agenda report is presented by staff or other person who prepared the report. The report can be concise yet sufficient to establish context and key facts for the item.
2) Public comment is received, then closed.
3) Council deliberates and takes action as appropriate for the item

This protocol explicitly omits the practice of clarifying questions from council prior to opening for public comment. Councilmembers can ask for clarification prior to the Council meeting and can also ask questions during the council deliberation phase.

11. Public Hearings

The Public Hearing agenda includes matters for which a public hearing notice was posted or published and for which public comment is anticipated.

12. Unfinished and Ongoing Business

The Unfinished Business agenda shall consist of matters that return to the Council for action, the same matter having been considered at or continued from a prior meeting or are updates or actions for long term and ongoing topics.

13. New Business

The New Business agenda shall consist of matters not previously considered by the Council.

14. Full Presentations

Presentations under this item are those that may exceed five minutes and are made to the Council upon invitation of the Mayor or City Manager. Presentations shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

15. Closed Sessions (if required)

Closed Sessions are held in compliance with the Brown Act. The specific time for any Closed Session may be set at other times at the convenience of Council. The Council may adjourn to Closed Session on any other agenda item if authorized by law, upon advice of the City Attorney.

16. Public Announcement of Action Taken in Closed Session

This announcement shall immediately follow any Closed Session.

Adjournment

E. Whenever practical, closed session items are best addressed during a special meeting prior to a regular meeting, as a convenience to the public, beginning at 5:00 pm.

F. All agenda reports recommending Council action shall include the following: title, recommendation, background, justification, and financial impact. Closed session agenda reports shall be confidential pursuant to California Government Code 54963 and PGMC §2.04.080.

Adopted May 2, 2001 - Resolution No.1-025
Amended June 3, 2009 - Resolution No. 9-021
Amended February 3, 2010 - Resolution No.10-014
Amended September 1, 2010 - Resolution No.10-068
Amended November 17, 2010 - Resolution No.10-099
Amended February 2, 2011 - Resolution No. 11-008
Amended January 20, 2016 - by motion of Council
Amended December 20, 2017 - Resolution No. 17-032
Amended September 1, 2021 - Resolution 21-028
Amended February 1, 2023 – by Minute Order

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Nick Smith, Mayor Pro Tem
MEETING DATE:	February 14, 2024
SUBJECT:	Direct to City Attorney to return to the City Council with an ordinance to amend Pacific Grove Municipal Code Section 2.04.050 or other actions related to this Agenda item. ***This item was continued from the Council's January 17, 2024 meeting.***
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Motion to direct the City Attorney to return to the Council with an ordinance to amend Pacific Grove Municipal Code Section 2.04.050 or other actions related to this Agenda item.

DISCUSSION

A. Current Version of Section 2.04.050

This item will include a discussion of proposed amendments to Pacific Grove Municipal Code Section 2.04.050 which currently reads as follows:

"2.04.050 Agenda and consideration of unlisted matters.

a) Order of Agenda. The city manager shall prepare, circulate and post in conformity with the provisions of the Ralph M. Brown Act and council policy, not less than 72 hours before any regular and special council meetings, an agenda, which shall list and describe the items to be considered at the meeting.

(b) Emergency Meetings. Agendas for emergency situations as defined by Section 54956.5 of the California Government Code shall comply with noticing prescribed in Section 54956.5.

(c) Request. Any councilmember may place items on the agenda by requesting the city manager to do so by 12:00 noon on Wednesday of the week preceding a regular council meeting, and three days in advance of any special meeting, except that special meetings called during any meeting of the council shall have those items on the agenda for which request has been made in open council meeting without further request. The city manager may also place items on the agenda which he or she deems of interest to the council.

(d) Public Comment.

(1) The city council may adopt a policy or policies to ensure that the public will be provided an opportunity to address the city council, and other legislative bodies of the city, on matters on the agenda and on matters not on the agenda that are within the subject matter jurisdiction of the legislative body.
(2) The city council, and other legislative bodies of the city, shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the city council and other legislative bodies of the city.

(e) Minutes shall be prepared following all council meetings and shall provide a record of when and where a meeting took place, who was present, type of meeting, what was considered, and any action taken and the vote or abstention on that action of each member present for the action pursuant to California Government Code Section 54953(c)(2).

(f) Reportable actions taken by council in closed session shall be reported when council next convenes in open session in compliance with the Ralph M. Brown Act. [Ord. 23-001 § 2, 2023; Ord. 21-025 § 2, 2021; Ord. 01-08 § 1, 2001; Ord. 1953 N.S. § 2, 1994; Ord. 1832 N.S. § 2, 1992; Ord. 1812 N.S. § 2, 1991; Ord. 1806 N.S. § 2, 1991; Ord. 1774 N.S. § 2, 1991; Ord. 1556 N.S. § 1, 1986; Ord. 1493 N.S., 1985; Ord. 1338 N.S. § 1, 1983; Ord. 1101 N.S. § 1, 1979; Ord. 1047 N.S. § 1, 1978; Ord. 920 N.S. § 1, 1977; Ord. 847 N.S. § 1, 1975; Ord. 541 N.S., 1966]."

B. Proposed Amendments to Section 2.04.050

1. Proposed amendment to Section 2.04.050 (a)

Revise Section 2.04.050 (a) to add the underlined text

"(a) Order of Agenda. The city manager shall prepare, circulate and post in conformity with the provisions of the Ralph M. Brown Act and council policy, not less than 72 hours before any regular council meeting and not less than 24 hours before any special council meetings, an agenda, which shall list and describe the items to be considered at the meeting."

2. Proposed Amendment to Section 2.04.050 (c)

Replace Section 2.04.050. (c) in its entirety to read as follows:

"(c) A Councilmember may request an item be placed on a future City Council agenda and that request must be made only at a City Council meeting and agreed upon by at least two other City Councilmembers at that City Council meeting. The discussion at the Council meeting will be limited to whether the item should be added to a future City Council agenda and may not include a discussion of the merits of the proposed agenda item. If the item is added to a future City Council agenda, then the Councilmember who requested the item shall prepare the Agenda Report with the assistance of the City Manager. These requirements for adding an item to a future City Council agenda also apply to the Mayor except that the Mayor, or a majority of the Council, may call a special meeting and include items on the agenda for that special meeting."

OPTIONS

Other actions as directed by the City Council related to this agenda item.

FINANCIAL IMPACT:

None.

GOAL ALIGNMENT: Not Applicable.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	City Manager Robert Perrault, City Attorney Brian Pierik, and Mayor Bill Peake
MEETING DATE:	February 14, 2024
SUBJECT:	Boards, Committees and Commissions Handbook Revision ***This item was continued from Council's January 17, 2024 meeting.***
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Direct the City Attorney to prepare a resolution adopting revised Boards, Committees and Commissions Handbook 1/17/24.
2. Direct the City Manager and City Attorney to provide committee training.
3. Alternative, discuss and take other action related to this item.

DISCUSSION

The purpose of the Boards, Committees and Commissions Handbook (Handbook) is to describe protocols for efficient and effective conduct of committees. Most committee protocols described in the Handbook mirror those used by City Council. Understanding and implementation of these protocols should help committees function well with council and staff thus fostering good city government.

The current Handbook was approved by Council on March 6, 2019 and included in Council Policy 000-5 Section 4. Board, Commission, and Committee Procedures. Council approved a revised Handbook October 21, 2020.

Proposed Handbook amendments in Attachment 1 are shown by deletion of all text shown in red strikeout text (strikeout text) and the addition of all text shown in red underscored text (underscored text). The Handbook without this markup is provided in Attachment 2.

Amendments include:

- Updated list of committees and committee member qualifications
- Clarification of officer elections and roles
- Agenda and minutes format
- Updated courtesy and decorum, discipline
- Citations for sexual harassment and ethics training and teleconference attendance

To promote compliance with Handbook policy training is recommended for all committee members irrespective of their length of service.

Current and past committee members have generously given their time and talents to the benefit of the community. Their contributions are gratefully acknowledged.

OPTIONS

N/A

FINANCIAL IMPACT:

There is no fiscal impact.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1-BCC Handbook Revision with markup

2-BCC Handbook Revision 1/17/24 without markup

BOARDS, COMMITTEES AND COMMISSIONS HANDBOOK

CITY OF PACIFIC GROVE

~~OCTOBER 21, 2020~~

JANUARY 17, 2024

Style Definition: Comment Text

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1. Introduction

The City of Pacific Grove's (City) boards, committees and commissions (Committees) serve vital roles ~~to~~in support of a well-functioning ~~local~~city government~~.~~ alongside City Council, Management and Staff. The better committees function, the better ~~local~~city government can serve the needs of its residents~~.~~ and businesses. It is towards this end that this handbook ~~has been~~was prepared.

The scope of Committee responsibilities, procedures, and applicable laws is wide. It would be impractical to include all relevant material in one document. Therefore, this document is intended to provide: (1) a brief overview of key subject areas and (2) reference more in-depth materials on specific subjects.

~~General communication and interpersonal skills promoting good civil discourse and decision-making are, of course, extremely helpful for any well-functioning committee. However, broad subjects such as these are beyond the scope of this handbook.~~

~~This handbook is intended to help Committee members better understand their roles and responsibilities, governing regulations, and meeting protocol for effective decision-making.~~

~~Current and past committee members have given generously of their time and talents for the benefit of all residents. Their contributions to Pacific Grove are gratefully acknowledged.~~

~~Bill Peake, Mayor~~
~~Heidi A. Quinn, Assistant City Attorney~~

2. Committees

Committees formed through the City's Charter are:

- Planning Commission
- Library Board
- Museum Board
- Recreation Board

These are referred to as Charter Committees. A vote of the people is required to change the City Charter.

Committees established by the Pacific Grove Municipal Code (PGMC) are:

- Architectural Review Board
- Beautification and Natural Resources Commission
- Economic Development Commission
- ~~Golf Links Advisory Commission~~
- Historic Resources Committee
- Task Force on Diversity, Equity, and Inclusion
- Traffic Safety Commission

A City Council ordinance is required to change the PGMC.

Many other City Committees, and Improvement Districts, exist but are not listed above. While basic Committee responsibilities and regulations apply, their nature differs in one or more significant ways. To simplify the handbook, rules and processes specific to those Committees are not set forth, including:

- Ad hoc, standing, City Council and City Manager subcommittees. An example is the Site Review Committee. See the PGMC and City Council Policy 000-5 governing such Committees.

- The Administrative Enforcement Hearing Officer Panel established by PGMC ~~Chapter~~§ 3.30. Its procedures are further described in PGMC ~~Chapter~~§ 1.19, Municipal Code and Ordinance Enforcement.

- The Downtown Pacific Grove Business Improvement District (BID) Advisory Board established by City Council Resolution 07-042, September 19, 2007 (See link to this resolution on the BID webpage). Rules governing this advisory board can also be found in PGMC ~~Chapter~~§ 6.50.

- The Pacific Grove Hospitality Improvement District (HID) Advisory Board established by City Council Resolution 07-044, November 7, 2007 (See link to this resolution on the HID webpage). The HID is described in PGMC ~~Chapter~~§ 6.54. Additional HID documentation can be obtained on the City's website. (See City Council resolutions 18-015 and 18-047~~.)~~
  .).
- ~~The Cultural Arts Commission. (PGMC Chapter 3.28)~~

3. Committee Membership

Committee Member Selection Process

Committee members are appointed by the Mayor in January of each year, subject to confirmation by City Council at a public meeting (Charter Article 26; Policy 000-5). Vacancies created mid-term are filled in the same manner.

Committee Member Qualifications

Residency requirements for appointed committee members are described in Charter Article 26 and Council Policy 000-5. However, residency exceptions ~~may be~~are made for the Architectural Review Board, Economic Development Commission, and ~~the Golf Links Advisory Commission~~Task Force on Diversity, Equity, and Inclusion.

Members shall not hold any paid office or employment in the City government or be a member of any other Charter Committee (Charter Article 26).

Additional member qualifications are set forth in the PGMC, including:

- Architectural Review Board - PGMC § 23.70
- Beautification and Natural Resources Commission - PGMC § 3.24
- Economic Development Commission - PGMC § 3.40
- ~~Golf Links Advisory Commission - PGMC § 3.42~~
- Historic Resources Committee - PGMC § 23.76
- Traffic Safety Commission - PGMC § 16.08
- Task Force on Diversity, Equity, and Inclusion - PGMC § 3.46

How to Apply

Application forms for Committee appointments are available from the City Clerk and can be obtained from the City website. ~~Applicant~~ Applicants contact information is not made public, but all other information including qualifications ~~are~~is disclosable.

Upon Joining the Committee

New Committee members, before assuming their responsibilities, must take an oath of office as described in the California State Constitution Article XX, Sec. 3. (See also Govt. Code § 1360; Charter Article ~~3~~18). Oaths are typically administered by the City Clerk but also may be administered by the Mayor and City Manager.

Select Committee members, designated in the City's Conflict of Interest Code, are required to submit a Statement of Economic Interests (FPPC Form 700) to the City Clerk within 30 days after assuming office, annually and upon leaving office. (See PGMC § 2.40)

New Committee members must participate in Government Code § 53235 (AB 1234) ethics training, within 12 months of appointment and every two years thereafter. New members must complete sexual harassment prevention training (AB 1825) within six months of appointment, and every two years

thereafter. This training is available from many sources, and compliance sessions are also provided by the ~~Office of the~~ City Attorney.

Terms of Office

Committee terms begin February 1st except when filling a seat vacated mid-term. Terms end January 31 of the designated year.

Charter Committee appointments are four-year terms~~,~~ unless earlier removal is warranted or there is a mid-term vacancy. A limit of three consecutive full terms shall apply (Charter Article 26). Member terms are staggered if practical (PGMC § 3.02.050).

For all other Committees, terms are limited to two years, with staggered terms if practical. Committee members may not be reappointed to a new term if reappointment would result in continuous service for more than eight consecutive years (Council Policy 000-5).

Removal from Office

Further, all Committee members serve at the pleasure of the Council. The Council, by an affirmative vote of four of its members, may remove any Committee member at any time during the member's term of office (Charter Article 26). Possible reasons for removal include but are not limited to: excessive absences, verbally or physically abusive behavior, violations of ethics, violations of Council policies, conflicts of interest, among other causes.

Leaving Office

Committee members may resign at any time. Sixty (60) days' notice is suggested to enable a replacement to be identified and appointed without causing a gap in Committee membership. Each Committee member must file an FPPC Form 700 Leaving Office Statement within 30 days of leaving office.

4. Role of Committees

All Committees have an advisory role to City Council~~ and the City Manager.~~. This advisory role is constrained to the Committee's area of responsibility, as set forth in the PGMC.

A few Committees have areas in which they hold delegated decision-making responsibility by the Municipal Code or by Council. Thus, the Planning Commission grants use permits and variances; similarly, a member of the Administrative Hearing Panel hears appeals of certain code enforcement actions.

The primary function of City Committees, however, is to advise~~.~~ the City Council. Both informal and formal means of communication may be used~~, as appropriate,~~ to fulfill this advisory role. Committee recommendations related to City actions may be presented at City Council meetings as individual agenda items (Council Policies 000-5 & 000-6) or action minutes. Recommendations to City Council should always be formal, i.e. by a motion and vote. While ~~advice~~recommendations may not always be ~~taken~~acted upon, Committees have the duty to advise on policies or issues as the law directs.

Committee responsibilities are more specifically set forth in the Charter and the PGMC:

- Planning Commission - Charter Article 26.a. & PGMC § 23.70.080
- Library Board - Charter Article 26.b. & City Council minute action August 17, 2011 (See link to minute action on Library Board webpage)
- Museum Board - Charter Article 26.c~~. &~~., PGMC § 3.44~~ & Resolution~~, Resolutions 10-071 and 11-072~~ September 7, 2011 (See link to resolution on Museum Board webpage)~~
- Recreation Board - Charter Article 26.d.
- Architectural Review Board - PGMC § 23.70.060
- Beautification and Natural Resources Commission - PGMC ~~Chapter~~§ 3.24
- Economic Development Commission - PGMC ~~Chapter~~§ 3.40
- ~~Golf Links Advisory Commission - PGMC Chapter 3.42~~
- Historic Resources Committee - PGMC § 23.70.070
- Task Force on Diversity, Equity, and Inclusion – PGMC § 3.46
- Traffic Safety Commission – PGMC § 16.08.040
- Administrative Hearing Panel – PGMC § 3.30

Most Committees function in policy mode, which is a quasi-legislative responsibility. This includes, for example, recommending changes to the PGMC if within the Committee's jurisdiction.

Committees may also function in a hearing mode, from time to time, which is a quasi-judicial responsibility. This includes granting permits and hearing appeals, pursuant to the PGMC. The latter responsibility requires decisions supported by evidence presented at the hearing, which has been entered into the formal record. Those Committees are:

- Planning Commission
- Architectural Review Board
- Historical Resources Committee
- Beautification and Natural Resources Commission
- Traffic Safety Commission

- Administrative Hearing Panel

Committees may also perform additional duties as assigned by Council. Most Committees are distinct and without significant overlap. ~~As a result, a single issue or opportunity is not likely to be addressed by more than one body. The~~However, responsibilities of some Committees intersect. In such cases, it benefits the Committees to understand the Charter and philosophy of the others to best serve the public on issues of mutual concern.

Council policies that also apply to committees are:

- Policy 000-5~~. Role of~~ Committee Classification; Board, Commission, and Committee Appointments and Procedures
- Policy 000-9 Council Guidelines
- Policy 000-17 Order of Agenda for Council Meetings
- Policy 000-25 Code of Conduct

5. Individual Roles

Members

~~**Members**~~

The primary role of all Committee members is to attend meetings and be prepared to discuss and vote on agenda items. If unable to attend a ~~Committee~~committee meeting, a member should notify the Committee Chair as soon as practical.

Officer Elections

At the beginning of the first meeting following February 1 (or at any time the Chairperson is vacant) the Chairperson must be elected by the committee., Charter committees must elect a Chairperson, or Chair, to serve a one-year term ~~at the first meeting in February~~ (PGMC § 3.02.050). This is also the practice of other Committees.

~~The Committee Chair or, if there is no Chair, the person who called~~At this first meeting following February 1 any committee member may call the meeting to order~~, will~~ and ask for nominations for the office of Chair. ~~Members of the~~ Committee members may nominate themselves or any other member ~~of the Committee~~; no second is required. Once nominations are complete, ~~the Chair will close nominations, announce the slate of nominees, and ask for~~ a vote on the nominees in the order of nomination is taken.

Each voting member of the Committee shall have one vote. The nominee receiving votes from a majority of the members in attendance shall be declared the winner. If no member receives a majority, the process shall be repeated, except in the event of a tie between the top two vote-getters, in which case a run-off shall be held. ~~The winner shall assume the office of Chair immediately.~~

The member nominated as Chair assumes the office of Chair immediately.

Using the same procedure, the ~~new~~ Chair ~~shall secure the election of~~conducts nominations and voting for a Vice Chair. ~~The~~ If the Committee ~~may also~~decides to appoint a Secretary, then the Chair shall conduct nominations and voting for a Secretary. The Museum Board must elect a secretary, however, other committees may choose not to do so.

Chairperson

The Chair has responsibility for:

- Presiding over meetings, i.e. meeting protocol and recognizing when others may speak
- Setting the agenda
- Calling special meetings (if staff resources are available)
- Alerting ~~the~~council and staff ~~liaison~~liaisons of ~~known~~ absences
- Signing Committee documents
- ~~Reporting to City Council as approved by the Committee~~

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Appearing before City Council on behalf of the Committee
The Chair may only speak on behalf of the committee on a topic that was previously heard by the committee where an action was taken by a vote.

Vice-~~Chairperson~~Chair

The Vice-Chair assumes the Chair's duties in their absence. The Vice-Chair shall succeed the Chair if ~~they vacate~~the Chair vacates office before the term is completed and shall serve the unexpired term. A new Vice-Chair shall be elected at the next regular meeting or as soon thereafter as practical.

Secretary

If ~~a~~the Secretary is appointed by the Committee, the Secretary is responsible for ~~timely completion of~~ meeting minutes~~, which are forwarded~~ to ~~the Chairperson and City Clerk upon Committee approval. However, without a Secretary, preparation of minutes may~~ be ~~fulfilled by staff~~included in the agenda packet at the next meeting.

Staff liaison ~~at the request of the Chair~~assumes responsibility for minutes if the Secretary is unable to do so, or if no Secretary is appointed.

Action minutes, which do not include commentary, are recommended.

Subcommittees

Subcommittees may be appointed by Committee vote to accomplish a specific goal within a given timeframe. Subcommittee membership must be less than ~~a~~the quorum~~. Staff~~ of the Committee. When appropriate, staff and public may assist subcommittees but are not members of subcommittees.

Staff ~~Liaison~~Liaisons

Staff is assigned to Committees by the Department Head or City Manager to ~~assist~~facilitate the Committee in accomplishing its objectives. ~~(~~Such support does not always translate into attendance at the meetings; written reports or interaction with the Chair prior to the meeting may suffice~~.)~~.

Staff is responsible for agenda packet preparation and meeting noticing, i.e. posting agendas. Staff ~~assists~~may assist the Chair with meeting protocol as needed. If requested by the Chair, staff may prepare committee minutes. ~~Staff is responsible for maintaining the Committee's webpage and ensuring it is up-to-date. Staff may edit the webpage as directed by the Chair, with City management concurrence.~~

Staff is responsible for posting meeting videos and maintaining the Committee's webpage and ensuring it is up to date.

Staff is responsible for providing access to the Council Chambers and the capability to conduct meetings with online (remote) public participation, i.e. hybrid meetings.

Staff may inform the Committee of relevant City activities, identify issues within the Committee's purview, provide advice and assist in communications with the Department Head, City Manager, or City Council.

Staff may ~~also accept~~consult with city management regarding work ~~assignments from~~suggested by the ~~Committee given~~ committee. Committees do not have authority to provide staff work direction.

City ~~management or Department Head concurrence.~~**Attorney**

The City Attorney's office is available to provide legal counsel to Committees ~~and~~ when present at Committee meetings ~~can assist with protocol.~~or by email to Brian Pierik at bpierik@bwslaw.com .

Council ~~**Liaison**~~**Liaisons**
~~Each Committee has a~~
A Council liaison to a Committee is appointed by the Mayor subject to confirmation by City Council.

The Council liaison may facilitate the Committee in accomplishing it's objectives through the following:

- provide ~~an informational report including Council~~announcements of City actions ~~or intent~~and activities
- answer ~~brief~~ questions
- assist the Chair with process ~~or protocol, preferably not during a Committee meeting~~and city regulations.
- assist Chair ~~as how~~ to ~~best~~ communicate committee actions and recommendations to City Council~~, preferably not during a Committee meeting.~~ .
- Provide Chair with counsel as needed.

The Council liaison ~~is not a Committee member and~~ must not:

- participate in Committee discussions
- influence Committee decisions
- except in unusual circumstances interrupt the meeting

Note that Council liaisons, as Council Members, may later be required to review and act on Committee decisions or recommendations.

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6. Committee Meetings

Meeting Types

All Committee meetings are governed by the Ralph M. Brown Act (Brown Act), California Government Code §54950 *et seq.*

Regular Meetings
Regular meetings shall be held at a regular date, time and place, which may be specified in the PGMC. Regular meetings may be rescheduled with posting of a cancellation notice and notification of a Special Meeting. ~~Meetings may be cancelled due to a lack of business or if a quorum cannot be obtained.~~

Meetings may be cancelled by either the Chair or Staff liaison. Reason(s) for cancellation shall be promptly sent to Council liaison, Mayor and City Manager.

Lack of a quorum at a meeting (majority of appointed members) requires meeting cancellation.

Special Meetings
Special meetings are those meetings held outside the regular meeting date and time. Special meetings may be held at any time upon the call of the Chair, a majority of Committee members, or City Council, followed by noticing as required by law. Special meetings may be called to meet deadlines, conduct study sessions or workshops, or when quorum was not met for a regular meeting.

Serial Meetings ~~–~~ Prohibited
Serial meetings occur when Committee members meet or discuss matters sequentially in pairs or small groups. The combined effect of sequential, or serial, meetings may inappropriately be a meeting of a quorum of Committee members. For example, if a member of a 7-member Committee speaks to more than two other members, it may constitute a serial meeting. Inadvertent use of email, careless use of the "reply all" function, indiscriminate forwarding of messages, forwarding messages without deleting early text histories, continuing discussion from a prior meeting via email are all poor practices that can result in serial meetings. In addition, engaging in a discussion of City business on social media can lead to a serial meeting. Serial meetings are a violation of the Brown Act. Further, Committee members are subject to FPPC investigation in the event complaints are filed.

One-On-One Meetings; Ex Parte Communications
Committee members may meet with constituents individually, in small groups or other informal settings. When the Committee acts on an issue in a quasi-judicial capacity, the member shall report on any such ex parte communications at the beginning of deliberations related to the subject of the decision. Information learned in these separate meetings must be divulged into the hearing record or must be excluded from the basis for considering any quasi-judicial decision. See PGMC § 2.04.090.

Noticing and Venue

Noticing
All Committee meetings shall comply with the Brown Act; Committees shall also follow ~~the~~ noticing protocol set for ~~the~~ City Council in PGMC ~~Chapter~~ §§2.04 and Policy 000-9.

Agenda packets for regular and special meetings shall be provided:

- at the Library;
- the outdoor display cabinet at City Hall on Laurel Avenue (agenda only);
- on the City's website ~~calendar; and~~
- ~~on the Committee webpage.~~

In addition, if the meeting is held somewhere other than at City Hall, the agenda shall be posted at that facility, in a location accessible by the public.

~~If a Committee member cannot attend the meeting but wishes to participate via phone from a public location, the member may do so. However, the location must be stated on the agenda, and noticing regulations apply to the additional location. Members may not call in from anywhere other than a fixed location, as published on the agenda. Whenever phone participation is allowed, all voting must be by roll call. Special rules may apply pursuant to State Orders or Directives.~~

The agenda packet shall be posted a minimum of 72 hours prior to regularly scheduled meetings.

Special meeting agendas shall be posted a minimum of 24 hours prior to the meeting.

Meeting cancellations or meeting continuances shall be posted.

Agenda materials shall be available to the public in attendance at meetings.

Venue

~~Whenever possible,~~

Committees ~~shall~~ meet in Council Chambers. ~~Any~~This meeting venue ~~must be~~is open to the public and ~~must meet~~meets Americans with Disabilities Act standards.

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Attendance

Members of a Committee shall attend in person unless arrangements are made in advance for attendance by teleconference. The rules for meeting attendance by teleconference are set forth in Appendix A and Government Code Section 54953 which is in effect until January 1, 2026 at which time the Committees will be notified of any changes in procedures for attendance by teleconference.

Note: If a Committee member wishes to attend a meeting by teleconference, then the member should promptly contact the City Clerk who will coordinate with the City Attorney to determine if teleconference attendance is permissible and, if so, the procedure to arrange for teleconference attendance.

Quorum

There is no meeting of the Committee unless a quorum of the Committee is present. If less than a quorum attends, any discussion by that group is characterized as "A Committee of the Whole", but no record is made of this occurrence, and no decisions can be made.

A quorum consists of a majority of the Committee's members. For example, on a 6 or 7-member Committee, the quorum is 4. A vacancy reduces the number of voting member positions (See PGMC §§

3.02.070, 3.04.080). For example, if a 7-member Committee has 2 vacancies, it has 5 voting member positions, and the quorum is 3.

Agenda

Committee meeting agenda format is the same as for Council agendas. Agenda report examples may be found in City Council Meeting agenda packets. Minutes should use the same format as the meeting agenda.

Establishing the agenda is the Chair's responsibility with input from staff and other Committee members. ~~Any item within the Committee's purview may be placed on a future agenda when requested by a Committee member through the Chair. The member shall be responsible for preparing the agenda report or may obtain permission from the City Manager or Department Head to direct staff to prepare the report. Additionally, the City Council may place an item on a Committee's agenda~~ When an agenda issue arises the Council liaison, Staff liaison, and Chair should meet to resolve it.

A Committee member may request an item be placed on a future Committee agenda and that request must be made only at a Committee meeting and agreed upon by at least two other Committee members at that Committee meeting. The discussion at the Committee meeting will be limited to whether the item should be added to a future Committee agenda and may not include a discussion of the merits of the proposed agenda item. If the item is added to a future Committee agenda, then the Committee member who requested the item shall prepare the Agenda Report with the assistance of the City Manager. The City Council may add items to a future Committee meeting agenda for consideration. The recommended order of agenda is set forth in Council Policy 000-17 Order of Agenda for Council Meetings, making exceptions where appropriate for Committees.

The agenda must include information adequate to advise the public of the business to be considered. Agenda reports ~~including:~~should include:

1. Subject;
2. Author;
3. CEQA analysis;
4. Recommended action;
5. ~~Discussion~~Written discussion of the topic including background information, justification of the recommended action and financial impact.

Although the Brown Act permits agendas without ~~#5, omission~~a written discussion, i.e. stating 'oral report', this is ~~highly~~a poor practice and is discouraged.

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Unspecified topics such as "miscellaneous" or "new business" are not permissible. New topics raised during public comment, or by any Committee member announcement shall not be discussed at that meeting but may be placed on a future agenda.

~~Agenda report examples may be found in City Council Meeting agenda packets.~~

Parliamentary Rules

Committees shall be guided by Robert's Rules of Order.

- *Getting the floor.* Every member desiring to speak shall address the Chair and, only upon recognition by the Chair, confine contributions to the matter at hand, avoiding all indecorous language and personal attacks.

In general, a member may not interrupt the speaker except for the following reasons:

- *Privilege.* The proper interruption would be: "Point of privilege." The Chair would then ask the interrupter to, "State your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort or amplification of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

- *Order.* The proper interruption would be: "Point of order." Again, the Chair would ask the interrupter to, "State your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting; for example, if the Chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

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- *Appeal.* If the Chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the Chair, "I appeal the ruling of the Chair." If the motion is seconded and, after debate, if it passes by a simple majority vote, then the ruling of the Chair is deemed reversed.

- *Withdraw a motion.* During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn; and any other member may make the motion, once recognized.

Rules of Testimony

No person or member shall address the Committee without permission of the Chair. (See Council Policy 000-9.) All comments shall be addressed to the Committee as a whole and shall not be addressed to individual members of the Committee, members of the public or staff. ~~All questions shall be placed through the Chair.~~

It is helpful (though not required) for speakers to state their name in order that the secretary may identify them in the minutes of the meeting. If numerous members of the public wish to speak, and it is known that all represent the same opinion, a spokesperson ~~should~~may be ~~encouraged~~allowed to speak for the entire group~~. The~~ by the Chair ~~may elect to~~who could provide the spokesperson ten minutes~~, if it appears time will allow.~~. The Chair may limit public speakers to three minutes or less depending on the number of speakers and length of agenda.
~~The Chair may limit public speakers to three minutes (or less if many speakers are present).~~

~~In quasi-judicial hearings, an applicant and designated opponent are generally allowed a total of ten minutes and may reserve an opportunity to use some of that time to rebut at the end of public comment.~~

Consideration and Action on an Agenda Item

The agenda constitutes the ~~Committee's~~ road map for the meeting. Most agenda items can be handled with the following 4-step process.

1. Presenting Item
   a. Opening Item ~~-~~ – The Chair should announce the agenda item number and subject. The Chair should then announce any special procedures to be followed (e.g., if the item is a quasi-public hearing). This is also when members would announce their conflict of interest, if any exists, recuse themselves, and leave the room.
   b. Hearing the Report ~~-~~ – The Chair should invite the appropriate people, typically City staff, to report on the item. ~~Verbal presentations should be short, so as to not repeat basic information included in the agenda packet.~~ The Chair may provide an opportunity for committee members to ask any clarifying questions of the person providing the report. This is not preferred as questioning tends to segue into position statements before public input is taken, which is inconsistent with open meeting principles.

2. Asking for Public Input ~~-~~ – The Chair opens the meeting to public input. The Chair may limit speakers time, as described above. A response to public comment, if appropriate, should not be provided until after public comments are finished.

3. Considering the Item—The Chair requests Committee deliberation. Member deliberation would include~~:~~ questions of the person(s) making the report or others with relevant knowledge, alternatives to the recommendation, additional considerations not previously stated, additional relevant facts and opinions. Time committed to deliberation should be adequate to allow the sense of the Committee to emerge.

4. Deciding – The Committee decides by a motion and voting. (See ~~Appendix E~~Appendices B Motions and ~~Appendix F~~C Voting.) For all action items, the Chair should invite a motion from the members. No motion is made if the agenda item is "receive the report".

~~For all action items, the Chair should invite a motion from the members. When a motion is made, the Chair should ask for a second. Once a motion is made and seconded, the Chair should allow any additional desired discussion. Questions for clarification of the motion should be heard at this time.~~

The Chair shall ask the staff liaison for ~~the~~a vote ~~and publicly report any action taken and the vote or abstention~~who then calls on ~~that action of~~ each member ~~present~~and summarizes the result, e.g., the motion passes 4 – 2 ~~-~~ – 1, with Committee members A and B dissenting, and C abstaining.

Once a vote is taken discussion of the item ends.

Meetings versus Hearings

A public meeting is generally defined as a meeting in which business is conducted by a public body. ~~This may or may not include participation by the public.~~ A public hearing is a special type of public meeting for the purpose of the governing body accepting public comment and testimony on local legislation or a quasi-judicial matter.

For public hearings, there are ~~a few~~ additional guidelines. (See Council Policy 000-9) After receiving the staff report, the Chair opens the public hearing and accepts testimony in the following order:

1. The applicant or proponent ~~shall be allocated a maximum of 10 minutes to speak~~speaks.
2. Opponent ~~shall be allocated a maximum of 10 minutes to respond~~speaks.
3. ~~Very brief rebuttal~~Rebuttal and surrebuttal may be allowed, at the sole discretion of the Committee.
4. ~~Public input on the matter, and depending on time available and number of speakers, limited to three minutes each or less~~
4. Public comment is heard.

The Chair shall then close the public hearing.

The public ~~input~~comment portion of the public hearing may be reopened before voting on the item if a new issue is raised. It is not necessary to re-open a public hearing to ask questions of the project applicant. If the public hearing is reopened, all interested parties may be heard, but the Chair can limit the input to the new issues and can further limit the time per comment.

Courtesy and Decorum

~~Speakers should first be recognized by the Chair. This ensures that only one person speaks at a time.~~

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Meetings should take place in an environment where members and the public can freely express their views~~.~~, i.e. with politeness and respect. The Chair should ~~ensure that~~encourage discussion ~~focus~~that focuses on the item in question, not on personalities of members or the public~~.~~ or off topic. The Chair must protect the ~~record, protect privacy~~ rights ~~for all participants, and is responsible for maintaining a harassment-free environment.~~of public to speak at the appropriate time.

~~The Chair has the right to cut off discussion that is personal or too emotional. The Chair may request a break in such instance.~~

~~**Discipline**~~

~~The Committee Chair should enforce Committee rules.~~

~~If any person, including Committee members, staff or members of the public violate rules of process or decorum, any member may raise a "Point of order." After the member describes the concern, the Chair shall either agree and make the appropriate adjustment or shall put the question to the group.~~

~~There may be times, however, when even the most experienced and effective Chair cannot prevent the meeting from getting out of hand, due to the actions of one or more individuals. In such situations, the following steps should be followed:~~

~~First Occurrence - Chair: States required standard of decorum, asks offending person(s) to adhere to the standard at all times, and ensures a positive response. If the person(s) do not respond positively, states that this is the standard required of all persons present; this is not optional standard.~~

~~Second Occurrence (or continuation) - Chair: Reminds offending person(s) that they have been: 1) informed of the required decorum; and 2) asked to adhere. Warns person(s) that, if such behavior continues, the Chair will request the Council Liaison/Staff/Vice-Chair to take all appropriate actions, including calling the Police (9-1-1).~~

~~Third Occurrence (or continuation):~~

~~A. If presence of individual(s) alone is not disruptive. Council Liaison/Staff/Vice-Chair: Informs offending person(s) that they may remain in the chambers only if they do not speak or otherwise act. Any overt conduct will result in their removal by Police. The individual must acknowledge and agree to this requirement. If there is no agreement, proceed to B, below.~~

~~B. If continued presence of individual(s) is disruptive. Council Liaison/Staff/Vice-Chair addresses individual: Sir/Madam - You have a right to express your beliefs, but your actions and conduct are substantially and unlawfully interfering with this public meeting. You have been warned [two] times by this Chair. You have been asked to stop. You are warned that the Police will be contacted if you continue your actions.~~

~~I must inform you that willful disturbance of this meeting is a basis for criminal prosecution under Penal Code § 403. I must further inform you that threats or intimidation that willfully hinders this assembly is a basis for criminal prosecution under Elections Code § 18340.~~

~~Option A (allowed to stay). Your continued presence in this chamber will be disruptive if you make sounds or demonstrate other behavior. Do you agree to cease and desist making any and all disruptive sounds or behaviors during this meeting?~~

~~Yes or No? [*Please state your name for the record.*]~~

~~Any conduct or action by you other than observing these proceedings shall result in your removal.~~

~~Option B (immediate expulsion). Your continued presence in this chamber is disruptive and you must leave immediately. If you do not leave, this meeting will be temporarily disrupted and adjourned. Your presence constitutes a continuing threat. Your decision to remain in this chamber is an act of intimidation. It will hinder this assembly.~~

~~For these reasons, I am now required to request law enforcement intervention.~~

~~Chair: Calls 10-minute recess~~

-Pursuant to Government Code § 54954.3 I, the Chair shall not prohibit public criticism of the policies, procedures, programs, or services of the city, or of the acts or omissions of the committee.
A member's use of electronic communication devices during a meeting may lead to the public's perception that the member is not paying attention to or receiving private information. For these reasons a member's use of electronic communication devices (i.e., cell phones, tablets, laptop computers), other than for the purpose of (1) accessing agenda materials, (2) facilitating ADA access, (3) using teleconferencing software or (4) an emergency is prohibited.

Disruption of Meetings

1. Disruption by a Group of Persons

Pursuant to Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Chair may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. After the meeting room has been cleared, the Chair may readmit an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

2. Disruption by an Individual Person

Pursuant to Government Code § 54957.95, the Chair may cause the removal of any individual for disrupting the meeting subject to the following rules:

1) Prior to removing an individual, the Chair shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal.

(2) The Chair may then cause the removal of the individual if they do not promptly cease their disruptive behavior.

(3) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following: (A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to § 54954.3 or any other law. (B) Engaging in behavior that constitutes use of force or a true threat of force.

(4) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(5) If there has been a use of force or a true threat of force, there is no obligation for the Chair to provide a warning to the individual before causing the individual to be removed from the meeting.

~~Note: if, at any point in this process, any Committee member (or staff or Council liaison) is concerned about personal safety of himself or any other member, they should state a prearranged key word or phrase, all members should immediately arise and leave the room, and someone should call 9-1-1.~~

Public Records

Materials provided to Committee members at a public meeting must be made available for inspection and ~~copying~~reproduction by the public. Exemptions from disclosure apply, but are narrowly applied (attorney/client, drafts, pending litigation, personnel files).

~~Members should avoid the use of electronic devices during meetings as such communications,~~Communications by Committee members through social media posts, emails and text messages may be subject to the City's Retention Schedule and are disclosable under the Public Records Act~~.~~ (Council Policy 000-9).

Committee meetings shall be recorded. Current practice is ~~to record via audio media, however,~~ video recordings ~~may also be taken. Recordings shall be kept by staff or designee~~. The recording and minutes are retained in accord with the City Records Retention Schedule, Council Policy 000-19 and are available online.

Committee minutes format is the same as for the agenda, i.e., consistent with Council minutes format.

Minutes ~~are ordinarily~~may be limited to a report of actions taken at the meeting. For example, such "action minutes" typically include findings or a reference to the findings for quasi-judicial actions, and any appropriate attachments, and shall ~~note either unanimity or~~include a record of the vote for all actions. The draft minutes of all meetings shall be included in the next agenda packet for acceptance by the Committee. Authorized minutes are signed by the Chair and shall be filed with the City Clerk for inclusion in the packet of the next City Council meeting.

Adjournment

The Chair adjourns the meeting after all agenda items are completed. No vote is taken. In the event there is insufficient time to hear all items the Committee ~~wishes to~~may adjourn its meeting to a certain hour on another day~~, a~~
. A specific date, time and place shall be set by the Committee, as part of the motion to adjourn.

7. Actions taken by Committees

Committees may perform an action in different ways. Most commonly, formal action is taken by establishing a quorum, consideration of a motion and voting. Most actions require a vote by a majority of the ~~body.~~appointed members unless a super-majority vote is required.

Informal actions

Informal actions (i.e. no vote required) generally take the form of the Chair giving direction after input from other Committee members. Informal actions would include suggesting to or requesting information from staff. Another example is suggesting that a Committee member report on a future agenda topic.

Formal actions

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All formal actions must be listed in the agenda and require a motion and a vote in the affirmative.

- Formal actions include approving the agenda
- Recommendations and requests to City Manager
- Recommendations and requests to City Council
- Creation of a Subcommittee
- Continuing an agenda item to a future date
- Permit approval
- Appeals

Motions

Motions are the vehicles for decision making, i.e. taking formal actions. As indicated above, a motion should be introduced on a matter after general information is shared, options have been identified, and members share their opinions and seek to persuade. The Chair shall ensure that all motions are clearly stated and commonly understood before allowing further deliberations and voting.

See Appendix ~~A~~ B - Motions.

Voting
- See Appendix ~~B - Voting.~~C

Deciding to Move on

Items may be continued by ~~a~~ Committee vote to a ~~continuation (or~~ subsequent~~) meeting~~ time for the following types of reasons:

- The Committee requires additional information during the meeting.
- New information or issues come to light during the meeting that need further study.
- Other reasons deemed appropriate and substantial by the Committee.

In addition, a Committee ~~that has been delegated authority to act on submitted applications~~hearing (e.g., ARB, HRC, ~~NRC~~BNRC, TSC, and Planning Commission) may continue an item when:

- The applicant cannot appear at the meeting and has requested that the item be continued.
- The application is revised by the applicant during the meeting.
- The Committee requests that the application be revised.

When Action Is Necessary

In certain circumstances—a permit application, for example— the lack of any action is not acceptable (e.g., an application must ultimately be approved or denied) due to deadlines imposed by the Permit Streamlining Act, the Federal Communications Commission or other laws. There are three primary options here:

1. *Continuing the item*. This is often undertaken if one or more members of the body are absent or if new information can be developed. Continuance can also provide the applicant with time to consider options, develop a project more likely to receive approval, etc. Continuance ordinarily is undertaken with concurrence of the applicant, but concurrence is not required.

2. *Technically denying the application*. This option is based on the philosophy that, for a project that has been proposed, approval requires a majority of members to vote in favor. Anything less than the required majority is thus considered a denial. One option under "technical denial" is to allow any applicant or other party to appeal the matter (assuming an appeal would otherwise have been available) on the grounds that the matter was "deemed denied." This option avoids the need for the body to take further action (e.g., if the body is unable to achieve a majority vote to forward the matter to the next higher body~~).~~)

3. *Denying the application without prejudice*. This option may, in some situations, require at least one member of the body to switch their vote, in order to vote to deny for procedural reasons only. Such reasons should be stated in the motion, so the record is clear. It allows the applicant to either: a) appeal to the next higher body; or b) resubmit the same project or a modified project reflecting Committee or City input, without paying fees, waiting a minimum number of months, etc. (such a delay could be for any number of possible reasons, including awaiting turnover on the Committee). This option is in addition to the provisions exclusively for the Planning Commission detailed in PGMC ~~Section~~ §§23.70.080~~.~~

See Council Policy 000-9 Council Guidelines for details concerning the procedure for hearings.

Appeals and Call-Ups

The decisions of certain Committees may be appealed or called up as set forth in PGMC ~~Chapter~~ §§23.74 and Table 23.70.012-1. For example, decisions of the Site Plan Review Committee and the Architectural Review Board may be appealed to the Planning Commission. Decisions of the Architectural Review Board and the Planning Commission may be appealed to Council.

Similarly, the Council may call up for review any decision of the Planning Commission or any other review authority and make its own de novo decision on the action or matter. The Architectural Review Board and Planning Commission also have the authority to call up certain actions of review bodies over

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which they have appeal authority. Call-ups require a vote or three members of the body. ~~See Table 23.70.012-1 for more details as to the review authorities.~~

See Council Policy 000-9 Council Guidelines for details concerning the procedure for appeals.

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8. Compliance with Federal, State and Municipal Laws

Committee members are representatives of the City and have a duty to represent the City to the best of their ability, and to take those actions that the member believes are for the benefit of the City as a whole.

Members are expected to comply with all applicable federal, state and municipal laws as applied to their Committee responsibilities.

Committee members have the following ethical duties.

- Duty of Loyalty:
  Committee members have an absolute obligation to put the public's interest before their own direct or indirect personal interests. Members breach this obligation when they benefit at the public expense. Prohibited benefits can be financial (such as participating in decisions that favorably impact a member's business, property, or investments), career-related (such as using public office and/or public resources to obtain future employment or political position), or personal such as benefits to family members or close associates. Conflict of interest requires recusal.

- Duty of Due Diligence
  The duty of care requires that the Committee member competently and faithfully execute the duties of the office. Examples of breach of this duty include failure to attend meetings, failure to investigate, failure to engage in the deliberative process, and failure to vote.

- Duty to Avoid Bias
  Committee members have a duty to represent all of their constituents fairly. This means that they must overcome any inherent bias that they possess.

~~Each member shall complete the required AB 1234 ethics training and sexual harassment prevention training at least biannually and notify the City Clerk upon completion.~~

Each member shall file ~~with the City Clerk~~ on a timely basis all appropriate Fair Political Practices Commission (FPPC Form 700) reports~~.~~ which can be obtained online or through the City Clerk. The City's Conflict of Interest Code can be found at PGMC ~~Chapter~~ §2.40.

~~Committee members are also expected to participate in additional trainings offered by the City in the Brown Act, Attorney-client Privilege, Parliamentary Procedure, Ethics Laws, CEQA, and the Public Records Act. The City Attorney or City Clerk can provide additional information on these topics.~~
Each member shall complete required AB 1234 ethics training in a reasonable time upon appointment and repeat this training at least biannually. The City Clerk should be notified upon completion. See Appendix D – Training for more information.

Each member shall also complete sexual harassment prevention training in a reasonable time upon appointment. The state mandate for local agency official sexual harassment prevention training is commonly referred to as "AB 1661" training. A "local agency official" must receive at least two hours of sexual harassment prevention training within the first six months of taking office, and every two years

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thereafter, if the City provides any type of compensation, salary, or stipend to a local agency official of the City. (Cal.Gov.Code § 53237.1.) "Local agency official" means any member of a local agency (which includes a City) legislative body and any elected local agency official. (Cal.Gov.Code § 53237).

9. Reference Materials

Committees perform best when ~~Committee~~ members are knowledgeable in their area of responsibility. Thus, members are encouraged to become familiar with pertinent materials, which may be found on the Committees' webpage and departmental webpages.

~~Specific examples are listed~~Examples below.

- ~~Planning Commission – General Plan, PGMC, Local Coastal Plan, Housing Element~~
- ~~Library Board – City Council Policy 200-6 'Library Policies'~~
- ~~Museum Board – Pacific Grove Museum of Natural History Operating and Lease Agreement, https://www.pointpinoslighthouse.org/~~
- ~~Recreation Board – City Council Policy 900-1 'Special Events', City Council Policy 200-3 'Municipal Tennis Program', City Council Policy 100-8 'Municipal Softball Park Rules, Regulations & Improvements'~~
- Architectural Review Board – General Plan, PGMC Titles 12, 23, 24, Architectural Review Guidelines for Single-Family Residences
- Beautification and Natural Resources Commission – Urban Forestry Standards (2012), Landscape Guidelines and Plant Palette (2016), Urban Greening Plan (2016), City Council Policy 900-3 'Acceptance of Art Donations'
- ~~Golf Links Advisory~~Economic Development Commission ~~– Pacific Grove Golf Links Lease~~ - https://pickpg.org/
- Historic Resources Committee – General Plan, PGMC ~~Chapters~~ §23.70.070 and 23.76, City of Pacific Grove Historic Context Statement, The Secretary of the Interior's Standards for the Treatment of Historic Properties, Historic Resources Inventory. Library Board - City Council Policy 200-6 'Library Policies'
- Museum Board – Pacific Grove Museum of Natural History Operating and Lease Agreement, https://www.pointpinoslighthouse.org/
- Planning Commission – General Plan, PGMC, Local Coastal Plan, Housing Element
- Recreation Board – City Council Policy 900-1 'Special Events', City Council Policy 200-3 'Municipal Tennis Program', City Council Policy 100-8 'Municipal Softball Park Rules, Regulations & Improvements'

Appendix A – Teleconference Attendance

If and when a Committee member wishes to attend a meeting by teleconference, then the Committee member should contact, as soon as possible, the City Clerk, Staff Liaison or Council Liaison who can consult with City Attorney if necessary. The rules for teleconference attendance at a Committee meeting by a member of the Committee are set forth in Government Code Section 54953 which specifies three types of teleconference attendance.

1. Traditional Teleconference - Government Code Section 54953 (b)

Here are the rules which apply to traditional teleconferencing:

(1) All votes taken during a teleconferenced meeting shall be by rollcall.

(2) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(3) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(4) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to § 54954.3.

(5) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations.

(6) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding,

(7) Each teleconference location shall be accessible to the public.

(8) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction

2. Teleconference Attendance During a Proclaimed State of Emergency - Government Code Section 54953 (e)

See Government Code Section 54953 (e) which describes the rules that apply to teleconference during a proclaimed state of emergency. This is the type of teleconferencing that was utilized during the COVID proclaimed state of emergency.

Some of the key points to note for teleconference attendance at a meeting during a proclaimed state of emergency include:

(1) There must be a proclaimed state of emergency

(2) Notice must be given to the public how to offer public comment remotely in real time

(3) If a disruption of the call-in or internet connection, then no further action may be taken on items on the agenda

(4) If a timed public comment period, then public comment must remain open until the timed public comment period has elapsed.

(5) Every 45 days after teleconferencing for the first time, the legislative body must take a vote to allow for continued use of this teleconferencing method.

(6) The legislative body is not required to provide a physical location from which the public may attend or comment.

3. Teleconference Attendance Authorized by AB 2449 – Government Code Section 54953 (f)

Teleconferencing with Section 54953 (f) is permitted when there are "emergency circumstances" or "just cause" which are defined as follows:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

Some of the key points for teleconference attendance based on AB 2449 include the following:

(1) At least a quorum of the members of the legislative body must participate in person from a singular physical location clearly identified on the agenda which location shall be open to the public

(2) The teleconference location where the member is present does not need to be available for attendance by the public.

(3) The legislative body must give notice of the means by which members of the public may access the meeting and offer public comment including comment remotely in real time.

(4) If a disruption of the call-in or internet connection, then no further action may be taken on items on the agenda

(5) "Just Cause": The member must notify the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(6) "Emergency Circumstances": The member must request the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

Note: The procedure for the legislative body to take action to approve (or deny) the request would be a motion at the beginning of the by a Committee member to approve (or deny) the request by the member to attend the meeting by teleconference, followed by a second and a vote by the Committee members. If the Motion is denied, the Committee member can still attend the meeting, but only as an observer and should not speak during the meeting.

(7) A member shall make a request to participate remotely at a meeting as soon as possible.

(8) The member shall make a separate request for each meeting in which they seek to participate remotely.

(9) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(10) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(11) There is a limitation on teleconferencing with AB 2449 in that such attendance may be no more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

Appendix B – Motions

The Chair usually initiates a motion by:

1. Inviting a member to make a motion: ''A motion at this time would be in order;"
2. Suggesting a motion: ''A motion would be in order that we approve and forward to the Council the annual report, as drafted;" or
3. Making the motion.

Once recognized, a member makes a motion by preceding the member's desired approach with the words: "I move ...". A typical motion might be: "I move that we accept the staff recommendation that..."

Often, a member will prefer a variant of the motion on the floor. They can ask the maker and seconder if they are willing to reword their motion. If they agree, the motion is so amended.

If one or both is not amenable to the suggested rewording, a member may propose an amendment or wait until after the vote on the original motion and propose a different motion. Up to three principle motions—the basic motion and two amendments— may be considered at one time – in reverse order:

1. **The basic motion.** The basic motion proposes a decision for consideration. A basic motion might be: "I move that we create a two-member Committee to study this matter in depth."
2. **The motion to amend.** A motion to amend proposes to change the basic motion under discussion. A motion to amend might be: "I move that the Committee focus on just two primary options."
3. **The motion to amend an amendment.** A motion to amend an amendment proposes a further change to the motions under discussion. A motion to amend the amendment might be: "I move that one of the options for the Committee to analyze be to prohibit murals on wood-sided buildings."

No further motion to address the substance of the matter is in order. (Incidental or privileges motions, which deal with procedural issues, may still be raised.) Each motion is subject to deliberation.
A motion to amend or to amend an amendment is at times labeled a "substitute motion." Whether considered as an amendment or a substitute, such motions are handled the same.

When Multiple Motions Are before the Committee
When two or three substantive motions are on the floor (with each having been seconded) at the same time, the *first* vote resolves the *last* motion made. If the amendments deal with alternative approaches to the same question, and a majority votes to approve the third motion, the remaining motions are then moot, and action on the agenda item would be complete. If the third motion *fails,* the Chair then proceeds to consider the second motion.

If an amendment deals with a different aspect of the same matter, then the motions would be considered in turn, in reverse order (second amendment, first amendment, and original motion).

In action minutes, only the final motion or action is recorded.

Limits to Deliberation
While the basic rule of motions is that they are subject to discussion and debate, some exceptions limit debate on a motion. Examples of motions that are *not* debatable include:

- **A motion to adjourn.** This motion, if passed by simple majority, requires the body to immediately adjourn to its next regularly scheduled meeting.
- **A motion to recess.** This motion, if passed by simple majority, requires the body to immediately take a recess for the time set by the Chair.
- **A motion to fix the time to adjourn.** This motion, if passed by simple majority, requires the body to adjourn the meeting at the specific time set in the motion.
- **A motion to table.** This motion, if passed by simple majority, places the matter on "hold" and ends discussion of the item. The motion may state a specific time when the item shall return on the agenda, but it need not.

When these, or other incidental or privileged motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion.

Most motions require a simple majority; but a few exceptions apply when the body limits a minority from acting on or discussing an item. These motions require a two thirds majority to pass:

- **End debate.** Members can end debate by "moving the previous question."
- **Motion to close nominations.** A motion to close nominations limits the right of a minority to nominate officers.
- **Motion to suspend rules.** This motion is debatable but requires a two-thirds vote to pass.

Division of a Motion
If a motion contains two or more divisible propositions, each of which is capable of standing as a complete proposition, the Chair may, and upon request of a member shall, divide the same. The Chair's determination shall be appealable by any member. For example, a motion to approve a project and waive applicant fees is divisible into two separate motions.

Withdrawal of a Motion
A motion may be withdrawn by the maker at any time prior to the vote, without the consent of the member seconding it. Any other member may choose to make the same motion.

Motion to Continue
The Committee may vote to continue items to a subsequent meeting for the following reasons:

- The Committee requires additional information during the meeting;
- New information or issues come to light during the meeting that need further study; or
- Other reasons the Committee deems "appropriate and substantial."

A motion to continue requires a majority vote for approval. This is also known as a motion to postpone and is amendable.

The Committee may continue a submitted application when:

- The applicant cannot appear at the meeting and has requested that the item be continued;
- The application is revised by the applicant during the meeting; or
- The Commission requests that the application be revised.

- Continuances ordinarily are undertaken with concurrence of the applicant, but concurrence is not required.

Motion to Reconsider
A motion to reconsider a vote is a motion limited in both the time it can be made and the person who can make it. A motion to reconsider an action taken by the Committee may be made on the same day as the meeting in which the motion to be reconsidered was decided, or the next business day if the session is more than one day. The motion must be made by a member who voted on the prevailing side but may be seconded by any member. For example, a person voting in the majority of a 4-3 vote for a motion to approve or deny an item (prevailing side) may make a motion to reconsider. If there is tie vote (3-3 and 1 absence), or if the motion fails (3 in favor, 2 against, 2 absent), then a motion to reconsider is not available as it only applies to actions taken by the Committee.

A motion to reconsider requires a second, is debatable, and is not amendable. If the motion to reconsider fails, it may not itself be reconsidered. Reconsideration may not be moved more than once on the same motion. If the motion to reconsider passes, the original matter is back before the Committee. The matter may be discussed, debated, and amended as if it were on the floor for the first time.

No member is prevented from making a motion to rescind such *action* at a subsequent meeting of the Committee, provided the agenda for that meeting includes the proposed action to rescind. ~~More often than not~~Often such motions are used to make policy changes. The motion must be seconded, is debatable, and requires a majority vote.

Appendix ~~B~~C– Voting

Majority Voting Requirement
The Code requires the affirmative vote of a majority of the total members of the Committee (excluding any non-voting members), on any item, for any action by the Committee, unless otherwise provided.[1] (See PGMC §§ 3.02.070 and 3.04.080). For example, the majority of a fully- constituted Committee is 4. In a 7-member body, a vote of 4-3 passes the motion. If there are 2 vacancies, and the total members are 5, then a majority is 3 members. Therefore, unless a super-majority is required, a simple majority vote determines whether each motion passes or is defeated. Proxy votes for absent members are not allowed.

Tie Votes
A tie vote means the motion fails. If one member is absent and the vote is 3-3, the motion fails. Tie votes may be reconsidered on motion by any member of the Committee voting aye or nay during the original vote. Before a motion is made on the next item on the agenda, any member of the Committee may make a motion to continue the matter to another date. Any continuance for this purpose suspends the running of any time in which action of the Committee is required by law.

Disqualification from Voting; Recusal
Commission members shall disqualify themselves from deliberation and voting on any matter before the Commission, prior to the Commission's consideration of the matter, when there is a conflict of interest. A member may also choose not to participate due to personal bias or the appearance of impropriety. Upon the Chair's announcement of an item, members must state that they are disqualifying themselves due to a conflict of interest, state the nature of the conflict (e.g., financial), and leave the room until the completion of that item.

If the number of members recusing themselves due to a conflict of interest disrupts the quorum, the "rule of necessity" allows the random selection of the fewest number of conflicted members to vote as is needed to enable a quorum to participate and reach a decision. For example, if 4 out of 7 Committee members are conflicted, the Committee may select one of the conflicted members to vote so as to have a quorum.

Abstentions
Abstentions are discouraged. Members should abstain from voting only due to lack of participation in an evidentiary proceeding before the Committee and their inability to review the record. In that instance, members will be recorded as absent for that item.

A member present for consideration of a motion who opposes the motion must vote against it. In the event of an abstention the abstainer in effect "consents" that a majority of the quorum of the members present may act for them. Thus, a member who abstains (for any reason other than lack of opportunity to review the record) is deemed to acquiesce in the action taken by the majority of members who voted. For example, on a 7-member Committee, if the vote is 3 in favor, 2 against, with 1 absence and 1 abstention, the motion is approved, since a quorum was present, and a majority of the total

[1] In certain circumstances, supermajority votes (majority + 1) are required: certain actions of Council, e.g., an urgency ordinance; zoning amendments by the Planning Commission.

membership is judged to have voted in favor. A 3-3 vote with one abstention means the motion fails as there is no majority.

Members who are silent during a voice vote shall have their vote recorded as an affirmative vote, except when individual members have stated in advance that they will not be voting.

Voting Methods. When a motion is not likely to be opposed, the Chair says, "If there is no objection, …". The members show their agreement, called "general consent," by their silence. If a member says, "I object," the item is put to a vote. Most votes shall be by voice vote. The Chair asks those in favor to say, "Aye," and those opposed to say "No." If the outcome is unclear by voice, a hand vote may be taken. Any member may move for an exact count. In some cases, a roll call vote is required, with each member answering "yes" or "no" as his or her name is called. The order of voting for roll call votes shall be random.

Recording of Votes. The results of the vote shall be announced immediately following the action as shown in the following example: "The motion passed 5-2, Brown and Smith voting no." The minutes of the Committee's proceedings shall show the vote of each member, including whether they were absent or failed to vote on a matter considered. For example,
Ayes:
Noes:
Absent:
Abstain:

Members may change their votes up to the time the vote is finally announced. After that, members may only change with permission of the Committee, which may be given by general consent; that is, by no member's objecting when the Chair inquires if ~~any one~~anyone objects. If an objection is made, a motion may be made to grant the permission, which is debatable.

Appendix D – Training

Mandatory Ethics Training AB 1234

AB 1234, passed in 2014, codified at Government Code § 53235, requires many California state and local officials and employees to complete mandatory ethics training. It states:

(a) (1) If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.

(2) All local agency officials who are members of the governing board of a school district, a county board of education, or the governing body of a charter school shall receive training in ethics pursuant to this article, whether or not any member receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

(b) Each local agency official shall receive at least two hours of training in general ethics principles and ethics laws relevant to the official's public service every two years.

(c) If an entity develops curricula to satisfy the requirements of this §, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of the proposed course content. When reviewing any proposed course content, the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.

(d) A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this §. These courses may be taken at home, in-person, or online.

(e) A provider of training courses to meet the requirements of this article shall provide participants with proof of participation to meet the requirements of § 53235.2.

(f) A local agency shall provide information on training available to meet the requirements of this article to its local officials at least once annually.

AB 1234 applies to "members of a legislative body," which is defined as in the Brown Act, Government Code § 54952. It thus applies to members appointed to city boards and commissions.

AB 1234 does not specify a time period within which an official must take and complete the training. Where, as here, a statute does not impose a specific time requirement, the statute is deemed to require compliance within a "reasonable" time.

BOARDS, COMMITTEES AND COMMISSIONS HANDBOOK

CITY OF PACIFIC GROVE

JANUARY 17, 2024

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1. Introduction

The City of Pacific Grove's (City) boards, committees and commissions (Committees) serve vital roles in support of a well-functioning city government alongside City Council, Management and Staff. The better committees function, the better city government can serve the needs of its residents and businesses. It is towards this end that this handbook was prepared.

The scope of Committee responsibilities, procedures, and applicable laws is wide. It would be impractical to include all relevant material in one document. Therefore, this document is intended to provide: (1) a brief overview of key subject areas and (2) reference more in-depth materials on specific subjects.

2. Committees

Committees formed through the City's Charter are:

- Planning Commission
- Library Board
- Museum Board
- Recreation Board

These are referred to as Charter Committees. A vote of the people is required to change the City Charter.

Committees established by the Pacific Grove Municipal Code (PGMC) are:

- Architectural Review Board
- Beautification and Natural Resources Commission
- Economic Development Commission
- Historic Resources Committee
- Task Force on Diversity, Equity, and Inclusion
- Traffic Safety Commission

A City Council ordinance is required to change the PGMC.

Many other City Committees, and Improvement Districts, exist but are not listed above. While basic Committee responsibilities and regulations apply, their nature differs in one or more significant ways. To simplify the handbook, rules and processes specific to those Committees are not set forth, including:

- Ad hoc, standing, City Council and City Manager subcommittees. An example is the Site Review Committee. See the PGMC and City Council Policy 000-5 governing such Committees.

- The Administrative Enforcement Hearing Officer Panel established by PGMC § 3.30. Its procedures are further described in PGMC § 1.19, Municipal Code and Ordinance Enforcement.

- The Downtown Pacific Grove Business Improvement District (BID) Advisory Board established by City Council Resolution 07-042, September 19, 2007 (See link to this resolution on the BID webpage). Rules governing this advisory board can also be found in PGMC § 6.50.

- The Pacific Grove Hospitality Improvement District (HID) Advisory Board established by City Council Resolution 07-044, November 7, 2007 (See link to this resolution on the HID webpage). The HID is described in PGMC § 6.54. Additional HID documentation can be obtained on the City's website. (See City Council resolutions 18-015 and 18-047.).

3. Committee Membership

Committee Member Selection Process

Committee members are appointed by the Mayor in January of each year, subject to confirmation by City Council at a public meeting (Charter Article 26; Policy 000-5). Vacancies created mid-term are filled in the same manner.

Committee Member Qualifications

Residency requirements for appointed committee members are described in Charter Article 26 and Council Policy 000-5. However, residency exceptions are made for the Architectural Review Board, Economic Development Commission, and Task Force on Diversity, Equity, and Inclusion.

Members shall not hold any paid office or employment in the City government or be a member of any other Charter Committee (Charter Article 26).

Additional member qualifications are set forth in the PGMC, including:

- Architectural Review Board - PGMC § 23.70
- Beautification and Natural Resources Commission - PGMC § 3.24
- Economic Development Commission - PGMC § 3.40
- Historic Resources Committee - PGMC § 23.76
- Traffic Safety Commission - PGMC § 16.08
- Task Force on Diversity, Equity, and Inclusion - PGMC § 3.46

How to Apply

Application forms for Committee appointments are available from the City Clerk and can be obtained from the City website. Applicants contact information is not made public, but all other information including qualifications is disclosable.

Upon Joining the Committee

New Committee members, before assuming their responsibilities, must take an oath of office as described in the California State Constitution Article XX, Sec. 3. (See also Govt. Code § 1360; Charter Article 18). Oaths are typically administered by the City Clerk but also may be administered by the Mayor and City Manager.

Select Committee members, designated in the City's Conflict of Interest Code, are required to submit a Statement of Economic Interests (FPPC Form 700) to the City Clerk within 30 days after assuming office, annually and upon leaving office. (See PGMC § 2.40)

New Committee members must participate in Government Code § 53235 (AB 1234) ethics training, within 12 months of appointment and every two years thereafter. New members must complete sexual harassment prevention training (AB 1825) within six months of appointment, and every two years thereafter. This training is available from many sources, and compliance sessions are also provided by the City Attorney.

Terms of Office

Committee terms begin February 1st except when filling a seat vacated mid-term. Terms end January 31 of the designated year.

Charter Committee appointments are four-year terms unless earlier removal is warranted or there is a mid-term vacancy. A limit of three consecutive full terms shall apply (Charter Article 26). Member terms are staggered if practical (PGMC § 3.02.050).

For all other Committees, terms are limited to two years, with staggered terms if practical. Committee members may not be reappointed to a new term if reappointment would result in continuous service for more than eight consecutive years (Council Policy 000-5).

Removal from Office

Further, all Committee members serve at the pleasure of the Council. The Council, by an affirmative vote of four of its members, may remove any Committee member at any time during the member's term of office (Charter Article 26). Possible reasons for removal include but are not limited to: excessive absences, verbally or physically abusive behavior, violations of ethics, violations of Council policies, conflicts of interest, among other causes.

Leaving Office

Committee members may resign at any time. Sixty (60) days' notice is suggested to enable a replacement to be identified and appointed without causing a gap in Committee membership. Each Committee member must file an FPPC Form 700 Leaving Office Statement within 30 days of leaving office.

4. Role of Committees

All Committees have an advisory role to City Council. This advisory role is constrained to the Committee's area of responsibility, as set forth in the PGMC.

A few Committees have areas in which they hold delegated decision-making responsibility by the Municipal Code or by Council. Thus, the Planning Commission grants use permits and variances; similarly, a member of the Administrative Hearing Panel hears appeals of certain code enforcement actions.

The primary function of City Committees, however, is to advise the City Council. Both informal and formal means of communication may be used to fulfill this advisory role. Committee recommendations related to City actions may be presented at City Council meetings as individual agenda items (Council Policies 000-5 & 000-6) or action minutes. Recommendations to City Council should always be formal, i.e. by a motion and vote. While recommendations may not always be acted upon, Committees have the duty to advise on policies or issues as the law directs.

Committee responsibilities are more specifically set forth in the Charter and the PGMC:

- Planning Commission - Charter Article 26.a. & PGMC § 23.70.080
- Library Board - Charter Article 26.b. & City Council minute action August 17, 2011 (See link to minute action on Library Board webpage)
- Museum Board - Charter Article 26.c., PGMC § 3.44, Resolutions 10-071 and 11-072
- Recreation Board - Charter Article 26.d.
- Architectural Review Board - PGMC § 23.70.060
- Beautification and Natural Resources Commission - PGMC § 3.24
- Economic Development Commission - PGMC § 3.40
- Historic Resources Committee - PGMC § 23.70.070
- Task Force on Diversity, Equity, and Inclusion – PGMC § 3.46
- Traffic Safety Commission – PGMC § 16.08.040
- Administrative Hearing Panel – PGMC § 3.30

Most Committees function in policy mode, which is a quasi-legislative responsibility. This includes, for example, recommending changes to the PGMC if within the Committee's jurisdiction.

Committees may also function in a hearing mode, from time to time, which is a quasi-judicial responsibility. This includes granting permits and hearing appeals, pursuant to the PGMC. The latter responsibility requires decisions supported by evidence presented at the hearing, which has been entered into the formal record. Those Committees are:

- Planning Commission
- Architectural Review Board
- Historical Resources Committee
- Beautification and Natural Resources Commission
- Traffic Safety Commission
- Administrative Hearing Panel

Committees may also perform additional duties as assigned by Council. Most Committees are distinct and without significant overlap. However, responsibilities of some Committees intersect. In such cases, it benefits the Committees to understand the Charter and philosophy of the others to best serve the public on issues of mutual concern.

Council policies that also apply to committees are:

- Policy 000-5 Committee Classification; Board, Commission, and Committee Appointments and Procedures
- Policy 000-9 Council Guidelines
- Policy 000-17 Order of Agenda for Council Meetings
- Policy 000-25 Code of Conduct

5. Individual Roles

Members

The primary role of all Committee members is to attend meetings and be prepared to discuss and vote on agenda items. If unable to attend a committee meeting, a member should notify the Committee Chair as soon as practical.

Officer Elections

At the beginning of the first meeting following February 1 (or at any time the Chairperson is vacant) the Chairperson must be elected by the committee., Charter committees must elect a Chairperson, or Chair, to serve a one-year term (PGMC § 3.02.050). This is also the practice of other Committees.

At this first meeting following February 1 any committee member may call the meeting to order and ask for nominations for the office of Chair. Committee members may nominate themselves or any other member; no second is required. Once nominations are complete, a vote on the nominees in the order of nomination is taken.

Each voting member of the Committee shall have one vote. The nominee receiving votes from a majority of the members in attendance shall be declared the winner. If no member receives a majority, the process shall be repeated, except in the event of a tie between the top two vote-getters, in which case a run-off shall be held.

The member nominated as Chair assumes the office of Chair immediately.

Using the same procedure, the Chair conducts nominations and voting for a Vice Chair. If the Committee decides to appoint a Secretary, then the Chair shall conduct nominations and voting for a Secretary. The Museum Board must elect a secretary, however, other committees may choose not to do so.

Chairperson

The Chair has responsibility for:

- Presiding over meetings, i.e. meeting protocol and recognizing when others may speak
- Setting the agenda
- Calling special meetings (if staff resources are available)
- Alerting council and staff liaisons of absences
- Signing Committee documents

Appearing before City Council on behalf of the Committee
The Chair may only speak on behalf of the committee on a topic that was previously heard by the committee where an action was taken by a vote.

Vice-Chair

The Vice-Chair assumes the Chair's duties in their absence. The Vice-Chair shall succeed the Chair if the Chair vacates office before the term is completed and shall serve the unexpired term. A new Vice-Chair shall be elected at the next regular meeting or as soon thereafter as practical.

Secretary

If the Secretary is appointed by the Committee, the Secretary is responsible for meeting minutes to be included in the agenda packet at the next meeting.

Staff liaison assumes responsibility for minutes if the Secretary is unable to do so, or if no Secretary is appointed.

Action minutes, which do not include commentary, are recommended.

Subcommittees

Subcommittees may be appointed by Committee vote to accomplish a specific goal within a given timeframe. Subcommittee membership must be less than the quorum of the Committee. When appropriate, staff and public may assist subcommittees but are not members of subcommittees.

Staff Liaisons

Staff is assigned to Committees by the Department Head or City Manager to facilitate the Committee in accomplishing its objectives. Such support does not always translate into attendance at the meetings; written reports or interaction with the Chair prior to the meeting may suffice.

Staff is responsible for agenda packet preparation and meeting noticing, i.e. posting agendas. Staff may assist the Chair with meeting protocol as needed. If requested by the Chair, staff may prepare committee minutes.

Staff is responsible for posting meeting videos and maintaining the Committee's webpage and ensuring it is up to date.

Staff is responsible for providing access to the Council Chambers and the capability to conduct meetings with online (remote) public participation, i.e. hybrid meetings.

Staff may inform the Committee of relevant City activities, identify issues within the Committee's purview, provide advice and assist in communications with the Department Head, City Manager, or City Council.

Staff may consult with city management regarding work suggested by the committee. Committees do not have authority to provide staff work direction.

City Attorney

The City Attorney's office is available to provide legal counsel to Committees when present at Committee meetings or by email to Brian Pierik at bpierik@bwslaw.com .

Council Liaisons

A Council liaison to a Committee is appointed by the Mayor subject to confirmation by City Council.

The Council liaison may facilitate the Committee in accomplishing it's objectives through the following:

- provide announcements of City actions and activities
- answer questions
- assist the Chair with process and city regulations.
- assist Chair to communicate committee actions and recommendations to City Council.
- Provide Chair with counsel as needed.

The Council liaison must not:

- participate in Committee discussions
- influence Committee decisions
- except in unusual circumstances interrupt the meeting

Note that Council liaisons, as Council Members, may later be required to review and act on Committee decisions or recommendations.

6. Committee Meetings

Meeting Types

All Committee meetings are governed by the Ralph M. Brown Act (Brown Act), California Government Code §54950 *et seq.*

Regular Meetings
Regular meetings shall be held at a regular date, time and place, which may be specified in the PGMC. Regular meetings may be rescheduled with posting of a cancellation notice and notification of a Special Meeting.

Meetings may be cancelled by either the Chair or Staff liaison. Reason(s) for cancellation shall be promptly sent to Council liaison, Mayor and City Manager.

Lack of a quorum at a meeting (majority of appointed members) requires meeting cancellation.

Special Meetings
Special meetings are those meetings held outside the regular meeting date and time. Special meetings may be held at any time upon the call of the Chair, a majority of Committee members, or City Council, followed by noticing as required by law. Special meetings may be called to meet deadlines, conduct study sessions or workshops, or when quorum was not met for a regular meeting.

Serial Meetings – Prohibited
Serial meetings occur when Committee members meet or discuss matters sequentially in pairs or small groups. The combined effect of sequential, or serial, meetings may inappropriately be a meeting of a quorum of Committee members. For example, if a member of a 7-member Committee speaks to more than two other members, it may constitute a serial meeting. Inadvertent use of email, careless use of the "reply all" function, indiscriminate forwarding of messages, forwarding messages without deleting early text histories, continuing discussion from a prior meeting via email are all poor practices that can result in serial meetings. In addition, engaging in a discussion of City business on social media can lead to a serial meeting. Serial meetings are a violation of the Brown Act. Further, Committee members are subject to FPPC investigation in the event complaints are filed.

One-On-One Meetings; Ex Parte Communications
Committee members may meet with constituents individually, in small groups or other informal settings. When the Committee acts on an issue in a quasi-judicial capacity, the member shall report on any such ex parte communications at the beginning of deliberations related to the subject of the decision. Information learned in these separate meetings must be divulged into the hearing record or must be excluded from the basis for considering any quasi-judicial decision. See PGMC § 2.04.090.

Noticing and Venue

Noticing
All Committee meetings shall comply with the Brown Act; Committees shall also follow noticing protocol set for City Council in PGMC §§2.04 and Policy 000-9.

Agenda packets for regular and special meetings shall be provided:

- at the Library;
- the outdoor display cabinet at City Hall on Laurel Avenue (agenda only);
- on the City's website

In addition, if the meeting is held somewhere other than at City Hall, the agenda shall be posted at that facility, in a location accessible by the public.

The agenda packet shall be posted a minimum of 72 hours prior to regularly scheduled meetings. Special meeting agendas shall be posted a minimum of 24 hours prior to the meeting. Meeting cancellations or meeting continuances shall be posted. Agenda materials shall be available to the public in attendance at meetings.

Venue

Committees meet in Council Chambers. This meeting venue is open to the public and meets Americans with Disabilities Act standards.

Attendance

Members of a Committee shall attend in person unless arrangements are made in advance for attendance by teleconference. The rules for meeting attendance by teleconference are set forth in Appendix A and Government Code Section 54953 which is in effect until January 1, 2026 at which time the Committees will be notified of any changes in procedures for attendance by teleconference.

Note: If a Committee member wishes to attend a meeting by teleconference, then the member should promptly contact the City Clerk who will coordinate with the City Attorney to determine if teleconference attendance is permissible and, if so, the procedure to arrange for teleconference attendance.

Quorum

There is no meeting of the Committee unless a quorum of the Committee is present. If less than a quorum attends, any discussion by that group is characterized as "A Committee of the Whole", but no record is made of this occurrence, and no decisions can be made.

A quorum consists of a majority of the Committee's members. For example, on a 6 or 7-member Committee, the quorum is 4. A vacancy reduces the number of voting member positions (See PGMC §§ 3.02.070, 3.04.080). For example, if a 7-member Committee has 2 vacancies, it has 5 voting member positions, and the quorum is 3.

Agenda

Committee meeting agenda format is the same as for Council agendas. Agenda report examples may be found in City Council Meeting agenda packets. Minutes should use the same format as the meeting agenda.

Establishing the agenda is the Chair's responsibility with input from staff and other Committee members. When an agenda issue arises the Council liaison, Staff liaison, and Chair should meet to resolve it.

A Committee member may request an item be placed on a future Committee agenda and that request must be made only at a Committee meeting and agreed upon by at least two other Committee members at that Committee meeting. The discussion at the Committee meeting will be limited to whether the item should be added to a future Committee agenda and may not include a discussion of the merits of the proposed agenda item. If the item is added to a future Committee agenda, then the Committee member who requested the item shall prepare the Agenda Report with the assistance of the City Manager. The City Council may add items to a future Committee meeting agenda for consideration. The recommended order of agenda is set forth in Council Policy 000-17 Order of Agenda for Council Meetings, making exceptions where appropriate for Committees.

The agenda must include information adequate to advise the public of the business to be considered. Agenda reports should include:

1. Subject;
2. Author;
3. CEQA analysis;
4. Recommended action;
5. Written discussion of the topic including background information, justification of the recommended action and financial impact.

Although the Brown Act permits agendas without a written discussion, i.e. stating 'oral report', this is a poor practice and is discouraged.

Unspecified topics such as "miscellaneous" or "new business" are not permissible. New topics raised during public comment, or by any Committee member announcement shall not be discussed at that meeting but may be placed on a future agenda.

Parliamentary Rules

Committees shall be guided by Robert's Rules of Order.

- *Getting the floor.* Every member desiring to speak shall address the Chair and, only upon recognition by the Chair, confine contributions to the matter at hand, avoiding all indecorous language and personal attacks.

In general, a member may not interrupt the speaker except for the following reasons:

- *Privilege.* The proper interruption would be: "Point of privilege." The Chair would then ask the interrupter to, "State your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort or amplification of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

- *Order.* The proper interruption would be: "Point of order." Again, the Chair would ask the interrupter to, "State your point." Appropriate points of order relate to anything that would not

be considered appropriate conduct of the meeting; for example, if the Chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

- *Appeal.* If the Chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the Chair, "I appeal the ruling of the Chair." If the motion is seconded and, after debate, if it passes by a simple majority vote, then the ruling of the Chair is deemed reversed.

- *Withdraw a motion.* During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn; and any other member may make the motion, once recognized.

Rules of Testimony

No person or member shall address the Committee without permission of the Chair. (See Council Policy 000-9.) All comments shall be addressed to the Committee as a whole and shall not be addressed to individual members of the Committee, members of the public or staff.

It is helpful (though not required) for speakers to state their name in order that the secretary may identify them in the minutes of the meeting. If numerous members of the public wish to speak, and it is known that all represent the same opinion, a spokesperson may be allowed to speak for the entire group by the Chair who could provide the spokesperson ten minutes. The Chair may limit public speakers to three minutes or less depending on the number of speakers and length of agenda.

Consideration and Action on an Agenda Item

The agenda constitutes the road map for the meeting. Most agenda items can be handled with the following 4-step process.

1. Presenting Item
   a. Opening Item – The Chair should announce the agenda item number and subject. The Chair should then announce any special procedures to be followed (e.g., if the item is a quasi-public hearing). This is also when members would announce their conflict of interest, if any exists, recuse themselves, and leave the room.
   b. Hearing the Report – The Chair should invite the appropriate people, typically City staff, to report on the item. The Chair may provide an opportunity for committee members to ask any clarifying questions of the person providing the report. This is not preferred as questioning tends to segue into position statements before public input is taken, which is inconsistent with open meeting principles.

2. Asking for Public Input – The Chair opens the meeting to public input. The Chair may limit speakers time, as described above. A response to public comment, if appropriate, should not be provided until after public comments are finished.

3. Considering the Item—The Chair requests Committee deliberation. Member deliberation would include questions of the person(s) making the report or others with relevant knowledge,

alternatives to the recommendation, additional considerations not previously stated, additional relevant facts and opinions. Time committed to deliberation should be adequate to allow the sense of the Committee to emerge.

4. Deciding – The Committee decides by a motion and voting. (See Appendices B Motions and C Voting.) For all action items, the Chair should invite a motion from the members. No motion is made if the agenda item is "receive the report".

The Chair shall ask the staff liaison for a vote who then calls on each member and summarizes the result, e.g., the motion passes 4 – 2 – 1, with Committee members A and B dissenting, and C abstaining.

Once a vote is taken discussion of the item ends.

Meetings versus Hearings

A public meeting is generally defined as a meeting in which business is conducted by a public body. A public hearing is a special type of public meeting for the purpose of the governing body accepting public comment and testimony on local legislation or a quasi-judicial matter.

For public hearings, there are additional guidelines. (See Council Policy 000-9) After receiving the staff report, the Chair opens the public hearing and accepts testimony in the following order:

1. The applicant or proponent speaks.
2. Opponent speaks.
3. Rebuttal and surrebuttal may be allowed, at the sole discretion of the Committee.
4. Public comment is heard.

The Chair shall then close the public hearing.

The public comment portion of the public hearing may be reopened before voting on the item if a new issue is raised. It is not necessary to re-open a public hearing to ask questions of the project applicant. If the public hearing is reopened, all interested parties may be heard, but the Chair can limit the input to the new issues and can further limit the time per comment.

Courtesy and Decorum

Meetings should take place in an environment where members and the public can freely express their views, i.e. with politeness and respect. The Chair should encourage discussion that focuses on the item in question, not on personalities of members or the public or off topic. The Chair must protect the rights of public to speak at the appropriate time.

Pursuant to Government Code § 54954.3 I, the Chair shall not prohibit public criticism of the policies, procedures, programs, or services of the city, or of the acts or omissions of the committee.
A member's use of electronic communication devices during a meeting may lead to the public's perception that the member is not paying attention to or receiving private information. For these reasons a member's use of electronic communication devices (i.e., cell phones, tablets, laptop computers), other than for the purpose of (1) accessing agenda materials, (2) facilitating ADA access, (3) using teleconferencing software or (4) an emergency is prohibited.

Disruption of Meetings

1. Disruption by a Group of Persons

Pursuant to Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Chair may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. After the meeting room has been cleared, the Chair may readmit an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

2. Disruption by an Individual Person

Pursuant to Government Code § 54957.95, the Chair may cause the removal of any individual for disrupting the meeting subject to the following rules:

1) Prior to removing an individual, the Chair shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal.

(2) The Chair may then cause the removal of the individual if they do not promptly cease their disruptive behavior.

(3) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following: (A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to § 54954.3 or any other law. (B) Engaging in behavior that constitutes use of force or a true threat of force.

(4) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(5) If there has been a use of force or a true threat of force, there is no obligation for the Chair to provide a warning to the individual before causing the individual to be removed from the meeting.

Public Records

Materials provided to Committee members at a public meeting must be made available for inspection and reproduction by the public. Exemptions from disclosure apply, but are narrowly applied (attorney/client, drafts, pending litigation, personnel files).

Communications by Committee members through social media posts, emails and text messages may be subject to the City's Retention Schedule and are disclosable under the Public Records Act (Council Policy 000-9).

Committee meetings shall be recorded. Current practice is video recordings. The recording and minutes are retained in accord with the City Records Retention Schedule, Council Policy 000-19 and are available online.

Committee minutes format is the same as for the agenda, i.e., consistent with Council minutes format.

Minutes may be limited to a report of actions taken at the meeting. For example, such “action minutes” typically include findings or a reference to the findings for quasi-judicial actions, and any appropriate attachments, and shall include a record of the vote for all actions. The draft minutes of all meetings shall be included in the next agenda packet for acceptance by the Committee. Authorized minutes are signed by the Chair and shall be filed with the City Clerk for inclusion in the packet of the next City Council meeting.

Adjournment

The Chair adjourns the meeting after all agenda items are completed. No vote is taken. In the event there is insufficient time to hear all items the Committee may adjourn its meeting to a certain hour on another day. A specific date, time and place shall be set by the Committee, as part of the motion to adjourn.

7. Actions taken by Committees

Committees may perform an action in different ways. Most commonly, formal action is taken by establishing a quorum, consideration of a motion and voting. Most actions require a vote by a majority of the appointed members unless a super-majority vote is required.

Informal actions

Informal actions (i.e. no vote required) generally take the form of the Chair giving direction after input from other Committee members. Informal actions would include suggesting to or requesting information from staff. Another example is suggesting that a Committee member report on a future agenda topic.

Formal actions

All formal actions must be listed in the agenda and require a motion and a vote in the affirmative.

- Formal actions include approving the agenda
- Recommendations and requests to City Manager
- Recommendations and requests to City Council
- Creation of a Subcommittee
- Continuing an agenda item to a future date
- Permit approval
- Appeals

Motions

Motions are the vehicles for decision making, i.e. taking formal actions. As indicated above, a motion should be introduced on a matter after general information is shared, options have been identified, and members share their opinions and seek to persuade. The Chair shall ensure that all motions are clearly stated and commonly understood before allowing further deliberations and voting.

See Appendix–B - Motions.

Voting - See Appendix C

Deciding to Move on

Items may be continued by Committee vote to a subsequent time for the following types of reasons:

- The Committee requires additional information during the meeting.
- New information or issues come to light during the meeting that need further study.
- Other reasons deemed appropriate and substantial by the Committee.

In addition, a Committee hearing (e.g., ARB, HRC, BNRC, TSC, and Planning Commission) may continue an item when:

- The applicant cannot appear at the meeting and has requested that the item be continued.

- The application is revised by the applicant during the meeting.
- The Committee requests that the application be revised.

When Action Is Necessary

In certain circumstances—a permit application, for example— the lack of any action is not acceptable (e.g., an application must ultimately be approved or denied) due to deadlines imposed by the Permit Streamlining Act, the Federal Communications Commission or other laws. There are three primary options here:

1. *Continuing the item*. This is often undertaken if one or more members of the body are absent or if new information can be developed. Continuance can also provide the applicant with time to consider options, develop a project more likely to receive approval, etc. Continuance ordinarily is undertaken with concurrence of the applicant, but concurrence is not required.

2. *Technically denying the application*. This option is based on the philosophy that, for a project that has been proposed, approval requires a majority of members to vote in favor. Anything less than the required majority is thus considered a denial. One option under "technical denial" is to allow any applicant or other party to appeal the matter (assuming an appeal would otherwise have been available) on the grounds that the matter was "deemed denied." This option avoids the need for the body to take further action (e.g., if the body is unable to achieve a majority vote to forward the matter to the next higher body)

3. *Denying the application without prejudice*. This option may, in some situations, require at least one member of the body to switch their vote, in order to vote to deny for procedural reasons only. Such reasons should be stated in the motion, so the record is clear. It allows the applicant to either: a) appeal to the next higher body; or b) resubmit the same project or a modified project reflecting Committee or City input, without paying fees, waiting a minimum number of months, etc. (such a delay could be for any number of possible reasons, including awaiting turnover on the Committee). This option is in addition to the provisions exclusively for the Planning Commission detailed in PGMC §§23.70.080

See Council Policy 000-9 Council Guidelines for details concerning the procedure for hearings.

Appeals and Call-Ups

The decisions of certain Committees may be appealed or called up as set forth in PGMC §§23.74 and Table 23.70.012-1. For example, decisions of the Site Plan Review Committee and the Architectural Review Board may be appealed to the Planning Commission. Decisions of the Architectural Review Board and the Planning Commission may be appealed to Council.

Similarly, the Council may call up for review any decision of the Planning Commission or any other review authority and make its own de novo decision on the action or matter. The Architectural Review Board and Planning Commission also have the authority to call up certain actions of review bodies over which they have appeal authority. Call-ups require a vote or three members of the body.

See Council Policy 000-9 Council Guidelines for details concerning the procedure for appeals.

8. Compliance with Federal, State and Municipal Laws

Committee members are representatives of the City and have a duty to represent the City to the best of their ability, and to take those actions that the member believes are for the benefit of the City as a whole.

Members are expected to comply with all applicable federal, state and municipal laws as applied to their Committee responsibilities.

Committee members have the following ethical duties.

- Duty of Loyalty:
  Committee members have an absolute obligation to put the public's interest before their own direct or indirect personal interests. Members breach this obligation when they benefit at the public expense. Prohibited benefits can be financial (such as participating in decisions that favorably impact a member's business, property, or investments), career-related (such as using public office and/or public resources to obtain future employment or political position), or personal such as benefits to family members or close associates. Conflict of interest requires recusal.
- Duty of Due Diligence
  The duty of care requires that the Committee member competently and faithfully execute the duties of the office. Examples of breach of this duty include failure to attend meetings, failure to investigate, failure to engage in the deliberative process, and failure to vote.

- Duty to Avoid Bias
  Committee members have a duty to represent all of their constituents fairly. This means that they must overcome any inherent bias that they possess.

Each member shall file on a timely basis all appropriate Fair Political Practices Commission (FPPC Form 700) reports which can be obtained online or through the City Clerk. The City's Conflict of Interest Code can be found at PGMC §2.40.

Each member shall complete required AB 1234 ethics training in a reasonable time upon appointment and repeat this training at least biannually. The City Clerk should be notified upon completion. See Appendix D – Training for more information.

Each member shall also complete sexual harassment prevention training in a reasonable time upon appointment. The state mandate for local agency official sexual harassment prevention training is commonly referred to as "AB 1661" training. A "local agency official" must receive at least two hours of sexual harassment prevention training within the first six months of taking office, and every two years thereafter, if the City provides any type of compensation, salary, or stipend to a local agency official of the City. (Cal.Gov.Code § 53237.1.) "Local agency official" means any member of a local agency (which includes a City) legislative body and any elected local agency official. (Cal.Gov.Code § 53237).

9. Reference Materials

Committees perform best when members are knowledgeable in their area of responsibility. Thus, members are encouraged to become familiar with pertinent materials, which may be found on the Committees' webpage and departmental webpages.

Examples below.

- Architectural Review Board – General Plan, PGMC Titles 12, 23, 24, Architectural Review Guidelines for Single-Family Residences
- Beautification and Natural Resources Commission – Urban Forestry Standards (2012), Landscape Guidelines and Plant Palette (2016), Urban Greening Plan (2016), City Council Policy 900-3 'Acceptance of Art Donations'
- Economic Development Commission - https://pickpg.org/
- Historic Resources Committee – General Plan, PGMC §23.70.070 and 23.76, City of Pacific Grove Historic Context Statement, The Secretary of the Interior's Standards for the Treatment of Historic Properties, Historic Resources Inventory. Library Board - City Council Policy 200-6 'Library Policies'
- Museum Board – Pacific Grove Museum of Natural History Operating and Lease Agreement, https://www.pointpinoslighthouse.org/
- Planning Commission – General Plan, PGMC, Local Coastal Plan, Housing Element
- Recreation Board – City Council Policy 900-1 'Special Events', City Council Policy 200-3 'Municipal Tennis Program', City Council Policy 100-8 'Municipal Softball Park Rules, Regulations & Improvements'

Appendix A – Teleconference Attendance

If and when a Committee member wishes to attend a meeting by teleconference, then the Committee member should contact, as soon as possible, the City Clerk, Staff Liaison or Council Liaison who can consult with City Attorney if necessary. The rules for teleconference attendance at a Committee meeting by a member of the Committee are set forth in Government Code Section 54953 which specifies three types of teleconference attendance.

1. Traditional Teleconference - Government Code Section 54953 (b)

Here are the rules which apply to traditional teleconferencing:

(1) All votes taken during a teleconferenced meeting shall be by rollcall.

(2) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(3) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(4) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to § 54954.3.

(5) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations.

(6) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding,

(7) Each teleconference location shall be accessible to the public.

(8) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction

2. Teleconference Attendance During a Proclaimed State of Emergency - Government Code Section 54953 (e)

See Government Code Section 54953 (e) which describes the rules that apply to teleconference during a proclaimed state of emergency. This is the type of teleconferencing that was utilized during the COVID proclaimed state of emergency.

Some of the key points to note for teleconference attendance at a meeting during a proclaimed state of emergency include:

(1) There must be a proclaimed state of emergency

(2) Notice must be given to the public how to offer public comment remotely in real time

(3) If a disruption of the call-in or internet connection, then no further action may be taken on items on the agenda

(4) If a timed public comment period, then public comment must remain open until the timed public comment period has elapsed.

(5) Every 45 days after teleconferencing for the first time, the legislative body must take a vote to allow for continued use of this teleconferencing method.

(6) The legislative body is not required to provide a physical location from which the public may attend or comment.

3. Teleconference Attendance Authorized by AB 2449 – Government Code Section 54953 (f)

Teleconferencing with Section 54953 (f) is permitted when there are "emergency circumstances" or "just cause" which are defined as follows:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

Some of the key points for teleconference attendance based on AB 2449 include the following:

(1) At least a quorum of the members of the legislative body must participate in person from a singular physical location clearly identified on the agenda which location shall be open to the public

(2) The teleconference location where the member is present does not need to be available for attendance by the public.

(3) The legislative body must give notice of the means by which members of the public may access the meeting and offer public comment including comment remotely in real time.

(4) If a disruption of the call-in or internet connection, then no further action may be taken on items on the agenda

(5) "Just Cause": The member must notify the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(6) "Emergency Circumstances": The member must request the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

Note: The procedure for the legislative body to take action to approve (or deny) the request would be a motion at the beginning of the by a Committee member to approve (or deny) the request by the member to attend the meeting by teleconference, followed by a second and a vote by the Committee members. If the Motion is denied, the Committee member can still attend the meeting, but only as an observer and should not speak during the meeting.

(7) A member shall make a request to participate remotely at a meeting as soon as possible.

(8) The member shall make a separate request for each meeting in which they seek to participate remotely.

(9) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(10) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(11) There is a limitation on teleconferencing with AB 2449 in that such attendance may be no more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

Appendix B – Motions

The Chair usually initiates a motion by:

1. Inviting a member to make a motion: ‘‘A motion at this time would be in order;”
2. Suggesting a motion: ‘‘A motion would be in order that we approve and forward to the Council the annual report, as drafted;” or
3. Making the motion.

Once recognized, a member makes a motion by preceding the member’s desired approach with the words: “I move ...”. A typical motion might be: “I move that we accept the staff recommendation that...”

Often, a member will prefer a variant of the motion on the floor. They can ask the maker and seconder if they are willing to reword their motion. If they agree, the motion is so amended.

If one or both is not amenable to the suggested rewording, a member may propose an amendment or wait until after the vote on the original motion and propose a different motion. Up to three principle motions—the basic motion and two amendments— may be considered at one time – in reverse order:

1. **The basic motion.** The basic motion proposes a decision for consideration. A basic motion might be: “I move that we create a two-member Committee to study this matter in depth.”
2. **The motion to amend.** A motion to amend proposes to change the basic motion under discussion. A motion to amend might be: “I move that the Committee focus on just two primary options.”
3. **The motion to amend an amendment.** A motion to amend an amendment proposes a further change to the motions under discussion. A motion to amend the amendment might be: “I move that one of the options for the Committee to analyze be to prohibit murals on wood-sided buildings.”

No further motion to address the substance of the matter is in order. (Incidental or privileges motions, which deal with procedural issues, may still be raised.) Each motion is subject to deliberation.
A motion to amend or to amend an amendment is at times labeled a “substitute motion.” Whether considered as an amendment or a substitute, such motions are handled the same.

When Multiple Motions Are before the Committee
When two or three substantive motions are on the floor (with each having been seconded) at the same time, the *first* vote resolves the *last* motion made. If the amendments deal with alternative approaches to the same question, and a majority votes to approve the third motion, the remaining motions are then moot, and action on the agenda item would be complete. If the third motion *fails,* the Chair then proceeds to consider the second motion.

If an amendment deals with a different aspect of the same matter, then the motions would be considered in turn, in reverse order (second amendment, first amendment, and original motion).

In action minutes, only the final motion or action is recorded.

Limits to Deliberation
While the basic rule of motions is that they are subject to discussion and debate, some exceptions limit debate on a motion. Examples of motions that are *not* debatable include:

- **A motion to adjourn.** This motion, if passed by simple majority, requires the body to immediately adjourn to its next regularly scheduled meeting.
- **A motion to recess.** This motion, if passed by simple majority, requires the body to immediately take a recess for the time set by the Chair.
- **A motion to fix the time to adjourn.** This motion, if passed by simple majority, requires the body to adjourn the meeting at the specific time set in the motion.
- **A motion to table.** This motion, if passed by simple majority, places the matter on "hold" and ends discussion of the item. The motion may state a specific time when the item shall return on the agenda, but it need not.

When these, or other incidental or privileged motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion.

Most motions require a simple majority; but a few exceptions apply when the body limits a minority from acting on or discussing an item. These motions require a two thirds majority to pass:

- **End debate.** Members can end debate by "moving the previous question."
- **Motion to close nominations.** A motion to close nominations limits the right of a minority to nominate officers.
- **Motion to suspend rules.** This motion is debatable but requires a two-thirds vote to pass.

Division of a Motion
If a motion contains two or more divisible propositions, each of which is capable of standing as a complete proposition, the Chair may, and upon request of a member shall, divide the same. The Chair's determination shall be appealable by any member. For example, a motion to approve a project and waive applicant fees is divisible into two separate motions.

Withdrawal of a Motion
A motion may be withdrawn by the maker at any time prior to the vote, without the consent of the member seconding it. Any other member may choose to make the same motion.

Motion to Continue
The Committee may vote to continue items to a subsequent meeting for the following reasons:

- The Committee requires additional information during the meeting;
- New information or issues come to light during the meeting that need further study; or
- Other reasons the Committee deems "appropriate and substantial."

A motion to continue requires a majority vote for approval. This is also known as a motion to postpone and is amendable.

The Committee may continue a submitted application when:

- The applicant cannot appear at the meeting and has requested that the item be continued;
- The application is revised by the applicant during the meeting; or
- The Commission requests that the application be revised.

- Continuances ordinarily are undertaken with concurrence of the applicant, but concurrence is not required.

Motion to Reconsider

A motion to reconsider a vote is a motion limited in both the time it can be made and the person who can make it. A motion to reconsider an action taken by the Committee may be made on the same day as the meeting in which the motion to be reconsidered was decided, or the next business day if the session is more than one day. The motion must be made by a member who voted on the prevailing side but may be seconded by any member. For example, a person voting in the majority of a 4-3 vote for a motion to approve or deny an item (prevailing side) may make a motion to reconsider. If there is tie vote (3-3 and 1 absence), or if the motion fails (3 in favor, 2 against, 2 absent), then a motion to reconsider is not available as it only applies to actions taken by the Committee.

A motion to reconsider requires a second, is debatable, and is not amendable. If the motion to reconsider fails, it may not itself be reconsidered. Reconsideration may not be moved more than once on the same motion. If the motion to reconsider passes, the original matter is back before the Committee. The matter may be discussed, debated, and amended as if it were on the floor for the first time.

No member is prevented from making a motion to rescind such *action* at a subsequent meeting of the Committee, provided the agenda for that meeting includes the proposed action to rescind. Often such motions are used to make policy changes. The motion must be seconded, is debatable, and requires a majority vote.

Appendix C– Voting

Majority Voting Requirement
The Code requires the affirmative vote of a majority of the total members of the Committee (excluding any non-voting members), on any item, for any action by the Committee, unless otherwise provided.[1] (See PGMC §§ 3.02.070 and 3.04.080). For example, the majority of a fully constituted Committee is 4. In a 7-member body, a vote of 4-3 passes the motion. If there are 2 vacancies, and the total members are 5, then a majority is 3 members. Therefore, unless a super-majority is required, a simple majority vote determines whether each motion passes or is defeated. Proxy votes for absent members are not allowed.

Tie Votes
A tie vote means the motion fails. If one member is absent and the vote is 3-3, the motion fails. Tie votes may be reconsidered on motion by any member of the Committee voting aye or nay during the original vote. Before a motion is made on the next item on the agenda, any member of the Committee may make a motion to continue the matter to another date. Any continuance for this purpose suspends the running of any time in which action of the Committee is required by law.

Disqualification from Voting; Recusal
Commission members shall disqualify themselves from deliberation and voting on any matter before the Commission, prior to the Commission's consideration of the matter, when there is a conflict of interest. A member may also choose not to participate due to personal bias or the appearance of impropriety. Upon the Chair's announcement of an item, members must state that they are disqualifying themselves due to a conflict of interest, state the nature of the conflict (e.g., financial), and leave the room until the completion of that item.

If the number of members recusing themselves due to a conflict of interest disrupts the quorum, the "rule of necessity" allows the random selection of the fewest number of conflicted members to vote as is needed to enable a quorum to participate and reach a decision. For example, if 4 out of 7 Committee members are conflicted, the Committee may select one of the conflicted members to vote so as to have a quorum.

Abstentions
Abstentions are discouraged. Members should abstain from voting only due to lack of participation in an evidentiary proceeding before the Committee and their inability to review the record. In that instance, members will be recorded as absent for that item.

A member present for consideration of a motion who opposes the motion must vote against it. In the event of an abstention the abstainer in effect "consents" that a majority of the quorum of the members present may act for them. Thus, a member who abstains (for any reason other than lack of opportunity to review the record) is deemed to acquiesce in the action taken by the majority of members who voted. For example, on a 7-member Committee, if the vote is 3 in favor, 2 against, with 1 absence and 1 abstention, the motion is approved, since a quorum was present, and a majority of the total

[1] In certain circumstances, supermajority votes (majority + 1) are required: certain actions of Council, e.g., an urgency ordinance; zoning amendments by the Planning Commission.

membership is judged to have voted in favor. A 3-3 vote with one abstention means the motion fails as there is no majority.

Members who are silent during a voice vote shall have their vote recorded as an affirmative vote, except when individual members have stated in advance that they will not be voting.

Voting Methods. When a motion is not likely to be opposed, the Chair says, "If there is no objection, …". The members show their agreement, called "general consent," by their silence. If a member says, "I object," the item is put to a vote. Most votes shall be by voice vote. The Chair asks those in favor to say, "Aye," and those opposed to say "No." If the outcome is unclear by voice, a hand vote may be taken. Any member may move for an exact count. In some cases, a roll call vote is required, with each member answering "yes" or "no" as his or her name is called. The order of voting for roll call votes shall be random.

Recording of Votes. The results of the vote shall be announced immediately following the action as shown in the following example: "The motion passed 5-2, Brown and Smith voting no." The minutes of the Committee's proceedings shall show the vote of each member, including whether they were absent or failed to vote on a matter considered. For example,
Ayes:
Noes:
Absent:
Abstain:

Members may change their votes up to the time the vote is finally announced. After that, members may only change with permission of the Committee, which may be given by general consent; that is, by no member's objecting when the Chair inquires if anyone objects. If an objection is made, a motion may be made to grant the permission, which is debatable.

Appendix D – Training

Mandatory Ethics Training AB 1234

AB 1234, passed in 2014, codified at Government Code § 53235, requires many California state and local officials and employees to complete mandatory ethics training. It states:

(a) (1) If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.

(2) All local agency officials who are members of the governing board of a school district, a county board of education, or the governing body of a charter school shall receive training in ethics pursuant to this article, whether or not any member receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

(b) Each local agency official shall receive at least two hours of training in general ethics principles and ethics laws relevant to the official's public service every two years.

(c) If an entity develops curricula to satisfy the requirements of this §, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of the proposed course content. When reviewing any proposed course content, the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.

(d) A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this §. These courses may be taken at home, in-person, or online.

(e) A provider of training courses to meet the requirements of this article shall provide participants with proof of participation to meet the requirements of § 53235.2.

(f) A local agency shall provide information on training available to meet the requirements of this article to its local officials at least once annually.

AB 1234 applies to "members of a legislative body," which is defined as in the Brown Act, Government Code § 54952. It thus applies to members appointed to city boards and commissions.

AB 1234 does not specify a time period within which an official must take and complete the training. Where, as here, a statute does not impose a specific time requirement, the statute is deemed to require compliance within a "reasonable" time.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Interim City Manager Robert Perrault, Special Counsel Jenica Maldonado
MEETING DATE:	February 14, 2024
SUBJECT:	Codifying Council Member Inquiry Authority
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Discuss draft Ordinance regarding Ordinance Codifying Provisions of Article 21 of the City Charter.
2. Discuss related draft Council Policy Establishing Procedures for Council Members to Make an Inquiry Pursuant to Pacific Grove Municipal Code Section 2.04.110.
3. Provide direction to City Attorney to finalize draft Ordinance and draft Policy and return to City Council for first reading on Ordinance.
4. Other action as related to this agenda item.

DISCUSSION

BACKGROUND

On December 6, 2023, the City Council discussed a proposed ordinance to codify the Council's inquiry authority, as prescribed under the City Charter, Article 21. At that meeting, the Council took action to make certain modifications to the draft ordinance and directing the City Manager to prepare a related Council Policy.

The City Manager, in consultation with Department Directors and the City Attorney's Office, has prepared a proposed Council Policy and proposed related revisions to the Ordinance itself.

Attachment 1 to this Agenda Report is a "redline" of the draft ordinance. The "redline" is a comparison of the version of the ordinance considered by Council on December 6, 2023 and the revised proposed ordinance. Changes are reflected in strike-out (i.e., deletions of language from the December 6 version) and underline (i.e., additions to the language in the December 6 version).

Attachment 2 to the Agenda Report is a "clean" version of the draft ordinance, which reflects the City Manager's proposed revisions for Council's consideration. These proposed changes are summarized below.

PROPOSED REVISED ORDINANCE

The ordinance offers specific definitions for the following terms: “administrative service,” “inquiry,” and “order.” (Section 2.04.110, subdivisions (a)(1)-(3).)

The ordinance defines the “administrative service” as “all Department Directors and the Chief of Police.” The definition further provides that, “[a]ny inquiries regarding fire-related services shall be directed to the City.

The ordinance defines “inquiry” as “a specific question from a member of the Council to a member of the administrative service which can be answered by furnishing information available from, or by providing, existing City records to the extent permitted by law, and which does not require a member of the administrative service to discuss or express an opinion concerning any existing or proposed policy of the Council, individual Council member(s), or the City Manager.”

The ordinance defines “orders” as “commands, directions, or instructions to do something or not do something by a member of the Council to a member of the administrative service, with or without an expectation by the member of Council that the member of the administrative service will comply.”

The ordinance provides that Council members are entitled to access public records on the same basis as any other person and that inquiries are subject to the provisions of the California Public Records Act (CPRA). (Section 2.04.110, subdivision (c).)

The ordinance provides that members of the administrative service may respond to inquiries during normal business hours (excluding emergencies) and in a manner consistent with the CPRA. It further provides that, if a Council member does not receive a response to an inquiry, that nothing in this Code Section shall prevent them from communicating with the City Manager directly about the inquiry or from Council addressing the issue as a body. (Section 2.04.110, subdivision (e).)

The ordinance provides that the Council may make orders of the City Manager to furnish information or provide existing City records to the extent permitted by law, or may direct the City Manager to create new records. It further provides that individual Council members may not make such orders. (Section 2.04.110, subdivision (f).)

The ordinance provides that a Council member’s ability to make an inquiry under Article 21 is limited to inquiries made in their official capacity as an elected official. The ordinance recognizes that a Council member may still contact the City in the normal course of business in their private capacity and does not intend to infringe upon such right.

The ordinance provides that the City Manager and members of the administrative service are protected from retaliation that may result from an inquiry to the extent permitted by State law.

The ordinance authorizes Council to adopt a related City policy, to the extent such policy is consistent with the City Charter, Pacific Grove Municipal Code, the City Charter, and state and federal law.

PROPOSED POLICY

Attachment 3 is a draft Council Policy entitled, “Council Policy Establishing Procedures for Council Members to Make an Inquiry Pursuant to Pacific Grove Municipal Code Section 2.04.110”.

The Policy recognizes the definitions of “administrative service” and “inquiry,” as defined in the Code, for ease of reference. To provide further clarification regarding the meaning of inquiry that is consistent with the definition itself, the Policy recognizes “inquiries” to be “requests for information that can be provided from non-privileged existing City records or existing information.” The Policy recognizes

“non-privileged” to mean a record that is not recognized as privileged or confidential by law and designates the City Attorney or their designee to determine whether a record is privileged or confidential.

The Policy outlines the following five operational considerations.

First, an inquiry shall be directed to any member of the administrative service in writing by email. The City Manager shall be copied. Inquiries may be responded to within normal business hours (absent an emergency) and in a manner consistent with the Municipal Code and CPRA.

Second, when an administrative service member receives an inquiry, they may provide a time estimate for the return of requested information. Alternatively, they may request that the City Manager respond to the Council member on their behalf.

If the member of the administrative service decides to respond to the inquiry and the inquiry seeks an existing City record that is disclosable under the CPRA, then the timeline will be consistent with the CPRA.

If the member of the administrative service decides to respond to the inquiry and the inquiry seeks information only, then staff shall respond within a reasonable amount of time consistent with staff work loads. An inquiry that seeks only information, as distinguishable from an inquiry that seeks records, can be responded to by conveying information verbally or by a short email response.

Third, if a member of the administrative service decides not to respond to an inquiry, they may notify the Council member directly or request the City Manager do so on their behalf.

Fourth, if a Council member does not receive the information they seek in response to an inquiry, then they may cause the matter to be agendized for consideration by the full Council.

Fifth, the Policy recognizes that the City Manager maintains the discretion to direct or order any City employee to perform a job duty or function that may relate to an inquiry made by a Council member under Section 2.04.110 of the Municipal Code.

OPTIONS

Provide alternative direction.

FINANCIAL IMPACT:

There is no fiscal impact related to enactment of the Ordinance.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1-Redline of Ordinance, comparing December 6 2023 and February 7, 2024

2-Proposed Revised Ordinance

3-Proposed Policy

ATTACHMENT 1
Inquiry Ordinance
February 7, 2024

REDLINE OF DRAFT ORDINANCE, COMPARING DECEMBER 6, 2023 VERSION AND FEBRUARY 7, 2024 VERSION

To ease review, we identify the deletions and additions made to the December 6, 2023 version. Deletions are reflected in strike-out. Additions are reflected in underline.

In addition the edits reflected below, the title of the ordinance has been revised from "An Ordinance of the City of Pacific Grove Adding Section 2.04.110 to the Pacific Grove Municipal Code Codifying the Provisions of Article 21 of the City Charter" to "An Ordinance of the City of Pacific Grove Adding Section 2.04.110 to the Pacific Grove Municipal Code to Codify the Provisions of Article 21 of the City Charter."

The proposed revisions are as follows:

Section 2.04.110 Inquiry

(a) The following definitions shall be used to interpret Article 21 of the City Charter and shall control for the purposes of this Section.

(1) "~~t~~The administrative service" means all ~~officers and employees of the City that are under the City Manager's supervision and control.~~ Department Directors and the Chief of Police. Any inquiries regarding fire-related services shall be directed to the City Manager.

(2) "~~i~~ Inquiry" means a specific question from a member of the Council to a member of the administrative service which can be answered by furnishing information available from, or by providing, existing City records to the extent permitted by law, and which does not require a member of the administrative service to discuss or express an opinion concerning any existing or proposed policy of the Council, individual Council member(s), or the City Manager.

(3) "orders" means command, direction, or instruction to do something or not do something by a member of the Council to a member of the administrative service, with or without an expectation by the member of Council that the member of the administrative service will comply.

(b) Pursuant to Article 21 of the City Charter, ~~the Council and its members are authorized to make inquiries to anyone in the administrative service of the City.~~ except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

(c) Pursuant to the California Public Records Act (CPRA), members of Council are

entitled to access public records on the same basis as any other person. A response to an inquiry which requests a City record shall be subject to the provisions of the CPRA in regard to records to be produced and timelines for production. When Council and its members are authorized to access a City record, as permitted by law in the administration of their duties, the City shall not discriminate between or among any of those members as to which record or portion thereof is made available or when it is made available.

(d) An inquiry that communicates a grievance against the government of the City is protected by the First Amendment.

~~***(e) Members of the administrative service are not required, as a term or condition of employment, to respond to an inquiry made by a council member or the Council acting as a body. This limitation does not apply to orders made by the City Manager to a member of the administrative service concerning an inquiry from a council member or the Council acting as a body.***~~

~~***(f)***~~***(e) Inquires may respond to during normal business hours (excluding emergencies) in a manner consistent with the CPRA. If a council member does not receive a response to an inquiry from a member of the administrative service, nothing in this provision shall prevent the council member from communicating with the City Manager concerning the inquiry, or from the Council, acting as a body during a duly convened public meeting, to direct the City Manager to provide the outstanding information in response to the inquiry.***

~~***(g)***~~ ***(f) The City Council, acting as a body during a duly convened public meeting, may order the City Manager to furnish information or provide City records to the extent permitted by law, or direct the City Manager to create City records with the requested information to the extent permitted by law. Individual Council members may not make such orders of the City Manager.***

(g) The authority of a Council member to make inquiries under Article 21 of the Charter is limited to inquiries made in their official capacity as an elected official. Nothing in this Section prohibits a Council member from contacting the City in the normal course of business in their private capacity.

~~***(h) If a member of the administrative service declines to provide information in response to an inquiry, then the council member may request that the City Attorney or a designee of the City Attorney review the determination.***~~

~~***(i)***~~ ***(h) The City Manager and members of the administrative service are protected from retaliation that may result from an inquiry from a Council member to the extent provided under California law.***

***(i)** The City Council may adopt a council policy for submitting inquiries to members of the administrative service provided such policy does not conflict or interfere with (1) ~~this Section~~ the **Pacific Grove Municipal Code**, (2) the City Charter, (3) the California Public Records Act, or (4) the First Amendment.*

ATTACHMENT 2
Inquiry Ordinance
February 7, 2024

ORDINANCE NO. 2024 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE ADDING SECTION 2.04.110 TO THE PACIFIC GROVE MUNICIPAL CODE TO CODIFY THE PROVISIONS OF ARTICLE 21 OF THE CITY CHARTER

FACTS

1. The City of Pacific Grove is a charter city organized under the constitution of the State of California.

2. Pacific Grove became a charter city on April 22, 1927. New Charters were adopted in 1955, 1969, and 1974.

3. The Pacific Grove City Charter, in Article 21, currently provides as follows: "Neither the Council nor any of its committees or members shall dictate or attempt to dictate, either directly or indirectly, the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager or prevent the City Manager from exercising his or her own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately."

4. The language of Article 21 has continuously appeared in the City Charter since the City's first adopted Charter in 1927.

5. Article 21 allows direct contact with the administrative service for the purpose of inquiry. The purpose of Article 21 is to define the lines of authority within city government, not to prohibit protected speech. Interpreting Article 21 to prohibit "orders" to members of the administrative service is a bright line consistent with the purpose of Article 21 and the First Amendment. "Council members "'are entitled to speak as they please on matters vital to them; errors in judgment ... may be exposed, of course, but not through punishment for contempt for the expression.'" (See *Levy v. City of Santa Monica* (2004) 114 Cal.App.4th 1252, 1262, quoting *Wood v. Georgia* (1962) 370 U.S. 375, 389.)

6. Council members have First Amendment protection when they comment individually, or respond to inquiries from the public, about the City's actions. Under the First Amendment, "'legislators "are given the widest latitude to express their views" and there are no "stricter 'free speech' standards on [them] than on the general public.'" (See *Levy v. City of Santa Monica* (2004) 114 Cal.App.4th 1252, 1261, quoting *Eller Outdoor Advertising Co. v. Board of Supervisors* (1979) 89 Cal.App.3d 76, 80.)

7. The First Amendment to the United States Constitution provides as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

8. The California Public Records Act, in Government Code Section 7921.305(a), currently provides as follows: "Notwithstanding the definition of 'member of the public' in Section 7920.515, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties."

9. The California Public Records Act, in Government Code Section 7921.310, currently provides as follows: "Notwithstanding Section 7921.305 or any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency… shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available."

10. The Pacific Grove Municipal Code (PGMC), Title 2, Chapter 2.04 sets forth rules regarding Administration and City Government and addresses processes related to the City Council. The PGMC does not include a section addressing the inquiry authority of Council members, as provided under Article 21 of the City Charter.

11. Amending the Municipal Code to clarify the meaning of Article 21 and to authorize preparation of a city council policy establishing procedures and guidelines for submitting inquiries to members of the City's administrative service is consistent with the City Charter, the California Public Records Act, the First Amendment, and related published case law; assists City elected officials in conducting oversight of the City Manager and City operations; and promotes clarity regarding Pacific Grove's Council-Manager form of city government, as established under the City Charter.

12. This ordinance does not constitute a Project as that term is defined by Section 15378 of the California Environmental Quality Act (CEQA) as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Facts.

The facts set forth above are true and correct and are adopted as findings of the City Council as though set forth fully within the body of this ordinance.

SECTION 2. Amendment of Pacific Grove Municipal Code to Add Section 2.04.110

The following Section shall be added to the Pacific Grove Municipal Code:

Section 2.04.110 Inquiry

(a) The following definitions shall be used to interpret Article 21 of the City Charter and shall control for the purposes of this Section.

> ***(1) "The administrative service" means-all Department Directors and the Chief of Police. Any inquiries regarding fire-related services shall be directed to the City Manager.***
>
> ***(2) "Inquiry" means a specific question from a member of the Council to a member of the administrative service which can be answered by furnishing information available from, or by providing, existing City records to the extent permitted by law, and which does not require a member of the administrative service to discuss or express an opinion concerning any existing or proposed policy of the Council, individual Council member(s), or the City Manager.***
>
> ***(3) "Orders" means commands, directions, or instructions to do something or not do something by a member of the Council to a member of the administrative service, with or without an expectation by the member of Council that the member of the administrative service will comply.***

(b) Pursuant to Article 21 of the City Charter, except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

(c) Pursuant to the California Public Records Act (CPRA), members of Council are entitled to access public records on the same basis as any other person. A response to an inquiry which requests a City record shall be subject to the provisions of the CPRA in regard to records to be produced and timelines for production. When Council and its members are authorized to access a City record, as permitted by law in the administration of their duties, the City shall not discriminate between or among any of those members as to which record or portion thereof is made available or when it is made available.

(d) An inquiry that communicates a grievance against the government of the City is protected by the First Amendment.

(e) Inquires may respond to during normal business hours (excluding emergencies) in a manner consistent with the CPRA. If a council member does not receive a response to an inquiry from a member of the administrative service, nothing in this Code Section shall prevent the council member from communicating with the City Manager concerning the inquiry, or from the Council, acting as a body during a duly convened

public meeting, to direct the City Manager to provide the outstanding information in response to the inquiry.

(f) The Council, acting as a body during a duly convened public meeting, may order the City Manager to furnish information or provide existing City records to the extent permitted by law, or direct the City Manager to create City records with the requested information to the extent permitted by law. Individual Council members may not make such orders of the City Manager.

(g) The authority of a Council member to make inquiries under Article 21 of the Charter is limited to inquiries made in their official capacity as an elected official. Nothing in this Section prohibits a Council member from contacting the City in the normal course of business in their private capacity.

(h) The City Manager and members of the administrative service are protected from retaliation that may result from an inquiry from a Council member to the extent provided under California law.

(i) The City Council may adopt a council policy for submitting inquiries to members of the administrative service provided such policy does not conflict or interfere with (1) the Pacific Grove Municipal Code, (2) the City Charter, (3) the California Public Records Act, or (4) the First Amendment, or any other local, state, or federal law.

ATTACHMENT 3
Inquiry Ordinance
February 7, 2024

[DRAFT] COUNCIL POLICY ESTABLISHING PROCEDURES FOR COUNCIL MEMBERS TO MAKE AN INQUIRY PURSUANT TO PACIFIC GROVE MUNICIPAL CODE SECTION 2.04.110

Purpose:

Article 21 of the City of Pacific Grove ("City") Charter provides the Council with the ability of making inquiries regarding City-related business and activities of those employees in the administrative service of the City. The purpose of this policy is to provide practical guidance for Pacific Grove Municipal Code Section 2.04.110 regarding "Inquiry Authority" and to ensure that Council members have the information needed by the Council to collectively make decisions. This policy aligns with the Council/ Manager form of government whereby the Council establishes policy and management implements the Council policy.

Administrative Service

Section 2.04.110, subdivision (a)(1) of the City Municipal Code defines the term "administrative service" as City Department Directors and Chief of Police and directs council members to make fire service-related inquiries to the City Manager.

Meaning of Inquiry

Section 2.04.110, subdivision (a)(2) of the City Municipal Code defines an inquiry as "a specific question from a member of the Council to a member of the administrative service which can be answered by furnishing information available from, or by providing, existing City records to the extent permitted by law, and which does not require a member of the administrative service to discuss or express an opinion concerning any existing or proposed policy of the Council, individual Council members(s), or the City Manager."

Inquiries are requests for information that can be provided from non-privileged existing City records or existing information.

Non-privileged means a record that is not recognized as privileged or otherwise confidential by law. It is up to the City Attorney or their designee to determine whether a City record is privileged or otherwise confidential by law.

Procedure for Inquiry

1. An inquiry shall be directed to any member of the administrative service in writing by email with a copy to the City Manager. Inquiries may be responded to within normal business hours (with the exception of emergency situations) in a manner otherwise consistent with the Pacific Grove Municipal Code and the California Public Records Act (CPRA).

2. Upon receipt of an inquiry, the member of the administrative service may provide the requesting Council member with a time estimate for the return of the requested information or may request that the City Manager respond to the inquiry on their behalf.

a. To the extent a member of the administrative service decides to respond to an inquiry and the inquiry seeks an existing City record that is properly disclosable under the CPRA, the timeline for a response will be consistent with the CPRA.

b. To the extent a member of the administrative service decides to respond to an inquiry and the inquiry seeks information that can be conveyed verbally or by a short email response and not an existing City record, it shall be responded to within a reasonable amount of time consistent with staff workloads. Staff may need to balance workloads, timelines, and resources, with lengthy, labor-intensive requests.

3. If the member of the administrative service decides not to provide the requested information, then they may inform the Council member or inform the City Manager who will inform the Council member.

4. If a Council member does not receive the information requested, the Council member may cause the subject of their inquiry to be agendized for discussion by the full Council for their consideration in a manner consistent with the Brown Act, the Pacific Grove Municipal Code, and City policies. The Council may, in its discretion, direct the City Manager to provide said information.

5. The City Manager maintains the discretion to direct or order a member of the administrative service or any other City employee to perform a job duty or function relating to an inquiry from a Council member made under Section 2.04.110 of the Municipal Code or this policy.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Councilmembers Luke Coletti, Lori McDonnell: Daniel Gho PW Director, Deputy CM
MEETING DATE:	February 14, 2024
SUBJECT:	Recommendations from Parklet Subcommittee
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive Report describing the design of the proposed curb extension and expanded sidewalk dining project prepared by the Parklet Subcommittee and City staff, and
2. Direct staff to complete the remaining items necessary to finalize the project and bring back a final package to the City Council for approval prior to release of a Request for Proposals, and
3. Direct staff to prepare a Parklet and Sidewalk Dining Program Manual, to be adopted by Council Resolution, that thoroughly describes the program, including but not limited to, permitting, types of use, design standards, safety standards, amenities, and compliance and enforcement measures.
4. Alternatively, discuss and take other action related to this item.

DISCUSSION

In June of 2020, the City Council ratified emergency measures taken by the City Manager to streamline the processes through which businesses could offer outside dining. By August 1, 2020, approximately 11 restaurants were operating parklets on city property under the temporary rules established by the local emergency. In 2021 and 2022, the City Council adopted an ordinance with one-year sunset provisions that clarified the scope and effect of the temporary Parklet Program and Outside Dining rules.

At its March 22, 2023, meeting the City Council adopted Ord. 23-004, which expands the encroachment permit process to allow parklets in the public right-of-way. Ord. 23-004 includes the following definition:

15.01.010 (h) "Parklet" means the conversion of one or more parking spaces, that may vary according to the site, context, and desired character of the installation, and are subject to the review and approval of the City Public Works Director or designee under the Parklet Program adopted by City Council Resolution.

With the adoption of Ord. 23-004 parklets are now authorized through an annual temporary encroachment permit and are subject to the provisions of the City's Parklet Program. Issuing an annual encroachment permit allows the parklets to remain temporary and revocable if the Parklet Guidelines

conditions are not met. When adopting Ord. 23-004 Council also formed a subcommittee consisting of Councilmembers Beck, Coletti and McDonnell. Councilmember Beck has recently recused herself.

At its June 21, 2023, meeting the City Council discussed the Subcommittee's status report and proposal to address the numerous inquiries and concerns related to the three parklets at Lighthouse Ave. and Fountain. With increased visibility and safety in mind, the subcommittee recommends extending the sidewalk where parklets currently exist. Curb extensions provide pedestrians with greater visibility and also shorten crossing distances, further enhancing safety. The City Council voted to approve the subcommittee recommendations:

1. Direct City staff to proceed with the design of the proposed curb extension and permanent parklet concept at the southwest corner of Lighthouse and Fountain.

2. Direct the City Traffic Engineer, City Attorney, and other City staff to prepare a report of relevant safety standards and compliance measures necessary for new and existing parklets. This will include a restriping plan for a) parking spaces adjacent to new and existing parklets, and b) the right-of-way.

3. Extend the term of the City Council Parklet Subcommittee to March 1, 2024.

Since then the subcommittee has worked with Staff to prepare a rendering, site plan, and analysis of the expanded sidewalk dining areas that will replace the current parklets (Attachment 1). The rendering and site plan shows the new curb extension along with the three proposed expanded sidewalk dining areas. An analysis of the current and proposed conditions provides the net change in area for each business.

Due to building width, and required access to second-floor apartments, the available square footage will vary. However, the depth of the enclosed sidewalk dining areas is uniform at 18 feet. The total sidewalk depth will be 26 feet from the face of the building to the face of the extended curb, with 18 feet of space reserved for outdoor dining and 8 feet for pedestrian travel. The dining space will be enclosed by fencing of matching style where the restaurateur can determine the configuration of their tables.

In addition to the rendering and site plan, City staff has been actively working on engineered plans. There are two viable options the City can take:

1. Preferred Configuration (Attachment 2)

2. Alternative Configuration (Attachment 3)

Preferred Configuration:
The preferred configuration of the engineered plans for the sidewalk extension is included as Attachment 2. This option allows proper alignment with the crosswalks along with vehicle and pedestrian movements, a bulb out will also have to be created on the Southeast side of Lighthouse and Fountain Avenue. This would include the reconstruction of the Fountain Avenue intersection to ensure proper drainage and slope.

Alternative Configuration:
There is an alternative option, that still creates a bulb out on the Southeast side of Lighthouse and Fountain Avenue, but this option will not reconfigure the Fountain Ave Intersection, which will keep the stormwater infrastructure in its current location. Unfortunately, this option will affect stormwater flows due to improper slopes. This alternative is not as safe for pedestrians but is included for reference as Attachment 3.

New "Daylighting" Law:
Recent State law (AB-413) prohibits cars and trucks from stopping, standing, or parking within 20 feet of the approach side of crosswalks. By definition, parklets occupy parking spaces. Therefore, any parklet within this 20-foot area would have to be removed. This includes the Victorian Corner parklet.

Stakeholder Feedback:
The subcommittee met twice with the affected business and property owners (stakeholders). The stakeholder group consists of three restaurant operators and two property owners. Only one member of the group, a restaurant operator and tenant, had strong objections. Their objection is primarily focused on the net loss of 76 sq-ft (see Attachment 1). However, it should be noted that 72 sq-ft (95%) of this net loss is due to the required access path to the second-floor apartment. It might be possible to gain a few extra square feet of dining space by reducing the sidewalk width from 8 feet to 7 feet at the transition point of the curb extension. All remaining members of the stakeholder group support the expanded sidewalk dining concept and removal of the existing parklets. The consensus of the stakeholder group is to "just build it." There was also general agreement that construction should occur in the month of June (2024), but no later.

Next Steps:
If the City Council decides to move forward with the proposed project, Council will need to provide direction on the following items in order for staff to finalize a bid package:

1. Removal of existing parklets: The subcommittee is recommending that the removal of the existing parklets be included in the construction contract.

2. Installation of new fencing: The subcommittee is recommending that fencing be included in the construction contract. Details need to be obtained for inclusion into the bid package.

Staff will continue issuing annual permits for the existing parklets. It is anticipated that Staff will also permit new parklets through the encroachment permit process as specified in Title 15 of the City's Municipal Code. Staff has received a request for a new parklet at the corner of Lighthouse Ave and 15th. This highlights the need to prepare and adopt a Parklet and Sidewalk Dining Program Manual that thoroughly describes the "Parklet Program" (see Recommendation #3).

OPTIONS
Provide alternate direction.

FINANCIAL IMPACT:
As part of the FY23/24 Capital Improvement Plan (CIP), the City Council has allocated $50,000 for the design and engineering of the sidewalk extension. At the time of this writing, $13,329 has been expended, but there are a few pending invoices to account for engineering time and development of the parklet rendering. As part of the engineering of the sidewalk extension, a construction estimate has been developed and is as follows.

Preferred Configuration: Sidewalk extension with proper drainage and configuration (Attachment 2)	$251,250
Alternative Configuration (Attachment 3)	$158,100

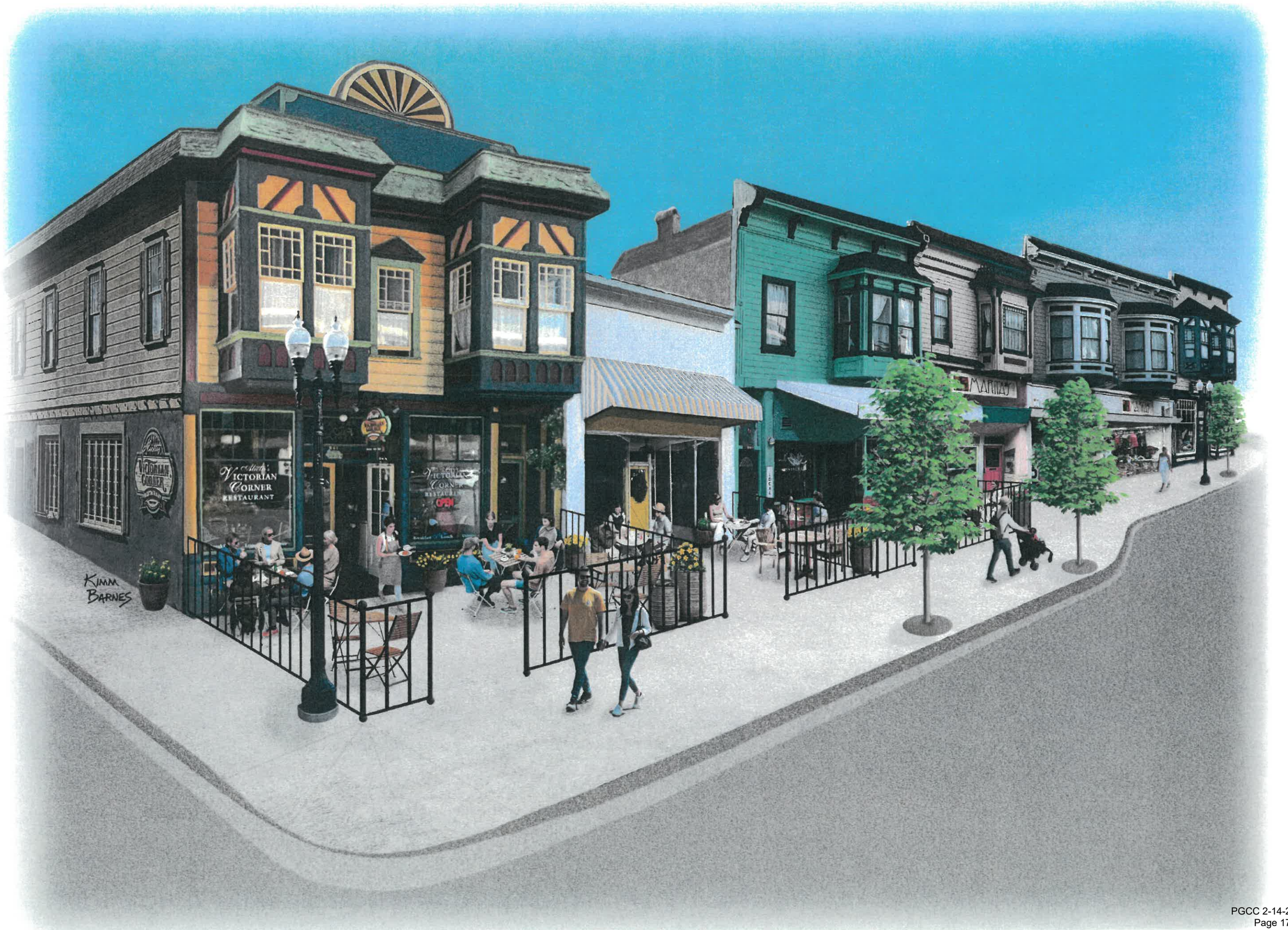
These estimates are for the sidewalk extension, drainage, and intersection construction. These estimates do not include any of the outstanding items noted in this report that need to be determined prior to solicitation of bids. Additionally, these estimates do not include tree material, lighting, and other decorative features.

The Council would also need to approve additional funding (via a budget amendment or through the FY24/25 CIP process) to allow the project to proceed.

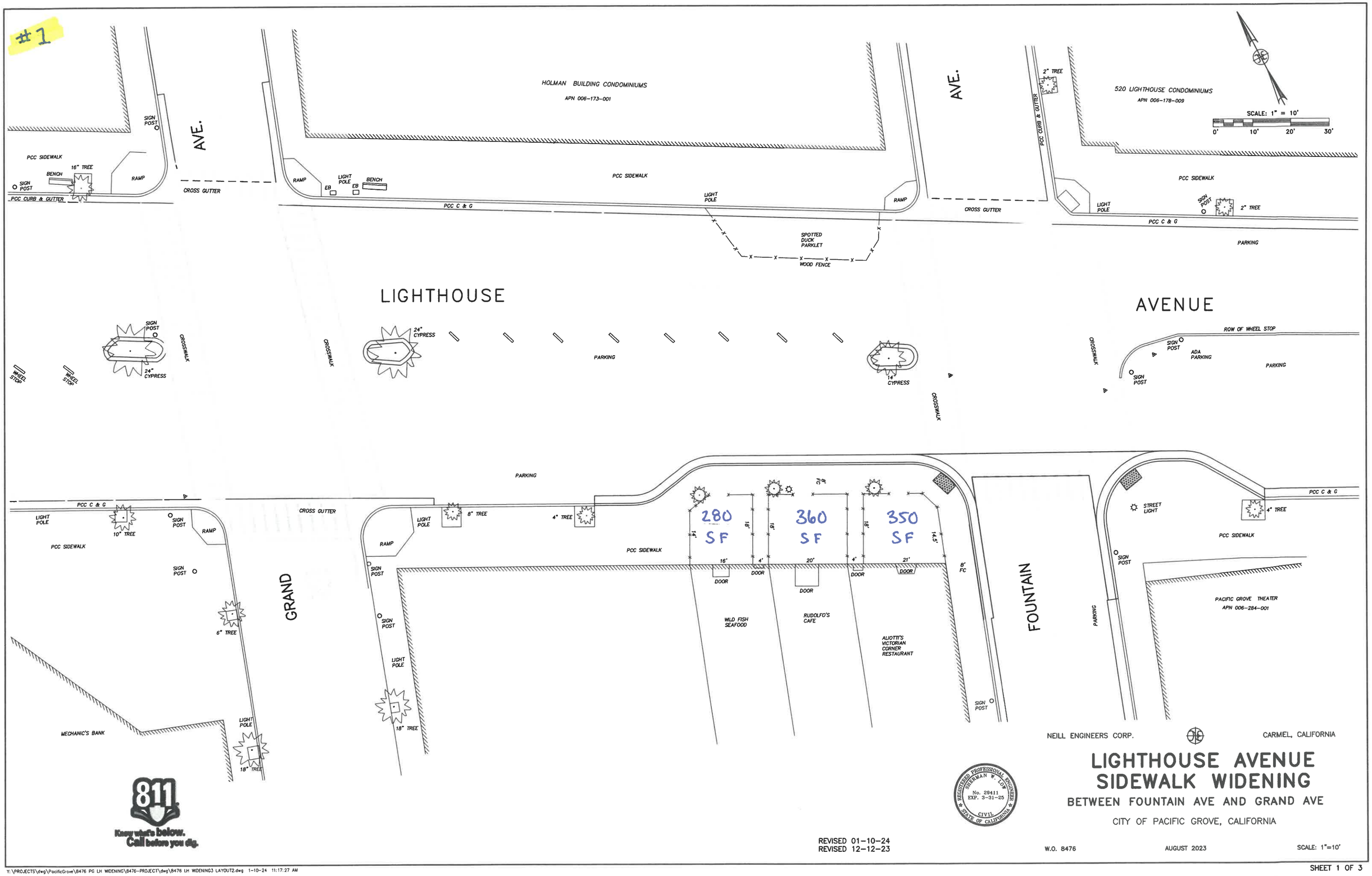
FOCUSED PRIORITY AREA: Infrastructure

Attachments

1. Rendering, site plan, and analysis of the expanded sidewalk dining areas
2. Engineered plans - Preferred Configuration
3. Engineered plans - Alternative Configuration


VICTORIAN CORNER
RESTAURANT
OPEN
KIMM BARNES

#1



NEILL ENGINEERS CORP. CARMEL, CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER SHERMAN W. LOW No. 29411 EXP. 3-31-25 CIVIL STATE OF CALIFORNIA

LIGHTHOUSE AVENUE SIDEWALK WIDENING

BETWEEN FOUNTAIN AVE AND GRAND AVE

CITY OF PACIFIC GROVE, CALIFORNIA

REVISED 01-10-24
REVISED 12-12-23

W.O. 8476 AUGUST 2023 SCALE: 1"=10'

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SHEET 1 OF 3

Current and Proposed Areas with Net Change		
Parklet Area	Outside Dining Area	Total Area
Wildfish		
241 ft^2	115 ft^2	356 ft^2
0 ft^2	280 ft^2	280 ft^2
		-76 ft^2
Rudolfo's		
221 ft^2	148 ft^2	369 ft^2
0 ft^2	360 ft^2	360 ft^2
		-9 ft^2
Victorian Corner		
240 ft^2	100 ft^2	340 ft^2
0 ft^2	350 ft^2	350 ft^2
		+10 ft^2

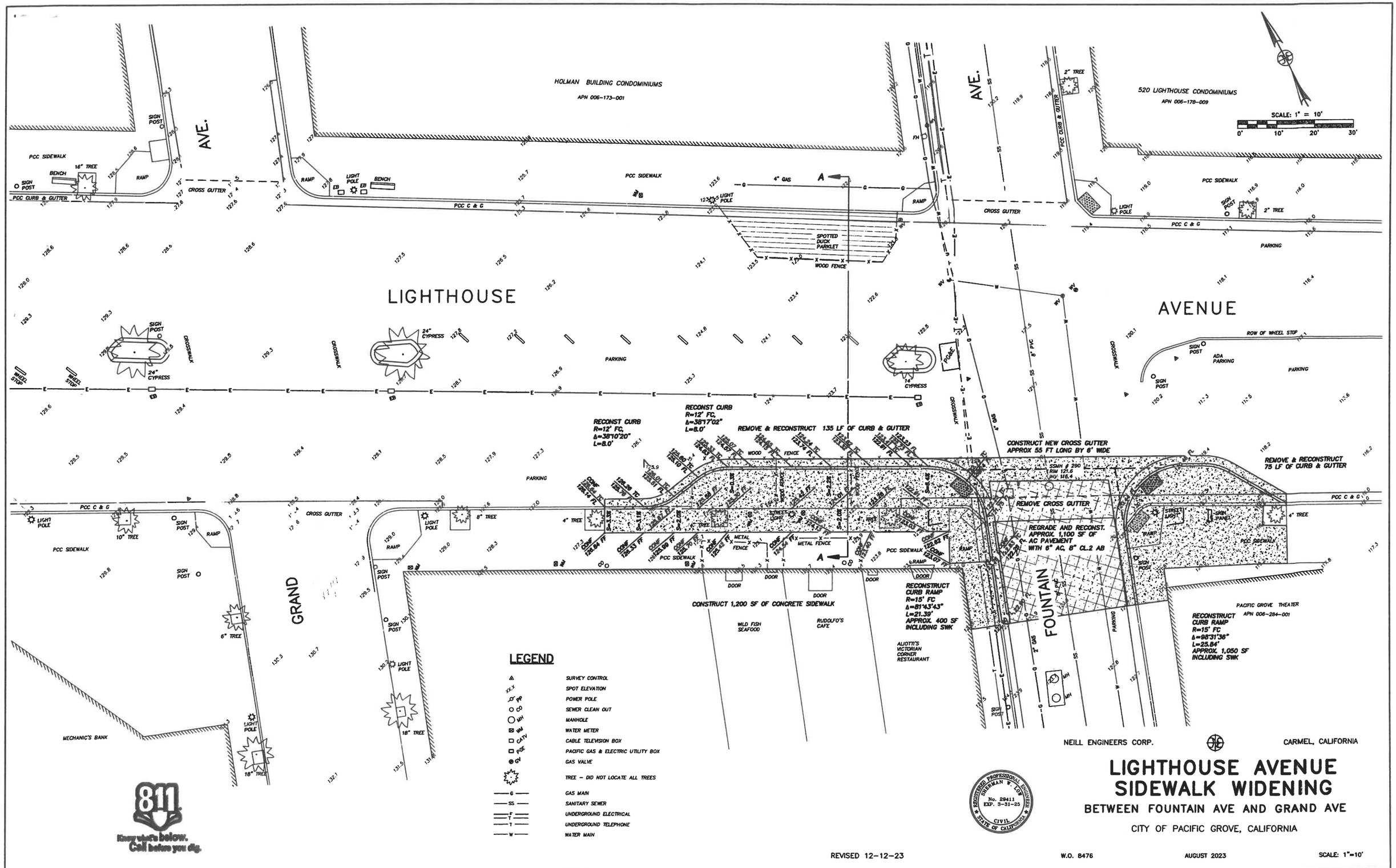
12/12/2023

CITY OF PACIFIC GROVE

LIGHTHOUSE WIDENING
LIGHTHOUSE & FOUNTAIN
COST OPTION B

#	Description	Quanity	Units	Price	Amount
1	RemoveConstruct Curb Ramp	2	EA	$15,000.00	$30,000.00
2	Reconstruct Curb and Gutter	210	LF	$165.00	$34,650.00
3	Reconstruct PCC Sidewalk	2,210	SF	$40.00	$88,400.00
4	Reconstruct AC Pavement	1,100	SF	$25.00	$27,500.00
5	Construct Cross Gutter	330	SF	$90.00	$29,700.00
6	Markings	1	LS	$8,000.00	$8,000.00
	15% Misc				$33,000.00
WO 8476				Total	$251,250.00

NEILL ENGINEERS
DEC 12 2023
CARMEL, CA



NEILL ENGINEERS CORP. CARMEL, CALIFORNIA

LIGHTHOUSE AVENUE SIDEWALK WIDENING

BETWEEN FOUNTAIN AVE AND GRAND AVE

CITY OF PACIFIC GROVE, CALIFORNIA

REVISED 12-12-23 W.O. 8476 AUGUST 2023 SCALE: 1"=10'

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SHEET 1 OF 3

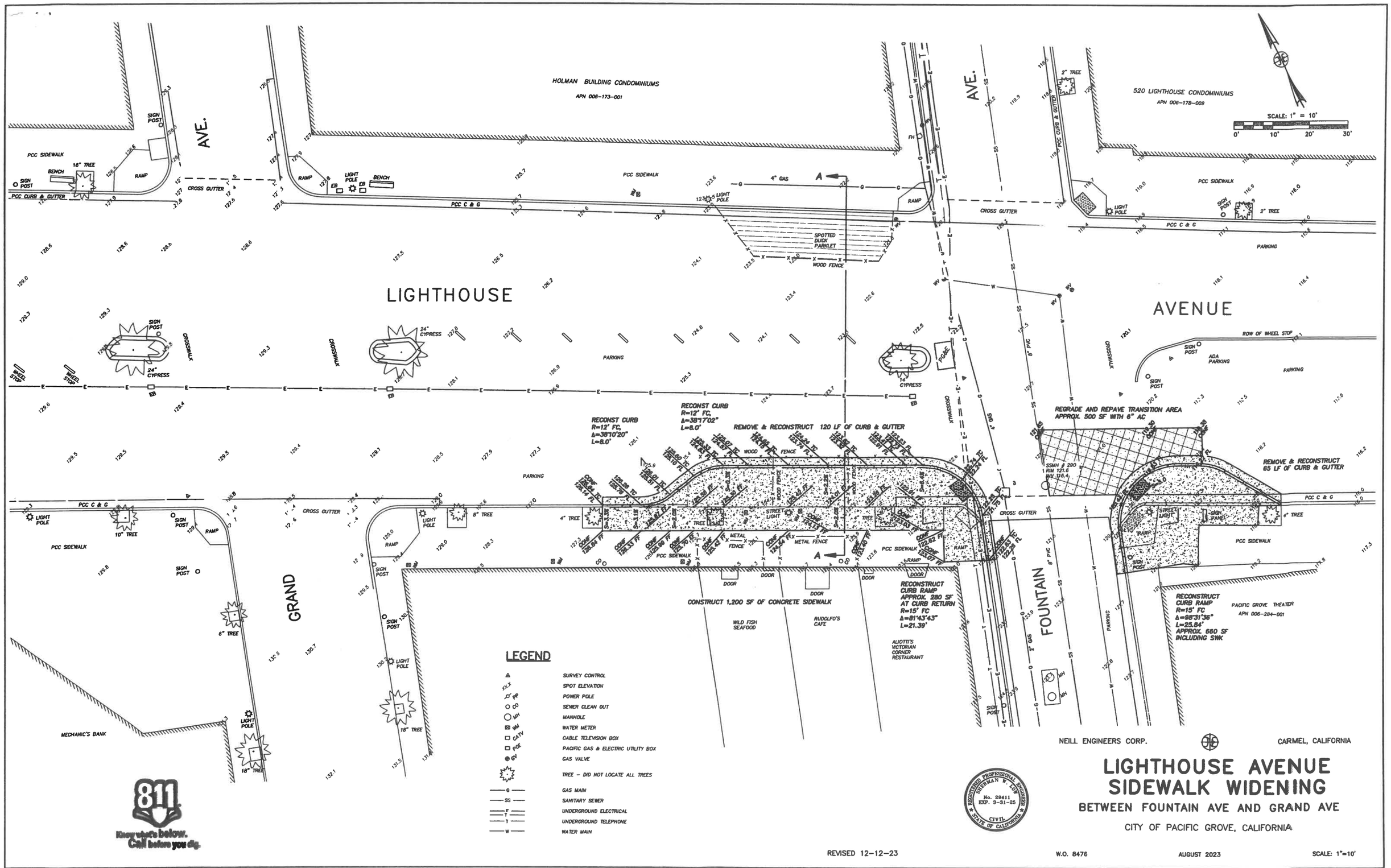
12/12/2023

CITY OF PACIFIC GROVE

LIGHTHOUSE WIDENING
LIGHTHOUSE & FOUNTAIN
COST OPTION A

#	Description	Quanity	Units	Price	Amount
1	RemoveConstruct Curb Ramp	2	EA	$15,000.00	$30,000.00
2	Reconstruct Curb and Gutter	190	LF	$165.00	$31,350.00
3	Reconstruct PCC Sidewalk	1,700	SF	$35.00	$59,500.00
4	Reconstruct AC Pavement	550	SF	$15.00	$8,250.00
5	Markings	1	LS	$8,000.00	$8,000.00
6	15% Misc				$21,000.00
WO 8476				Total	**$158,100.00**

NEILL ENGINEERS
DEC 12 2023
CARMEL, CA


HOLMAN BUILDING CONDOMINIUMS
APN 006-173-001
520 LIGHTHOUSE CONDOMINIUMS
APN 006-178-009
SCALE: 1" = 10'
0' 10' 20' 30'
LIGHTHOUSE
AVENUE
GRAND
AVE.
FOUNTAIN
PCC SIDEWALK
PCC C & G
CROSS GUTTER
RAMP
CROSSWALK
PARKING
ADA PARKING
ROW OF WHEEL STOP
SPOTTED DUCK PARKLET
WOOD FENCE
METAL FENCE
4" GAS
2" GAS
8" PVC
SSMH # 290
RIM 121.6
INV 116.4
RECONST CURB
R=12' FC,
Δ=38°10'20"
L=8.0'
RECONST CURB
R=12' FC,
Δ=38°17'02"
L=8.0'
REMOVE & RECONSTRUCT 120 LF OF CURB & GUTTER
REGRADE AND REPAVE TRANSITION AREA
APPROX. 500 SF WITH 6" AC
REMOVE & RECONSTRUCT
65 LF OF CURB & GUTTER
CONSTRUCT 1,200 SF OF CONCRETE SIDEWALK
RECONSTRUCT
CURB RAMP
APPROX. 280 SF
AT CURB RETURN
R=15' FC
Δ=81°43'43"
L=21.39'
RECONSTRUCT
CURB RAMP
R=15' FC
Δ=98°31'36"
L=25.84'
APPROX. 660 SF
INCLUDING SWK
WILD FISH SEAFOOD
RUDOLFO'S CAFE
ALIOTTI'S VICTORIAN CORNER RESTAURANT
PACIFIC GROVE THEATER
APN 006-284-001
MECHANIC'S BANK
24" CYPRESS
14" CYPRESS
16" TREE
10" TREE
8" TREE
6" TREE
4" TREE
2" TREE
18" TREE
LEGEND
SURVEY CONTROL
SPOT ELEVATION
POWER POLE
SEWER CLEAN OUT
MANHOLE
WATER METER
CABLE TELEVISION BOX
PACIFIC GAS & ELECTRIC UTILITY BOX
GAS VALVE
TREE - DID NOT LOCATE ALL TREES
GAS MAIN
SANITARY SEWER
UNDERGROUND ELECTRICAL
UNDERGROUND TELEPHONE
WATER MAIN
811
Know what's below.
Call before you dig.
REGISTERED PROFESSIONAL ENGINEER
SHERMAN W. JOY
No. 29411
EXP. 3-31-25
CIVIL
STATE OF CALIFORNIA
NEILL ENGINEERS CORP.
CARMEL, CALIFORNIA
LIGHTHOUSE AVENUE
SIDEWALK WIDENING
BETWEEN FOUNTAIN AVE AND GRAND AVE
CITY OF PACIFIC GROVE, CALIFORNIA
REVISED 12-12-23
W.O. 8476
AUGUST 2023
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SHEET 1 OF 3

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Joyce Halabi, Deputy Public Works Director

MEETING DATE: February 14, 2024

SUBJECT: David Avenue Sidewalk Project

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive report
2. Direct staff to proceed with phasing the installation of sidewalks on the school side of David Avenue
3. Alternatively, discuss and take other action related to this item

DISCUSSION

Background

As part of the FY22/23 Capital Improvement Plan (CIP) the City Council approved the David Avenue Sidewalk Project. The original project budget was $360,000 derived from American Rescue Plan Act (ARPA) funding. During the budget process, at their July 13, 2023 meeting, the Council opted to reallocate $278,000 of ARPA funds (allocated initially to the Skate Park and Purple Pipe Projects) to the David Avenue Sidewalk project. This increased the project budget from $360,000 to $638,000.

The purpose of this multi-year project is to install sidewalks and enhance pedestrian safety on David Avenue between Patterson Lane and Montecito Avenue. David Avenue serves as one of the City's major arterials. This segment is heavily trafficked and provides access to the Del Monte Neighborhood, local schools, and commercial areas.

The City Engineer has performed preliminary engineering to provide the Council with a high-level understanding of the challenges and potential costs associated with installing sidewalks on either side of David Avenue. The cost and challenges associated with each option are provided at a high level below. Attachment 1 provides the preliminary estimates in visual form.

Ultimately, City Staff is recommending the Council provide direction to proceed with the installation of sidewalks on the school side of David Avenue. Although this option is more costly, staff believes this will present the least construction and long-term maintenance challenges and be the ideal option for pedestrian safety.

Estimated Costs

Road Segment	Estimated Cost
David Avenue (Residential Side)	$1,290,000
David Avenue (School Side)	$1,935,000

Infrastructure Challenges:
Challenges associated with installing sidewalks on the residential side of David Avenue:

- This side of David Ave has several driveway approaches which would require the installation of driveway aprons, and present greater opportunities for car/pedestrian conflicts.
- This option would require the construction of retaining walls at several properties to ensure proper sidewalk construction and continued sidewalk clearance/access.
- This option will impact residential parking on David between Clark Lane and Montecito Avenue.
    - Currently, residents park in the public right of way where a sidewalk would be placed. Installation of sidewalks would displace these informal parking areas. The street width is not sufficient to allow for both a sidewalk and parallel street parking and, as a result, there would be a loss in parking.

Challenges associated with installing sidewalks on the school side of David Avenue:

- The largest challenge and cost associated with the installation of a sidewalk on the school side of David Avenue is the reconfiguration and construction of stormwater infrastructure. This will require replacing the existing swale drainage ditch (between Clark Lane and Monetcito Avenue) with formal underground stormwater infrastructure to allow for sidewalk placement.
    - This is largely why the cost of installation of a sidewalk on this section of roadway is more costly.
- This option also requires tree removal on the section of David between Montecito and Buena Vista Avenues.

The attachment provides the engineer's construction estimates per block, alongside a listing of infrastructure improvements required to facilitate sidewalk installation.

OPTIONS

1. Direct staff to proceed with phasing the installation of sidewalks on the school side of David Avenue
2. Direct staff to proceed with phasing the installation of sidewalks on the residential side David Avenue
3. Provide alternative direction

FINANCIAL IMPACT:
Despite the option selected, there is not sufficient funding to allow for the construction of sidewalks on the full length of David Avenue between Patterson Lane and Montecito Avenue. The project can be phased to allow for some construction in the current fiscal year with the allocated project budget.

If the Council provides direction to proceed with the staff recommendation, installation of sidewalks on the school side of David Ave, it is anticipated that construction of improvements could occur between Patterson and Clark Lanes, and potentially elements of the improvements on Clark Lane and Buena Vista Avenue.

Based on the direction provided by the Council, staff will regroup with the City Engineer to best

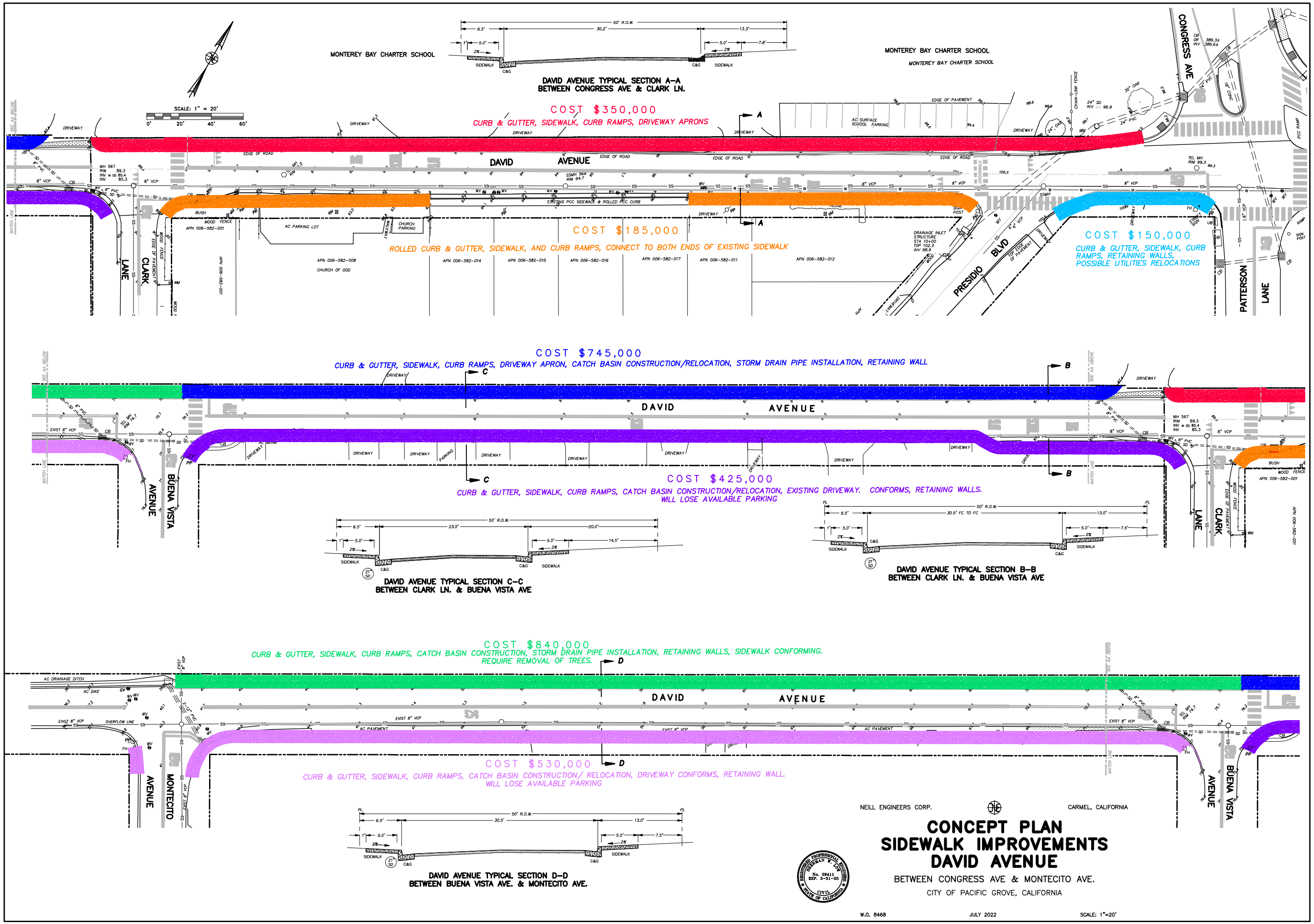
develop a phased construction plan to most efficiently bid the project and harness existing funding.

Staff can include a request for additional funding as an element of the FY24/25 CIP.

FOCUSED PRIORITY AREA: Infrastructure

Attachments

Engineer's Concept & Estimated Construction Costs


MONTEREY BAY CHARTER SCHOOL
DAVID AVENUE TYPICAL SECTION A–A
BETWEEN CONGRESS AVE & CLARK LN.
SCALE: 1" = 20'
COST $350,000
CURB & GUTTER, SIDEWALK, CURB RAMPS, DRIVEWAY APRONS
DAVID AVENUE
CONGRESS AVE
CLARK LANE
PRESIDIO BLVD
PATTERSON LANE
COST $185,000
ROLLED CURB & GUTTER, SIDEWALK, AND CURB RAMPS, CONNECT TO BOTH ENDS OF EXISTING SIDEWALK
COST $150,000
CURB & GUTTER, SIDEWALK, CURB RAMPS, RETAINING WALLS, POSSIBLE UTILITIES RELOCATIONS
COST $745,000
CURB & GUTTER, SIDEWALK, CURB RAMPS, DRIVEWAY APRON, CATCH BASIN CONSTRUCTION/RELOCATION, STORM DRAIN PIPE INSTALLATION, RETAINING WALL
COST $425,000
CURB & GUTTER, SIDEWALK, CURB RAMPS, CATCH BASIN CONSTRUCTION/RELOCATION, EXISTING DRIVEWAY. CONFORMS, RETAINING WALLS. WILL LOSE AVAILABLE PARKING
BUENA VISTA AVENUE
DAVID AVENUE TYPICAL SECTION C–C
BETWEEN CLARK LN. & BUENA VISTA AVE
DAVID AVENUE TYPICAL SECTION B–B
BETWEEN CLARK LN. & BUENA VISTA AVE
COST $840,000
CURB & GUTTER, SIDEWALK, CURB RAMPS, CATCH BASIN CONSTRUCTION, STORM DRAIN PIPE INSTALLATION, RETAINING WALLS, SIDEWALK CONFORMING. REQUIRE REMOVAL OF TREES.
COST $530,000
CURB & GUTTER, SIDEWALK, CURB RAMPS, CATCH BASIN CONSTRUCTION/ RELOCATION, DRIVEWAY CONFORMS, RETAINING WALL. WILL LOSE AVAILABLE PARKING
MONTECITO AVENUE
DAVID AVENUE TYPICAL SECTION D–D
BETWEEN BUENA VISTA AVE. & MONTECITO AVE.
NEILL ENGINEERS CORP.
CARMEL, CALIFORNIA
CONCEPT PLAN
SIDEWALK IMPROVEMENTS
DAVID AVENUE
BETWEEN CONGRESS AVE & MONTECITO AVE.
CITY OF PACIFIC GROVE, CALIFORNIA
W.O. 8468
JULY 2022
SCALE: 1"=20'

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Daniel Gho, Public Works Director/Deputy City Manager
MEETING DATE:	February 14, 2024
SUBJECT:	Skatepark Project – City Hall Parking Lot
CEQA:	Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Receive report and provide direction.
2. Alternative, take other action related to this item.

DISCUSSION

During the Council meeting held on November 15, 2023, the Council received a status report and recommendation from Staff. Additionally, the Council received communication from the Recreation Board. The Recreation Board urged the Council to move forward with the location of a Skatepark on a trial basis at one of two locations: (1) City Hall Employee Parking lot or (2) Northwest corner of the Public Works Corporation Yard. Alternative locations for the Skatepark have been the subject of previous reports and information, linked here. In the past the evaluation of alternative sites did not meet with success. The Recreation Board felt that the construction of the Skatepark for a trial period at one of the sites recommended by the Board would result in a consensus as to where the Skatepark should be ultimately located.

Following the Council's discussion on the matter The Council directed staff to further evaluate the location of skatepark in the Employee Parking lot adjacent to the Youth Center. Specifically, the Council directed staff to complete the following tasks:

1. Discuss a temporary skatepark with the City's insurance representatives: California Joint Powers Authority.
2. Evaluate the Surface for the location of a skatepark.
3. Develop potential project costs.
4. Evaluate Displacement of Employee Parking
5. Prepare a Project description to include:

a. Days and hours of operations
b. Opening and closing
c. Users
d. Signage
e. Measurement of success

6. Reach out to neighbors and perform public outreach.
The purpose of this staff report is to update the Council on the completed tasks and to seek additional direction from the Council.

Discuss a temp skatepark with California Joint Powers Insurance Authority (CJPIA):
City staff has discussed the concept of a temporary skatepark on City property with the CJPIA. The City cannot purchase equipment and install it. The CJPIA supports the project in concept, but the materials, purchase, and installation must be performed by a company that specializes in temporary skateparks or above ground parks. The company must provide the appropriate equipment based on an approved design and then install the equipment to specifications. Once installed the equipment remains in place throughout the duration of the trail period.

Evaluate the surface:
The city reached out to American Ramp Company to seek their advice and expertise on the purchase and installation of a temporary skate park. Public Works discussed the location and sent them pictures of the space, the surface and square footage (4,300 sq ft) available for a park. Upon receipt of the pictures, it was determined that the surface is not suitable for skateboards, primarily due to the slope and coarseness of the asphalt. Since the asphalt is not suitable resurfacing would be recommended. It is anticipated that resurfacing would cost approximately $45,000 - $50,000.

City Hall Employee Park Lot
The City Hall Employee lot is heavily used, that is almost always at full capacity during business hours. This proposal would result in eliminating 12 of the available parking spaces and potentially rendering an additional 4 spots inaccessible. This proposal would also result in the removal of 2 ADA parking spots, half of the ADA parking that services the Youth Center and City Hall facilities. Moreover, the proposal would block a complete exit to the parking lot, causing potential access issues as the lot would only be accessible only from 17th Street.
Parking is already a present challenge on site for employees as there are not sufficient spaces in the lot as is. Eliminating 12- 16, spots would result in displaced employee parking. Employees would be forced to park on the road in spots currently used for residents and patrons of local businesses.

Project Costs:
American Ramp Company recommends installation of mini ramps, a grind bar and a grind box. Attachment 1 shows renderings of the equipment along with a quote for the purchase and set up of the equipment. For the 3 pieces of equipment the quote is $55,127.

The resurfacing of the lot and the purchase of the equipment would be subject to formal contractual procedures Per Article III. Purchases in Amounts over the Purchasing Agent's Authorization. This would require a Request for Proposal (RFP) to be prepared and issued for the equipment and also an RFP for the resurfacing would need to be issued. The City Engineer would need to prepare engineered plans and specifications for the resurfacing.

Estimated Budget:

a. Resurfacing- $50,000
b. Equipment- $55,127
c. Design- $15,769
d. Contingency $12,000
Total $132, 896

Next steps in the process will be to perform public outreach and prepare a project description if the City Council opts to continue with the process. The following items will need to be identified within a project description:

a. Days and hours of operations
b. Opening and closing
c. Users: Multi Wheel
d. Signage
e. Security: Fencing & lighting
f. Measurement of success for 90 trial period

OPTIONS

1. Direct Staff to continue with the project planning.
2. Or Provide staff with additional direction.

FINANCIAL IMPACT:

Originally, the Skatepark project was to be funded with ARPA funds in the amount of $158,000 and was to be a multi-year project. The ARPA funding was removed and applied to the David Avenue Sidewalk Project which is expected to be under construction later this fiscal year. Should the Council want to move forward with the Skatepark, funding would need to be considered as a new CIP project in FY 24-25.

FOCUSED PRIORITY AREA: Recreation Services

Attachments

Skatepark Quotes and Rendering

AMERICAN RAMP COMPANY

8650 - CA, PACIFIC GROVE

AMERICAN
RAMP
COMPANY

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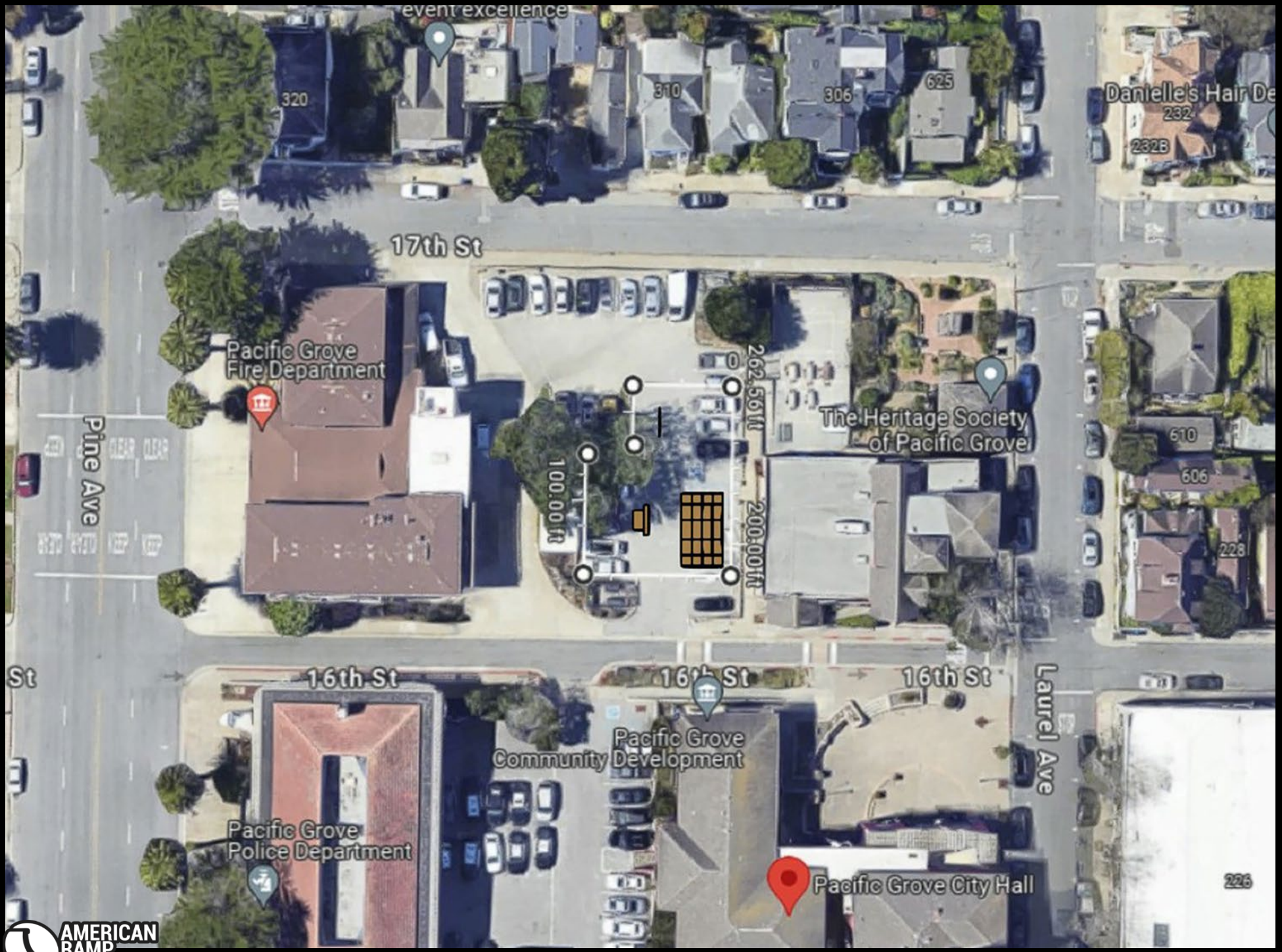
8650 - CA, PACIFIC GROVE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625
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232B
17th St
Pacific Grove
Fire Department
Pine Ave
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The Heritage Society
of Pacific Grove
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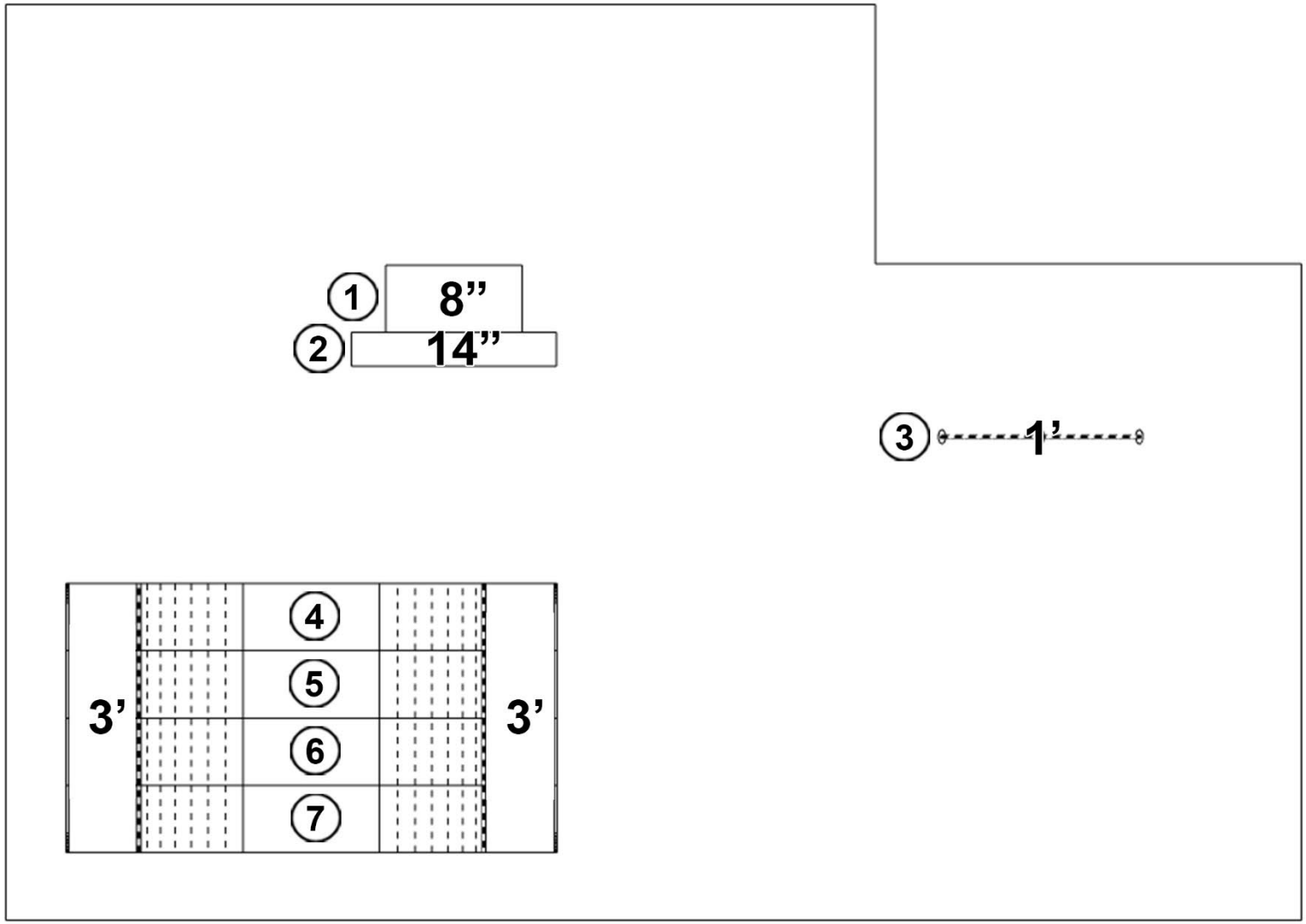
St
16th St
16th St
16th St
Laurel Ave
Pacific Grove
Community Development
Pacific Grove
Police Department
Pacific Grove City Hall
226


1
8”
2
14”
3
1’
4
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6
7
3’
3’

601 S. McKinley Ave
Joplin, MO 64801
Toll-free: 800-RAMP-778
Local: 417-206-6816
Fax: 417-206-6888
sales@americanrampcompany.com

AMERICAN RAMP COMPANY

Quote #	Design #	Customer	Date	Designer
Q28202.0	8650	City of Pacific Grove	01-08-24	Julia Brueckler

Item	Obstacle	Height	Width	Length	Pro Series
1	Grindbox	8"	4.0'	8.0'	
2	Grindbox (2' Wide)	14"	2.0'	12.0'	
3	Grind Rail (Round)	1.0'	2"	12.0'	
4	Half Pipe	3.0'	4.0'	28.0'	
5	Half Pipe	3.0'	4.0'	28.0'	
6	Half Pipe	3.0'	4.0'	28.0'	
7	Half Pipe	3.0'	4.0'	28.0'	
		TOTAL			**$55,127.27**

Notes:

- This turnkey quote includes Equipment, Shipping, and Installation.
- This quote includes prevailing wage. If not applicable, call for revised quote.
- This quote does not include sales tax. If applicable, call for revised quote.
- Quote is good for 30 days.

Purchase through our competitively bid government Sourcewell contract.

Sourcewell
Awarded Contract
Contract # 112420-ARC

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Jenica Maldonado, Special Counsel, Brian Pierik, City Attorney

MEETING DATE: February 14, 2024

SUBJECT: First Reading of Ordinance Repealing Section 2.06.020 of the Pacific Grove Municipal Code Relating to the Removal of the City Manager

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Request the City Attorney read the title of the ordinance;
2. Motion to waive further reading of the ordinance and introduce and Ordinance Repealing Section 2.06.020 of the Pacific Grove Municipal Code Relating to the Removal of the City Manager;
3. Direct a summary of a proposed ordinance be published as approved by the City Attorney;
4. Other action related to this item.

DISCUSSION

In 1967, the City Council of the City of Pacific Grove (Pacific Grove) adopted Ordinance No. 573, which enacted certain portions of the Pacific Grove Municipal Code (Municipal Code) relating to the appointment and removal of the City Manager.

Section 2.06.020 of the Municipal Code sets forth the terms upon which the City Manager may be removed from the position upon a five-sevenths' (i.e., super majority) vote of the Council of Pacific Grove (City Council). Section 2.06.020 also requires that the City Manager be furnished with a written notice of the City Council's intention to remove the City Manager and the reasons for such removal, at least 30 days before the effective date of removal. Upon receiving notice, the City Manager may elect to schedule a hearing before the City Council regarding the proposed removal. The purpose of the hearing is for the City Manager to present the City Council with his or her grounds of opposition to his or her removal; however, the City Council shall use its uncontrolled discretion and its action shall be final.

Section 2.06.020 of the Municipal Code also authorizes the City Council to suspend the City Manager from duty after providing notice of removal but the City Manager is entitled to his or her compensation until removal by resolution subsequent to the public hearing, if requested.

Section 2.06.020 also contains a limitation of removal of the City Manager. It states that a City Manager is prohibited from being removed within six months of any general municipal election held in

Pacific Grove where a member of the City Council is elected.

After a review of surrounding cities and various municipal codes, it is clear that Section 2.06.020 of the Municipal Code is an outlier. It does not appear that it is customary for a public employee, such as a City Manager, to be given a hearing if the employee's dismissal is not for cause but convenience. The City of Santa Cruz's Municipal Code authorizes the removal of the City Manager by the affirmative votes of at least four (4) members of the City Council, subject to certain time limitations relating to a general municipal election. The Municipal Codes and City Charters for the cities of San Luis Obispo and Monterey are silent as to the removal of the City Manager.

Moreover, the Brown Act authorizes the City Council to consider, in closed session, the dismissal of a public employee, such as a City Manager, or to hear the complaints or charges brought against an employee by another person or employee. Under the Brown Act, the impacted employee is also authorized to request that such dismissal and/or discussion of complaints and charges be discussed in public session. The Brown Act mandates that the impacted employee be provided notice of any such closed session and his/her ability to request that such discussions be held in open session. Government Code Section 54957

Special Counsel has confirmed that Section 2.06.010, entitled, "Appointment – Conditions of employment" provides that "[o]ther conditions of employment may be spelled out in a hiring agreement between the city manager and the council." Thus, it is appropriate for any terms governing termination and/or removal to be set forth in the agreement between the City Council and City Manager.

OPTIONS

1. Approve Ordinance as proposed and direct City Attorney to take necessary actions to properly notice and schedule a second reading and adoption of Ordinance.
2. Take no action. This will result in Section 2.06.020 of the Municipal Code to remain enacted.
3. Provide staff alternative direction.

FINANCIAL IMPACT:
There is no fiscal impact related to enactment of the Ordinance.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1. Proposed Ordinance
2. Amended Proposed Ordinance 2/9/2024

ORDINANCE NO. 24 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE REPEALING SECTION 2.06.020 OF THE PACIFIC GROVE MUNICIPAL CODE RELATING TO THE REMOVAL OF THE CITY MANAGER

FACTS

1. The City of Pacific Grove (Pacific Grove) is a charter city organized under the constitution of the State of California.

2. Pacific Grove became a charter city on April 22, 1927. New Charters were adopted in 1955, 1969, and 1974.

3. Section 2.06.020 of the Municipal Code sets forth the terms upon which the City Manager may be removed from the position upon a five-sevenths' (i.e., super majority) vote of the council of Pacific Grove (City Council). Section 2.06.020 also requires that the City Manager be furnished with a written notice of the City Council's intention to remove the City Manager and the reasons for such removal, at least 30 days before the effective date of removal. Upon receiving notice, the City Manager may elect to schedule a hearing before the City Council regarding the proposed removal. The purpose of the hearing is for the City Manager to present the City Council with his or her grounds of opposition to his or her removal; however, the City Council shall use its uncontrolled discretion and its action shall be final.

4. Section 2.06.020 of the Municipal Code also authorizes the City Council to suspend the City Manager from duty after providing notice of removal, but the City Manager is entitled to his or her compensation until removal by resolution subsequent to the public hearing, if requested.

5. Section 2.06.020 also contains a limitation of removal of the City Manager. It states that a City Manager is prohibited from being removed within six months of any general municipal election held in Pacific Grove where a member of the City Council is elected.

6. This ordinance repeals Section 2.06.020, to be replaced with the text "Repealed."

7. Notice of a public hearing regarding Ordinance No. ____ was published in [insert newspaper] on [date].

8. This ordinance does not constitute a Project as that term is defined by Section 15378 of the California Environmental Quality Act (CEQA) as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The facts set forth above are true and correct and are adopted as findings of the City Council as though set forth fully within the body of this ordinance.

SECTION 2. Section 2.06.020 of the Municipal Code is hereby repealed in its entirety.

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement this Ordinance.

SECTION 4. This Ordinance shall be liberally construed to implement its purposes.

SECTION 5. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 6. In accordance with Article 15 of the City Charter, this ordinance shall take effect thirty (30) days following adoption on second reading by the City Council.

(Continued on following page)

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS __ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:
DATED:_____

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN PIERIK, City Attorney

ORDINANCE NO. 2024 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE ~~REPEALING~~AMENDING SECTION 2.06.020 OF THE PACIFIC GROVE MUNICIPAL CODE RELATING TO THE REMOVAL OF THE CITY MANAGER

FACTS

1. The City of Pacific Grove (Pacific Grove) is a charter city organized under the constitution of the State of California.

2. Pacific Grove became a charter city on April 22, 1927. New Charters were adopted in 1955, 1969, and 1974.

3. Section 2.06.020 of the Municipal Code sets forth the terms upon which the City Manager may be removed from the position upon a five-sevenths' (i.e., super majority) vote of the council of Pacific Grove (City Council). Section 2.06.020 also requires that the City Manager be furnished with a written notice of the City Council's intention to remove the City Manager and the reasons for such removal, at least 30 days before the effective date of removal. Upon receiving notice, the City Manager may elect to schedule a hearing before the City Council regarding the proposed removal. The purpose of the hearing is to present the City Council with his or her grounds of opposition to his or her removal; however, the City Council shall use its uncontrolled discretion and its action shall be final.

4. Section 2.06.020 of the Municipal Code also authorizes the City Council to suspend the City Manager from duty after providing notice of removal but the City Manager is entitled to his or her compensation until removal by resolution subsequent to the public hearing, if requested.

5. Section 2.06.020 also contains a limitation of removal of the City Manager. It states that a City Manager is prohibited from being removed within six months of any general municipal election held in Pacific Grove where a member of the City Council is elected.

6. ~~This ordinance repeals Section 2.06.020, to be replaced with the text "Repealed."~~ This ordinance amends Section 2.06.020 to strike the existing language in this section in its entirety and to replace such language as follows: "The procedure for removal of the City Manager shall be set forth in the hiring agreement between the City and the City Manager."

7. ~~Notice of a public hearing regarding Ordinance No. _____ was published in [insert newspaper] on [date].~~ Article 19 City Manager of the Charter of Pacific Grove provides that "[t]he procedure for removal of the City Manager shall be prescribed by ordinance."

8. This ordinance does not constitute a Project as that term is defined by Section 15378 of the California Environmental Quality Act (CEQA) as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the

environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The facts set forth above are true and correct and are adopted as findings of the City Council as though set forth fully within the body of this ordinance.

SECTION 2. Section 2.06.020 of the Municipal Code is hereby repealed in its entirety and is replaced with the following: "The procedure for removal of the City Manager shall be set forth in the hiring agreement between the City and the City Manager."

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement this Ordinance.

SECTION 4. This Ordinance shall be liberally construed to implement its purposes.

SECTION 5. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 6. In accordance with Article 15 of the City Charter, this ordinance shall take effect thirty (30) days following adoption on second reading by the City Council.

(Continued on following page)

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS __ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
_____
BRIAN PIERIK, City Attorney