

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ROBERT PERRAULT, CITY MANAGER
SUBJECT: RESPONSE TO GRAND JURY REPORT REGARDING EMAIL ACCESSIBILITY TO CITY GOVERNMENT

BACKGROUND

In early May, the City received a copy of a Grand Jury Report. The report is titled "Email Accessibility to City Government". (*Please see Attachment 1.*) The report is critical of the fact that the City of Grover Beach does not publicly provide individual email addresses for each Council Member. At the conclusion of the report, a series of Findings and Recommendations are listed. The City was directed to respond to each of the Findings and Recommendations. The response is to be filed by the end of June. The purpose of this item is to review the report and to solicit direction from the Council in developing a letter response the Mayor will sign on behalf of the City Council.

DISCUSSION

The report is critical of the City's current practice of not listing individual Council Member email addresses on the City's website and concludes that "Grover Beach residents do not have email access to their elected council members, and therefore are hindered in gaining access to their elected officials."

It is staff's opinion that the public does have email access to elected officials. Information for contacting the City Council is provided on the City website and included on all business cards issued to individual Council Members. A page on the City website provides instructions for contacting Council Members and the various avenues for members of the public to contact public officials using email, written correspondence delivered by mail or hand-delivered to City Hall or by phone (Please see Attachment 2). This same webpage also includes a link to the general group email address for the City Council ("gadmin@grover.org") and a link to a "Contact Your City Council" form which is submitted via email. All emailed messages received are forwarded to the intended addressee.

The City does not provide private email addresses of public officials to the general public nor do we encourage their use. Keeping in mind the City's current practice and recognizing there are options for the Council to discuss, staff recommends the following responses to the Findings and Recommendations contained within the Grand Jury's report:

APPROVED FOR FORWARDING



**ROBERT PERRAULT
CITY MANAGER**

Please Review for the Possibility of a Potential Conflict of Interest:

- | | |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Lee |
| <input type="checkbox"/> Peterson | <input type="checkbox"/> Marshall |
| <input type="checkbox"/> Bright | <input type="checkbox"/> Nicolls |

Findings:

1. The City of Grover Beach does not list email addresses for City Council members on their official website.

Response: *The City of Grover Beach does not list individual email addresses for individual City Council Members on the City's website. The City does provide a link to the general email address "gbadmin@grover.org" that is available to contact any individual member or all members of the City Council. The website also provides instructions regarding contacting Council Members by email.*

2. Grover Beach City Council members use personal emails for city business and the email addresses are not published on the official city website.

Response: *The City is aware that City Council Members use personal emails for City business and the City intentionally does not list personal emails on the City's website.*

3. Information regarding city business discussed on personal emails is not available to the public.

Response: *The City does not agree with this finding. Citizens can review City business discussed on personal emails by making a public records request. This is the same process that would be used if individual Council Member email addresses were listed on the website. All Council Members are advised during their orientation with the City Clerk and City Attorney upon taking office that all public business conducted in written form, including email messages, are subject to disclosure under the Public Records Act.*

4. No evidence of Brown Act violations were discovered; however, the use of personal email in discussing public business can easily and unnecessarily give the impression of such.

Response: *The City agrees that no Brown Act violations were discovered; however, disagrees that the use of email in discussing public business in of itself can easily and unnecessarily give the impression of such.*

5. The Cities of Arroyo Grande and San Luis Obispo each have Brown Act Disclosure relating to the use of official emails on their city websites.

Response: *The City is aware that the Cities of Arroyo Grande and San Luis Obispo each have Brown Act Disclosures related to the use of emails on their respective websites. The City of Grover Beach also has the following disclosure statement posted on the City's website: "Please note: Please be aware that correspondence sent to or from members of the City Council may be subject to disclosure and additional distribution pursuant to the Public Records Act and the Brown Act."*

A copy of the City webpage that includes this disclosure statement was included in the information originally provided to the Grand Jury in October 2012.

Recommendations

1. The City of Grover Beach should create an official city email address for each city council member and department head and list them on the city website.

Response: *Email address information for individual Department Directors is already posted on the City website. In reference to email addresses for the City Council and each Council Member, the Council has a number of options in responding to this recommendation. The options are noted as follows:*

- A) *The City does post a link to the general email address ("gadmin@grover.org") for the City Council on its website in several locations. The link to this email address is available for members of the public to contact Council Members by email. Once the email is received, the City Clerk forwards the message to the appropriate Council Member. The City believes email access currently provided to the public is sufficient and will not be implementing this recommendation;*
- B) *The City will be assigning each Council Member individual addresses (eg., name@grover.org) that will be posted on the website with a copy sent automatically to the City Management Office;*
- C) *The City will be assigning individual addresses (name@grover.org) that will be posted on the website and a copy will not be sent to the City Management Office;*
- D) *The City will be assigning each Council Member with individual email addresses (name@grover.org) to the City website and keeping the general email address for all Council Members ("gadmin@grover.org"), which will be forwarded on to Council Members by the City Management Office; or*
- E) *The City will assign each Council Member with an individual email address (name@grover.org) that allows Council Members to log-in from any electronic device with Internet access to retrieve email messages with a copy sent to the City Management Office.*

It should be noted that with the current practice, the City Management Office is able to monitor email activity. In some of the options presented, this will not be possible and it will be necessary for Council Members to individually manage email communications.

2. The cities of Grover Beach, Pismo Beach, Morro Bay, Atascadero, and Paso Robles should provide a Brown Act disclosure similar to that provided by the City of San Luis Obispo, regarding the use of city-based emails as a way of demonstrating that they are in conformance with the Brown Act.

Response: *The City of Grover Beach currently provides a disclosure statement regarding the Brown Act and the Public Records Act on its website that pertains to all correspondence. It is substantially the same as provided by the City of San Luis Obispo on that City's website.*

ALTERNATIVES

The Council has the following alternatives to consider:

1. The Council could provide direction to staff for the development of a response to the Grand Jury report entitled "Email Accessibility to City Government" and authorize the Mayor to sign the response; or
2. The Council could provide staff with additional direction.

RECOMMENDED ACTION

It is recommended that the City Council provide direction to staff for the development of a response to the Grand Jury report entitled "Email Accessibility to City Government" and authorize the Mayor to execute the response on behalf of the City.

FISCAL IMPACT

Depending on the option selected by the Council in responding to the Grand Jury's findings regarding the establishment of individual emails, there may be additional costs incurred. In no event will the costs exceed \$500.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

Attachments

1. The Grand Jury Report entitled "Email Accessibility to City Government"
2. City webpage information - "Contacting Your City Council"

EMAIL ACCESSIBILITY TO CITY GOVERNMENT

SUMMARY

Transparency in local government is a fundamental concern and an expectation of the citizens of San Luis Obispo County. Email communication is one way that the public gains access to their local public officials. The 2012/2013 San Luis Obispo County Grand Jury, responding to a complaint by a citizen, investigated and concluded that all but one locality provided their constituents access to their public city emails.

INTRODUCTION

Based on a citizen complaint alleging Brown Act¹ violations and transparency issues with the City of Morro Bay's email system, it was determined to investigate the City of Morro Bay and the other six municipalities (Arroyo Grande, Atascadero, Grover Beach, Paso Robles, Pismo Beach and San Luis Obispo) in San Luis Obispo County with regard to the allegations.

The purpose of this investigation is to look at the seven municipalities and how they use email to communicate with each other about city business. In addition, the investigation sought to learn if those communications are available to the public. In each city-based system, the question was to determine if council members use private email, and if there was a possible Brown Act violation or the appearance of one.

¹ California Brown Act 54950: The people of this State do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created....A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communication of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the matter of their jurisdiction of the legislative body. ...The use of direct communications, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken by the members of the legislative body is prohibited.

AUTHORITY

Under the California Penal Code Article Two, Section 925, "The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the offices, departments, functions and methods or system of performing the duties of any such city or joint powers agency and make recommendations as it may deem proper and fit."

METHODS AND PROCEDURE

In order to obtain a better understanding, and for comparison sake, the Grand Jury sent letters to each of the County's seven municipalities (Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and San Luis Obispo) asking for their policies and procedures regarding how their elected officials use email to correspond. The Grand Jury also interviewed the City Manager of Grover Beach and the City Manager of Morro Bay.

NARRATIVE

From the cities' responses, the Grand Jury found that the City of Morro Bay had changed to city emails for council members by city resolution in October 2012. Responses also indicated that the City of Grover Beach was the only county municipality that continued to use private email to conduct city business.

During an interview with the Grover Beach City Manager, the Grand Jury was informed that the reason Grover Beach continues to use personal email addresses by their city council members was that to transfer them to the city domain was cost prohibitive. The Grand Jury conferred with the Morro Bay City Manager to determine if there was significant cost in transferring their city council members to the city's domain. The Grand Jury was informed that there was no cost to the City of Morro Bay. The transfer was the same as adding or deleting employees' emails to the

Morro Bay domain. Emails may be found by searching a particular city's website (domain). Incorporating council members' city domain emails into the city website helps to give transparency to city council business, as well as keeping communications within the guidelines established by the Brown Act.

The cities of Arroyo Grande and San Luis Obispo each have Brown Act disclosures related to the use of official city emails on their city websites. For example, the following extract is from the website of the City of San Luis Obispo: "E-Mail correspondence sent to and from members of the City Council via the City's website are considered public records and may be subject to disclosure and additional distribution pursuant to the Public Records Act and Brown Act."

CONCLUSIONS

All municipalities (except the City of Grover Beach) require employees and council members to use individual city domains (i.e., city.org) when conducting business by email. Citizens should not have to seek information regarding their city's business via any official's personal email address.

The websites of each municipality (except the City of Grover Beach) list an official city domain email address for each of its council members, city manager and department heads. The websites are available to the public.

Although no evidence of Brown Act violations were discovered, the use of personal email in discussing public business can easily and unnecessarily give the impression of such.

Grover Beach residents do not have email access to their elected council members, and therefore are hindered in gaining direct access to their elected officials. All city business, including emails, should be open for public inspection as guaranteed by the Freedom of Information Act.

FINDINGS

1. The City of Grover Beach does not list email addresses for City Council members on their official city website.
2. Grover Beach City Council members use personal emails for city business and the email addresses are not published on the official city website.
3. Information regarding city business discussed on personal emails is not available to the public.
4. No evidence of Brown Act violations were discovered; however, the use of personal email in discussing public business can easily and unnecessarily give the impression of such.
5. The cities of Arroyo Grande and San Luis Obispo each have Brown Act Disclosures relating to the use of official emails on their city websites.

RECOMMENDATIONS

1. The City of Grover Beach should create an official city email address for each city council member and department head and list them on the city website.
2. The cities of Grover Beach, Pismo Beach, Morro Bay, Atascadero and Paso Robles should provide a Brown Act disclosure, similar to that provided by the City of San Luis Obispo, regarding the use of city-based emails as a way of demonstrating that they are in conformance with the Brown Act.

COMMENDATIONS

The City of Morro Bay is commended for the rapid transference of their city council members' personal emails to city domain emails for conducting official business.

REQUIRED RESPONSES

1. The City of Grover Beach should respond to Findings 1 through 5 and Recommendations 1 and 2.

2. The cities of Pismo Beach, Morro Bay, Atascadero and Paso Robles should respond to Finding 5 and Recommendation 2.

California Penal Code

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Response to Grand Jury Report Form

Report Title: _____

Report Date: _____

Authorized Responder and Agency _____

FINDINGS

- I (we) agree with the findings numbered: _____
- I (we) disagree wholly or partially with the findings numbered: _____
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons.)

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.

(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.

(Attach an explanation.)

Date: _____ Signed: _____

Number of pages attached _____



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Contacting Your City Council

Written Correspondence

Please send written correspondence to the Grover Beach City Council by mail or hand delivery to:
 Grover Beach City Hall
 Attn: City Council
 154 S. Eighth Street
 Grover Beach, CA 93433

Correspondence may also be sent by either sending an [email](#) or completing a [Contact Your City Council Form](#). Please include "Attn: City Council" either in the subject line or the body of your correspondence.

Please Note: Please be aware that correspondence sent to or from members of the City Council may be subject to disclosure and additional distribution pursuant to the Public Records Act and the Brown Act.

Telephone

Call the City Management Department at (805) 473-4567 to speak with a staff member during regular business hours or leave a voice mail if calling after hours. Your message will then be forwarded to the Mayor and/or City Council Member(s).

In Person

At City Hall

Come by City Hall during regular business hours to request an appointment or leave a message for your City Council in the City Management Department, located at 154 South Eighth Street.

At a Regular City Council Meeting During the Public Comment Period

Any member of the public may address the City Council for a period not to exceed three minutes total on any item of interest within the jurisdiction of the City Council.

The City Council will listen to all communications. However, in compliance with state law, the City Council cannot act on items that do not already appear on the printed and posted agenda. Please refer to [Policies and Procedures for Conduct and Decorum at Council Meetings](#) for more details.



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Please complete the online form below to submit your comments to the Grover Beach City Council.

Note: Correspondence sent to or from members of the City Council may be subject to disclosure and additional distribution pursuant to the Public Records Act and the Brown Act.

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Contact Information

Name:*

Address:*

City:*

State: *

Home Phone Number:

Daytime Phone Number:*

Email Address:*

Subject:

Zip: |

Please Let Us Know Your Concerns or Comments.*

Please attach any supporting documentation:

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