



NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

SPECIAL MEETING AGENDA

Wednesday, July 18, 2018, 5:00 P.M.

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

**AGENDA**

**CALL TO ORDER**

**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.*

- A. Public Employment, (Government Code § 54957)  
Title: City Manager Performance Evaluation

**ADJOURNMENT**



NOTICE OF MEETING  
CITY OF PACIFIC GROVE  
CITY COUNCIL  
REGULAR MEETING AGENDA

Wednesday, July 18, 2018, 6:00 P.M.

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 located at 550 Central Avenue; the main counter in City Hall at 300 Forest Avenue, Pacific Grove; and on the internet at [www.cityofpacificgrove.org/agendas](http://www.cityofpacificgrove.org/agendas). The most effective method of communication with the City Council is by sending an email to [citycouncil@cityofpacificgrove.org](mailto:citycouncil@cityofpacificgrove.org). In order to allow the City Council adequate time to review communication related to an agenda item, and in order to allow for the communication to be photocopied and placed within the Reading File, it is recommended that the communication be sent no later than 9:00 AM on the day prior to the City Council meeting.

## AGENDA

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE: Councilmember Smith

#### 1. APPROVAL OF AGENDA

#### 2. PRESENTATIONS

- A. Ohlone-Costanoan Esselen Nation (OCEN) 2018 Tribal Gathering Event  
Reference: Tribal Chairwoman Louise J. Miranda Ramirez
- B. Mayor's Proclamation: Feast of Lanterns

#### 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.*

### 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 July 11, 2018 City Council Special and Regular Meetings PG 7**

Reference: Sandra Kandell, City Clerk

Recommended Action: Approve minutes.

***CEQA: Does not constitute a "Project" as defined by CEQA Guidelines Section 15378***

**6. RESOLUTIONS**

*Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business*  
None.

**7. ORDINANCES**

*Items pulled from this section will be placed under 11. Public Hearings*  
None.

**8. REPORTS – INFORMATION ONLY**

*Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business*  
None.

**9. REPORTS – REQUIRING ACTION**

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

**A. Agreement with Monterey Peninsula Engineering for Sewer Main Improvements Through the Monarch Butterfly Sanctuary PG 15**

Reference: Daniel Gho, Public Works Director

Recommended Action: Authorize the City Manager to enter into an agreement with the Monterey Peninsula Engineering for the Sewer Main Improvements through the Monarch Butterfly Sanctuary for a cost of \$181,250 plus a 15% contingency.

***CEQA: This action is categorically exempt as defined under the California Environmental Quality Act (CEQA) under Class 1, Article 19, Section 15301(c). Existing facilities, this states that Class 1 includes maintenance of existing public facilities.***

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

*Items pulled from this section will be placed under 13. New Business*  
None.

**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. Public hearings on non-controversial matters or for which testimony is not anticipated may be placed on the Consent Agenda, but shall be removed if any person requests a staff presentation or wishes to be heard on the matter.*

None.

**12. UNFINISHED AND ONGOING BUSINESS**

- A. Agreement with Karin Payson Architecture and Design for the Interior Remodel of the Pacific Grove Library Project **PG 19**  
Reference: Daniel Gho, Public Works Director and Scott Bauer, Library Director  
Recommended Action: Authorize the City Manager to enter into an agreement with Karin Payson Architecture and Design for the Interior Remodel of the Pacific Grove Library Project for a cost not to exceed \$249,704 plus a 10% contingency.  
***CEQA: Does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378***
- B. Local Coastal Program Council Subcommittee Update **This matter was continued from City Council's July 11, 2018 Regular Meeting. PG 23**  
Reference: Anastazia Aziz, AICP, Principal Planner  
Recommended Action: Accept as Information  
***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines Section 15378***

**13. NEW BUSINESS**

- A. Agreement with Monterey Peninsula Engineering for 14th Street Sanitary Sewer Main Replacement Project **PG 27**  
Reference: Daniel Gho, Public Works Director  
Recommended Action: Authorize the City Manager to enter into an agreement with the Monterey Peninsula Engineering for the 14th Street Sanitary Sewer Main Replacement Project between Lighthouse Avenue and Central Avenue for a cost not to exceed \$550,880 plus a 15% contingency.  
***CEQA: Does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378***
- B. Proposed Charter Amendment Discussion to Reduce the Size of the City Council **This matter was continued from City Council's July 11, 2018 Regular Meeting**  
Reference: Cynthia Garfield, Council Member **PG 31**  
Recommended Action: Direct City staff to bring an item back for City Council consideration for placing an item on the November 2018 ballot to reduce the number of City Council Members from 7 to 5.  
***CEQA: Does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378***
- C. Resolution to Add a Ballot Measure to Increase the Uniform Transient Occupancy Tax (Tot) on November 6, 2018 **PG 35**  
Reference: Ben Harvey, City Manager  
Recommended Action: Adopt a Resolution to add one ballot measure to increase the Uniform Transient Occupancy Tax at the Municipal Election, which was consolidated with the General Election, set for November 6, 2018.  
***CEQA: Exempt from the California Environmental Quality Act (CEQA), Public***

*Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized may have a significant effect on the environment.*

**14. FULL PRESENTATIONS**

None.

**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.

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DRAFT MEETING MINUTES  
CITY OF PACIFIC GROVE  
CITY COUNCIL  
SPECIAL MEETING

Wednesday, July 11, 2018, 5:00 P.M.  
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

**CALL TO ORDER**

Mayor Kampe called the meeting to order at 5:00 p.m. Present: Mayor Kampe, Mayor Pro Tem Huit, Councilmembers Cuneo, Fischer, Garfield, Peake, and Smith.

**CLOSED SESSION**

**PUBLIC COMMENT ON CLOSED SESSION MATTERS.**

No public comment was received.

- A. Conference with Real Property Negotiators (Government Code § 54956.8)  
Property: 77 Asilomar  
City Negotiator: Ben Harvey  
Under negotiation: *Price and terms of payment*
- B. Conference with Legal Counsel – Anticipated Litigation (Government Code § 54956.9(b))  
*Hobbs, et al v. City of Pacific Grove, et al.*  
Monterey County Superior Court Case No. 18CV002411
- C. Conference with Labor Negotiators (Government Code Section 54957.6)  
City Negotiators: Donna Williams, Liebert Cassidy Whitmore (via teleconference)  
and Leticia Livian, Human Resources Manager  
Employee Organization: Police Officers Association



**DRAFT MEETING MINUTES**  
**CITY OF PACIFIC GROVE**  
**CITY COUNCIL**  
**REGULAR MEETING**

Wednesday, July 11, 2018, 6:00 P.M.  
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

**CALL TO ORDER**

Mayor Kampe called the meeting to order at 6:00 p.m. Present: Mayor Kampe, Mayor Pro Tem Huitt, Councilmembers Cuneo, Fischer, Garfield, Peake, and Smith.

**PLEDGE OF ALLEGIANCE**

Councilmember Smith led the pledge of allegiance.

**1. APPROVAL OF AGENDA**

Upon motion by Councilmember Cuneo and seconded by Councilmember Fischer, the City Council voted 7-0 to approve the agenda.

**2. PRESENTATIONS**

- A. Receive Certificate of Award from CMFO regarding CAFR  
Reference Matt Pressey, Salinas Finance Director
- B. Certificate of Recognition: Bruce Cowan

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

- A. City Attorney Dave Laredo reported Council met with respect to the three noticed Closed Session Agenda Items. As to Negotiations with Real Property Negotiators regarding 77 Asilomar and Conference with Labor Negotiators regarding Police Officers Association, status reports were provided, Council's questions were answered, but no specific reportable action was taken. As to Conference with Legal Counsel regarding *Hobbs, et al. v. City of Pacific Grove, et al.*, and upon motion by Councilmember Cuneo and seconded by Councilmember Fischer, the Council voted 7-0 to authorize the City Attorney's office to provide rigorous defense in this case and the City Attorney's office will be responding with the Superior Court on the City's behalf.
- B. Council and staff made general announcements.

**4. GENERAL PUBLIC COMMENT**

Public comment was received from Tony Ciani and Susan Lynn.



## **CONSENT AGENDA**

Action: Consent Agenda Item No. 8A was pulled and considered as Regular Agenda Item 12A.

Action: Upon motion of Councilmember Cuneo and seconded by Councilmember Fischer, the Council voted 7-0 to approve the remainder of the Consent Agenda.

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

#### **A. Minutes of the June 20, 2018 City Council Special and Regular Meetings**

Action: Approved minutes.

***CEQA: Does not constitute a "Project" as defined by CEQA Guidelines Section 15378***

### **6. RESOLUTIONS**

#### **A. League of California Cities Annual Conference Voting Delegates**

Action:

1. Designated Mayor Bill Kampe as Voting Delegate and Mayor Pro Tem Robert Huitt as Alternate to attend the 2018 League of California Cities Annual Conference in Long Beach, September 12 – September 14 and represent the City on policy matters.
2. Directed staff to bring to the Council the policies to be debated and voted on, to allow the Council to discuss the issues, approve the City's position, and direct the voting representative to advance the City's position in all ways appropriate.

***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines Section 15378***

### **7. ORDINANCES**

None.

### **8. REPORTS – INFORMATION ONLY**

#### **A. Local Coastal Program Council Subcommittee Update **This item was pulled and considered as Regular Agenda Item 12A.****

Reference: Anastazia Aziz, AICP, Principal Planner

Recommended Action: Accept as information.

***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines Section 15378***

#### **B. Report on Attendance at Regional Meetings – June/July 2018**

Action: Received report.

***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines Section 15378***

#### **C. Periodic Regional Update**

Action: Received report.

***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines Section 15378***

- D. Regional Meeting Participation Report  
Action: Received report.  
***CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378***
  - E. Meeting Report: League of California Cities (LOCC) Policy Committee  
Action: Received report.  
***CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378***
  - F. Meeting Report: League of California Cities (LOCC) Advance Leadership Workshop  
Action: Received report.  
***CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378***
  - G. League of California Cities Executive Forum, Monterey, June 27-28  
Action: Received report.  
***CEQA: CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378***
  - H. Community Human Services Minutes of Regular Meeting  
Action: Received report.  
***CEQA: CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378***
- 9. REPORTS – REQUIRING ACTION**
- A. LED Streetlight Upgrade Program  
Action: Authorized the City Manager to initiate Phase 2 of the PG&E LED Streetlight Upgrade Program.  
***CEQA: Initial Study/Mitigated Negative Declaration***
  - B. Agreement with AMBAG and PG&E for Energy Efficient Lighting  
Action: Authorized the City Manager to enter into an agreement with AMBAG Energy Watch program and approve the use of 0% On-Bill Financing provided by PG&E to fund this energy efficiency project and approve installation of energy efficiency lighting throughout City facilities.  
***CEQA: This action is categorically exempt under California Environmental Quality Act (CEQA) under Class 1, Section 15301, Existing Facilities***
- 10. MEETING MINUTES OF COMMISSIONS, BOARDS, AND COMMITTEES**
- A. Architectural Review Board Meeting Minutes: April 24, 2018  
Action: Received minutes.  
***CEQA: Does not constitute a “Project” as defined by CEQA Guidelines Section 15378***

- B. Economic Development Commission Meeting Minutes: May 10, 2018; Business Walk Report: May 2018  
Action: Received minutes.  
*CEQA: Does not constitute a "Project" as defined by CEQA Guidelines Section 15378*
  
- C. Historic Resources Commission Meeting Minutes: February 28, 2018, April 25, 2018, and May 30, 2018  
Action: Received minutes.  
*CEQA: Does not constitute a "Project" as defined by CEQA Guidelines Section 15378*

## **REGULAR AGENDA**

### **11. PUBLIC HEARINGS**

- A. Call Up of Architectural Permit and Use Permit Application No. AP/UP 16-203 to allow the demolition of the existing single-story building and to build a 120- room, four-story hotel. The project proposes a total gross floor area of 82,936 square feet on a 0.77 acre lot pursuant to PGMC §23.31.020  
Councilmember Smith recused himself due to a business relationship that may affect the owner and excused himself from Chamber.

Mayor Kampe, Councilmembers Garfield, Fischer, and Peake all provided ex parte statements as to phone calls and site inspections.

City Attorney Laredo explained the role of Council regarding Call Up procedures pursuant to Pacific Grove Municipal Code.

CEDD Director Mark Brodeur presented staff report.

Mayor Kampe opened the Public Hearing.

Architects Vic Montgomery and Randy Russom were provided ten (10) minutes for their presentation.

Public comment received from Moe Ammar, Jane Haines, Lisa Ciani, Kathy Wooten, Lynn Mason, Janet Cohen, Claudia Sawyer, John Pearse, Robert Fisher, Elizabeth Fisher, Vicki Pearse, Tony Ciani, Sarah Boyle, Deborah Kenwood, Pat Flanagan, Jill Kleiss, Sarah Hardgrave, Cosmo Bua, Maureen Mason, Jeff Becom, Jeanne Byrne, Bill Bluhm, Tom McMahan, Richard Stillwell, Joni Kamrau, Betty Aickelin, Chris Hyland, and Robin Aeschliman.

Engineer Malik was provided five (5) minutes to present.

Architect Randy Russom and Project Manager Laith Agha were provided five (5) additional minutes for further presentation.

The Mayor closed the public hearing. Council dialogue began after a short break.

Action: Upon motion by Councilmember Fischer and seconded by Councilmember Cuneo, the Council voted 6-0-1, Councilmember Smith absent for this vote, to continue this matter until City Council's August 15, 2018 meeting requesting applicant return with modifications as directed by Council.

***CEQA: Environmental Impact Report***

- B. Appeal of 522 Lighthouse Avenue  
No public comment received.

Action: Upon motion by Councilmember Huitt and seconded by Councilmember Fischer, the Council voted 6-0-1, Councilmember Smith absent for this vote, to postpone the appeal hearing for the mixed use project on 522 Lighthouse until Wednesday August 1<sup>st</sup> at 6pm

***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines***

**No motion was made to continue past 10:00 p.m. to complete remaining agenda.**

## **12. UNFINISHED AND ONGOING BUSINESS**

- A. Local Coastal Program Council Subcommittee Update **This item was pulled from the Consent Agenda. Due to time constraints, this matter was continued to City Council's July 18, 2018 meeting.**  
Reference: Anastazia Aziz, AICP, Principal Planner  
Recommended Action: Accept as information.  
***CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines Section 15378***

## **13. NEW BUSINESS**

- A. Proposed Charter Amendment Discussion to Reduce the Size of the City Council **Due to time constraints, this matter was continued to City Council's July 18, 2018 meeting.**  
Recommended Action: Direct City staff to bring an item back for City Council consideration for placing an item on the November 2018 ballot to reduce the number of City Council Members from 7 to 5.  
***CEQA: Does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378***

## **14. FULL PRESENTATIONS**

None.

## **ADJOURNMENT**

Council adjourned the regular meeting at 10:44 p.m.

Respectfully Submitted,

Sandra Kandell  
City Clerk

Approved by Mayor: \_\_\_\_\_ Date \_\_\_\_\_

Attest by City Manager: \_\_\_\_\_ Date \_\_\_\_\_

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**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of City Council  
**FROM:** Daniel Gho, Public Works Director  
**MEETING DATE:** July 18, 2018

**SUBJECT:** Agreement with Monterey Peninsula Engineering for Sewer Main Improvements Through the Monarch Butterfly Sanctuary

**CEQA STATUS:** This action is categorically exempt as defined under the California Environmental Quality Act (CEQA) under Class 1, Article 19, Section 15301(c). Existing facilities, this states that Class 1 includes maintenance of existing public facilities.

**RECOMMENDATION**

Authorize the City Manager to enter into an agreement with the Monterey Peninsula Engineering for the Sewer Main Improvements through the Monarch Butterfly Sanctuary for a cost of \$181,250 plus a 15% contingency.

**DISCUSSION**

The City of Pacific Grove owns and operates the sewer collection system consisting of approximately 58 miles of pipelines, 900 manholes, and seven pump stations. In addition to the sewer system the City operates and maintains all public spaces, including the Monarch Grove Sanctuary.

The Pacific Grove Monarch Butterfly Sanctuary (PGMBS) is located within the City of Pacific Grove. The City of Pacific Grove is nicknamed "Butterfly Town, U.S.A." The City takes great pride in supporting the thousands of monarchs that overwinter in the PGMBS every year. The sanctuary includes a dense open canopy forest of Eucalyptus, Cypress, Monterey Pine, Oak and Acacia trees, and an understory of shrubs and butterfly plants. It also includes a crushed granite walkway that meanders through the site. Benches and interpretive signage are also present offering educational opportunities to visitors.

The installation of a permanent restroom is needed to provide the public a facility onsite that is compliant with the American Disabilities Act (ADA) and connected to the City's wastewater collection system for the approximately 30,000 annual visitors that visit the PGMBS between October and April, the overwintering time for the monarch butterflies.

The Project will be installed in two phases. Phase one, sewer and water infrastructure installation with an estimated installation period of 1-2 weeks between July and August 2018. Phase two,

installation of the prefabricated restroom structure onsite with an estimated installation period of one week between May and September 2019. To achieve these goals the City drafted a mitigated negative declaration which was adopted by City Council at their June 6, 2018 City Council Meeting.

To achieve the first phase, the City drafted plans and specification for the main line replacement project. Currently, there are three 4-inch private sewer lines extending through the Monarch Sanctuary site, providing service to the three private residences adjacent to the sanctuary from Ridge Road. The City would cap and abandon the three existing smaller lines in place and install one new 8-inch sewer line to serve the new restroom and the three private residences. The construction method for the new 8-inch sewer line will be directional boring (not trenching) for approximately 400 linear feet, from Grove Acre Avenue to the residential property line on the east.

The City put the project out to bid May 15, 2018 and received one bid on June 15, 2018:

Monterey Peninsula Engineering	\$181,250
Engineers Estimate	\$188,125

The received bid came in slightly lower than the engineers estimate but the budget for the project was underestimated. As part of the 2018/19 Fiscal Year CIP City staff requested the allocation of \$125,000 for the project. The sewer fund has ample funding to be able to support the difference between the budgeted amount and the received bid plus the contingency.

Although the City only received one bid for the project, the City Engineer and the Public Works Department have qualified Monterey Peninsula Engineering as the lowest responsible bidder and it is the recommendation to award the project to Monterey Peninsula Engineering. This is the first step in the installation of the restroom at the Sanctuary. Without the construction of the sewer main line the City will not be able to proceed with the bid award for the prefabricated restroom, which is anticipated to come before Council at a future meeting.

## **OPTIONS**

1. Do nothing

## **FISCAL IMPACT**

As part of the budget process, the sewer main improvements through the Monarch Butterfly Sanctuary have been allocated for expenditures from the wastewater capital improvement fund. The wastewater enterprise fund has ample resources to be able to support the construction of this project. The differences in the budgeted amount and the project bid, including the contingency, will be brought back to City Council during a midyear budget adjustment for allocation from the sewer enterprise fund to support the additional cost.

## **GOAL ALIGNMENT**

Infrastructure, Recreation



**ATTACHMENTS**

1. Engineers Recommendation Letter

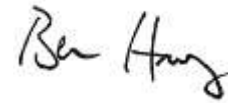
**RESPECTFULLY SUBMITTED:**



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Daniel Gho  
Public Works Director

**REVIEWED BY:**



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Ben Harvey  
City Manager

## NEILL ENGINEERS Corp.

SHERMAN W. LOW, R.C.E.  
GARY W. WHITE, P.L.S.

GILBERT M. NEILL, R.C.E.



SUBDIVISIONS, LAND PLANNING  
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MUNICIPALITIES

CONSULTING ENGINEERS  
MISSION and FIFTH—BOX LL  
CARMEL, CALIFORNIA 93921

(831) 624-2110  
FAX: (831) 624-3693

June 21, 2018

Mr. Daniel Gho  
Public Works Director  
City of Pacific Grove  
2100 Sunset Drive  
Pacific Grove, CA 93950

Re: Sewer Main Improvements Through  
Monarch Butterfly Sanctuary

Dear Mr. Gho,

Bids were opened for the City of Pacific Grove Sewer Main Improvements Through Monarch Butterfly Sanctuary Project on Thursday June 21, 2018.

Only one bid was received from the following Contractor listed below:

<u>Contractor</u>	<u>Total</u>
Monterey Peninsula Engineering	\$181,250
Engineer's Estimate	\$188,125

The bid proposal was reviewed for mathematical accuracy, bid bond, and other proposal requirements. The proposal is in order; and considered responsive. A copy of the Tabulation of Bids is enclosed.

We recommend that the contract be awarded to Monterey Peninsula Engineering.

Very truly yours,

A handwritten signature in blue ink that reads "Sherman W. Low".

Sherman W. Low, PE  
City Engineer

w/enclosures



**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of City Council  
**FROM:** Daniel Gho, Public Works Director and Scott Bauer, Library Director  
**MEETING DATE:** June 18, 2018  
**SUBJECT:** Agreement with Karin Payson Architecture and Design for the Interior Remodel of the Pacific Grove Library Project  
**CEQA:** Does not constitute a “Project” under California Environmental Quality Act (CEQA) Guidelines Section 15378

**RECOMMENDATION**

Authorize the City Manager to enter into an agreement with Karin Payson Architecture and Design for the Interior Remodel of the Pacific Grove Library Project for a cost not to exceed \$249,704 plus a 10% contingency.

**BACKGROUND**

The origins of the library can be traced to 1886. In December 1905, the Pacific Grove Free Public Library was established and in 1906, Andrew Carnegie granted \$10,000 for the erection of a new library building. The Pacific Improvement Company donated the land for the new library, also valued at \$10,000. After the erection of the original library structure, numerous additions have been constructed to the original building, with the largest expansion occurring in 1978, almost doubling the size of the library, expanding it to 12,600 square feet. This was the last major remodel, but in the mid 90’s new carpet was installed and there were restroom upgrades.

The City issued a request for proposals in October of 2016 and received back the proposals November 4, 2016 for architecture services to design the interior remodel of the library. The goal of the project is to:

- Reconfigure and remodel the three existing restrooms, in compliance with current ADA and safety requirements.
- Restore the original “Carnegie Library” space recommending appropriate materials, flooring and fixtures, to include ceiling design transition from the 1978 addition to the 1908 original and the reconstruction of arches that have been covered by subsequent construction.
- Redesign the staff work areas for efficiency and safety.
- Design new energy efficient lighting options.

At the City Council’s March 15, 2017 meeting the Council authorized the City Manager to enter into an agreement with Karin Payson Architecture and Design for the Interior Remodel of the Pacific Grove Library. The initial contract of \$95,325 has almost been exhausted. To date approximately \$70,000 has been expended. For this Karin provided the City with conceptual

drawings, preliminary plan sets, cost estimate, renderings and numerous presentations and schematics that has been used to launch the fundraising campaign for the Library renewal Project.

## **DISCUSSION**

The initial proposal provided by Karin Payson was to address the requirements of the RFP which was a much simpler project. This included restrooms, staff room, the circulation of the library, shelving, public computer areas, improved lighting, refinishing the furnishings and ceiling treatments. This did not include carpet and paint which is a key need of the Library. The initial project was estimated to cost approximately \$1.2 Million.

It was quickly determined that these aspects all needed to be addressed, and in addition to the items noted above, the committee, consisting of the Friends, the Foundation and City Staff concluded that electrical upgrades would need to occur, paint, carpet, refinishing of the wood floors, new furnishings, the staff breakroom, the staff work room, improved ceiling treatments, re-configuration of staff work areas, addressing the stairs and basement access, enhanced treatments and finishes and numerous other items. The enhanced project will cost approximately \$2.1 Million.

## **FUNDRAISING EFFORTS**

Funding for the project initially budgeted at \$738,000 from funds that had been raised for a never realized Library expansion in 2006 and had been held since then by the City (\$152,000) and the Library Foundation (\$586,000).

A series of meetings was held with members of the community to discuss the gap between this initial funding and the projected cost of the Project. Members at these meetings supported the idea of raising money with a Capital Campaign to fund the difference and complete the comprehensive Renewal Project. Led by the Friends of the Library in collaboration with the Library Foundation and the City, the Capital Campaign applied for grants, contacted potential donors and launched a public appeal for funds on May 12 with a goal of reaching \$2,500,000 available for the Renewal Project. The chart below shows the source and the amount of funds raised or pledged as of June 30, 2018.

<b>SOURCE</b>	<b>AMOUNT</b>
<b>FRIENDS OF THE LIBRARY</b>	\$461,455.00
<b>LIBRARY FOUNDATION</b>	\$964,810.00
<b>FUND FOR THE FUTURE<sup>1</sup></b>	\$128,085.00
<b>CITY</b>	\$658,140.00
<b>TOTAL TO DATE</b>	<b>\$2,212,490.00</b>

<sup>1</sup> *The Fund for the Future is a collaboration of the Library Foundation and the Friends of the Library.*

## **NEXT STEPS**

To date, Karin Payson has met with interested members of the community, reviewed concepts and ideas for the Library Renewal and created a set of concept drawings and renderings for the project. The next stages of the project will be design development (including the retention of structural, mechanical, and electrical engineers and incorporating lighting design into the plans.) Karin Payson will initiate and coordinate the task of these individual aspects of the project and start the development of the construction plans. City staff will have the opportunity to review the plans along the way to ensure the goals of the project and community are being met.

The increase in contract price with Karin Payson Architecture and Design is a direct result of the significant increase in project scope. It is the recommendation of staff that we enter into an agreement with Karin Payson Architecture and Design for the continued architecture of the Pacific Grove Library Remodel Project.

**FISCAL IMPACT**

The cost of the new contract is \$249,704 and will be paid for from the Library Renewal Project budget. This item was budgeted as part of the 2018/19 Capital Improvement Program and will be derived from Fund 31, Library Fund.

**GOAL ALIGNMENT**

Infrastructure

RESPECTFULLY SUBMITTED:

REVIEWED BY:




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Daniel Ghossein  
Public Works Director

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Ben Harvey  
City Manager



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Scott Bauer  
Library Director

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**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Anastazia Aziz, AICP, Principal Planner  
**MEETING DATE:** July 11, 2018  
**SUBJECT:** Local Coastal Program Council Subcommittee Update  
**CEQA STATUS** Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines Section 15378

**RECOMMENDATION**

Accept as information.

**BACKGROUND**

On March 21, 2018 Council appointed a Local Coastal Program (LCP) Update Subcommittee originally composed of Mayor Kampe, Mayor Pro Tem Huitt and Councilmember Smith to serve through September 21, 2018. The Subcommittee was tasked with reviewing staff recommendations for a lead consultant and a legal expert to review the documents and make a recommendation with next steps to move forward. Councilmember Smith stepped down due to potential conflicts of interest and the Subcommittee is composed of the Mayor and Mayor Pro Tem.

McCabe and Company was hired to devise an overall strategy for successfully advancing the City’s draft LUP and IP to the Coastal Commission for approval. The consultant will serve as the City’s advocate and coordinate the overall LCP effort on behalf of the City, working with an additional legal consultant, City staff, Commission staff and community stakeholders. The municipal law firm of Best, Best & Krieger has been retained as a legal consultant for this effort.

**DISCUSSION**

To date, the Subcommittee has met several times. At their June 11 meeting, the Subcommittee, working with McCabe and Company and City staff, reaffirmed the City’s commitment to achieve a certified Local Coastal Program, discussed a proposed approach, and reviewed the major outstanding issues. Major policy issues that were the subject of focused discussion and remain points of discussion with Coastal Commission staff are outlined below. Additionally, general revisions to sections of the narrative in addition to revisions in response to general public comments are under consideration such as the definition of “Lodging, Bed and Breakfast” and policies regarding intertidal species such as the Black Oystercatcher.

At the June 21, 2018 meeting, Planning Commission Chair Fredrickson and Commissioner Byrne joined a portion of the Subcommittee meeting to provide the Subcommittee their perspective as Planning Commissioners.

## **CERTIFICATION GOAL**

It is the City's goal to receive LCP certification through concurrent adoption of an Updated Land Use Plan (LUP) and new Implementation Plan (IP). Certification of the LCP will give the City control over approving projects within the Coastal Zone and will streamline the coastal development permit review process for applicants. It is in the best interest of the City and its constituents to achieve certification and assume control of the permitting process. Once certified, the LCP will be carried out by local planning staff that are familiar with the unique physical characteristics and policy issues affecting Pacific Grove.

In order for the City to achieve LCP certification status and gain full permit authority over coastal projects, the Coastal Commission must approve both the LUP and new IP. Recent feedback from Coastal Commission district staff suggests significant formatting and policy revisions are required in order for staff to recommend approval of the LUP and IP documents. If this preliminary staff feedback is not incorporated prior to final Council approval and submittal to the Coastal Commission, the same revisions will be imposed as "suggested modifications" in the staff recommendation and findings presented to the Commission at the LCP hearing. Coastal Commissioners weigh their staff's opinion highly and are likely to impose many, if not all, of the modifications that are suggested by Commission staff. Certification can only occur if the City accepts the suggestions made by the Coastal Commission.

## **PROPOSED APPROACH**

Planning staff has been advised to accept Coastal Commission staff input and incorporate recommended changes into the City's proposed LCP documents where acceptable, so long as such changes are not in direct conflict with significant local goals and policies. In instances where Coastal Commission staff's proposed revisions are unacceptable, a written justification of the City's position should be prepared and discussed with senior staff at the Coastal Commission prior to final City approval and submittal of the LUP and IP. The goal is to narrow areas of disagreement prior to formal consideration by the Coastal Commission. City staff and Coastal Commission staff can continue to have ongoing and productive discussions after the City's submittal of its LUP and IP. However, where minor differences can be resolved, such as re-formatting and language edits, they should be done prior to submittal. Acceptance and support of the City's LUP and IP by Coastal Commission staff is much more likely if the proposed documents follow staff's preferred format and incorporate recent Commission precedent. The likelihood of a positive staff recommendation and subsequent certification by the Coastal Commission is much greater when staff input has been incorporated.

Furthermore, the likelihood of future appeals decreases if the Coastal Commission staff feels confident in the final LCP as certified. As in the case of the City of Newport Beach, which received full certification and permit authority in January 2017, there has only been one appeal of the 137 coastal development permits issued by the City to date. This is a significantly lower appeal ratio than any City with an older LCP. (Appeals of local coastal development permits can be filed either by a party that participates in the local permitting process or by two members of the Coastal Commission.) Commission-generated appeals are more likely when local staff and Coastal Commission staff disagree about the interpretation of policies the LCP. These disagreements are far less likely when the LCP has been recently updated and certified in a manner consistent with recent trends and precedent. Moreover, it is important to point out that LCPs approved in recent years are far more detailed and comprehensive than those certified previously, and this trend is expected to continue into the foreseeable future. As such, it's in the City's best interest to solidify the rules in place now, rather than continue to have applicants go to the Coastal Commission and be subject to policy interpretation on a case-by-case basis.



Without LCP certification, the Commission will retain permit authority and the coastal development permit process will remain as it exists today.

## **DRAFT LAND USE PLAN ISSUES**

### ***Definition of redevelopment***

Legally permitted redevelopment is an important term to define in order to determine legal non-conforming status and when a structure must be brought into full conformance with coastal regulations. The definition of redevelopment is under review so that it meets the City's needs and is consistent with definitions in various other certified Local Coastal Programs.

### ***Sea Level Rise Hazards***

The City's Coastal Commission grant stipulated that the City's Updated Local Coastal Program address sea level rise. The draft Hazard policies are undergoing review to ensure they allow for the full range of options, particularly for City facilities and infrastructure, of armoring, adaptation and retreat given site specific contexts.

### ***Scenic Policies and View Corridors***

The Land Use Plan includes draft scenic and view corridor policies. The draft policies are under review to ensure they are consistent with other approved Local Coastal Programs and reflect the character of Pacific Grove.

### ***Asilomar Dunes Neighborhood***

The Asilomar Dunes residential area (bounded by Lighthouse Ave, Asilomar Avenue and Asilomar State Beach and Conference Grounds) is the location of sand dunes that support rare and endangered biological resources. The draft policies regarding Outdoor Use Area and fencing in addition to Subdivision are also under review to ensure consistency with the Coastal Act and other jurisdictions that permit development and/or redevelopment in Environmentally Sensitive Habitat Areas (ESHA).

## **IMPLEMENTATION PLAN ISSUE**

The Implementation Plan contains various definitions, the coastal development permitting process, hazard overlay zones, marine resources, scenic resources, biological resources, legal non-conforming uses and commercial zoning standards. The requirements in the Implementation Plan are based on the policies in the Land Use Plan.

### ***Community Design Standards***

The Subcommittee affirmed using Community Design Standards as the structure for the standard of review for Coastal Development Permits. The Community Design Standards are under further review to ensure consistency with the Coastal Act and other City documents to avoid potential conflicts.

## **CERTIFICATION TIMELINE**

1. ***August 2018:*** City Council Subcommittee to engage with key community stakeholders regarding draft land use plan issues, and other identified concerns. If appropriate, modify draft Implementation Plan (IP) and draft Land Use Plan (LUP) documents accordingly.
2. ***September 2018:*** Present draft Implementation Plan (IP) and Land Use Plan (LUP) documents to City Council for review, consideration and approval.
3. ***October 2018:*** Submit City Council-approved IP and LUP to Coastal Commission staff for review and scheduling before Coastal Commission for anticipated certification.

**FISCAL IMPACT**

There is no fiscal impact in receiving the report.

**GOAL ALIGNMENT**

Environment – Adopt the Local Coastal Plan

RESPECTFULLY SUBMITTED:

REVIEWED BY:

*Anastazia Aziz*



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Anastazia Aziz, AICP  
Principal Planner

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Ben Harvey  
City Manager



**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of City Council  
**FROM:** Daniel Gho, Public Works Director  
**MEETING DATE:** July 18, 2018

**SUBJECT:** Agreement with Monterey Peninsula Engineering for 14<sup>th</sup> Street Sanitary Sewer Main Replacement Project

**CEQA STATUS:** This action is categorically exempt as defined under the California Environmental Quality Act (CEQA) under Class 1, Article 19, Section 15301(c). Existing facilities, this states that Class 1 includes maintenance of existing public facilities.

**RECOMMENDATION**

Authorize the City Manager to enter into an agreement with the Monterey Peninsula Engineering for the 14<sup>th</sup> Street Sanitary Sewer Main Replacement Project between Lighthouse Avenue and Central Avenue for a cost not to exceed \$550,880 plus a 15% contingency.

**DISCUSSION**

The City of Pacific Grove owns and operates the sewer collection system consisting of approximately 58 miles of pipelines, 900 manholes, and seven pump stations. As noted in the 2014 Sewer Collection System Master Plan (Plan) this proposed capital project is to upgrade the City's existing sewer main line infrastructure on 14<sup>th</sup> Street from Lighthouse Avenue to Central Avenue to consolidate multiple sewer main lines.

Currently there are 3 sewer main lines on 14<sup>th</sup> Street, ranging from 6-inch Vitrified clay pipe (VCP) and 10-inch PVC pipe. The objective of the project is to consolidate multiple sewer mains into one 12-inch main line and then tie into the existing 12-inch PVC pipe that is located within Central Avenue. This project has been identified in the Plan due to operations and maintenance concerns, and it is also a goal to replace smaller diameter VCP pipes with larger PVC piping.

In addition to the sewer main line replacements, 372 linear feet of curb and gutter will be replaced, 230 square feet of sidewalk and 7 ADA ramps will be constructed. Once the main lines and concrete work has been completed, 14<sup>th</sup> Street from Lighthouse to Central will be reconstructed.

The City put the project out to bid May 15, 2018 and received one bid on June 15, 2018:

Monterey Peninsula Engineering	\$550,880
Engineers Estimate	\$525,380

In the Plan this project is noted as Near Term Project #7 and has been estimated at a cost of \$448,000. This 2014 cost estimate did not include curb, gutter and sidewalk repairs, nor does it include a complete reconstruction of the roadway, but merely trench restoration. Due to the complexity and scope of the project, upon completion of the underground work, simple trench restoration would not be suitable, and a complete roadway reconstruction was initiated as part of this project. Due to the recommended roadway reconstruction the bid exceeded the estimate noted in the plan.

The received bid came in slightly higher than the engineers estimate and the budget for the project, which both the engineers estimate and the CIP budget where estimated at \$525,000. The sewer fund has ample funding to be able to absorb the difference between the budgeted amount and the received bid.

Although the City only received one bid for the project, the City Engineer and the Public Works Department have qualified Monterey Peninsula Engineering as the lowest responsible bidder and it is the recommendation to award the project to Monterey Peninsula Engineering.

#### **OPTIONS**

1. Do nothing

#### **FISCAL IMPACT**

As part of the budget process, the 14<sup>th</sup> Street Sanitary Sewer Main Replacement Project has been allocated for expenditures from the wastewater capital improvement fund. The wastewater enterprise fund has ample resources to be able to support the construction of this project. The differences in the budgeted amount and the project bid including the contingency will be brought back to City Council during a midyear budget adjustment for additional allocation from the sewer enterprise fund to support the additional cost.

#### **GOAL ALIGNMENT**

Infrastructure

#### **ATTACHMENTS**

1. Engineers Recommendation Letter

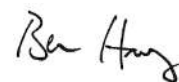
#### **RESPECTFULLY SUBMITTED:**



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Daniel Ghossein  
Public Works Director

#### **REVIEWED BY:**



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Ben Harvey  
City Manager

# NEILL ENGINEERS Corp.

SHERMAN W. LOW, R.C.E.  
GARY W. WHITE, P.L.S.  
GILBERT M. NEILL, R.C.E.

SUBDIVISIONS, LAND PLANNING  
WATER SUPPLY, SANITATION,  
SURVEYING, AIRPORTS  
MUNICIPALITIES



CONSULTING ENGINEERS  
MISSION and FIFTH—BOX LL  
CARMEL, CALIFORNIA 93921

(831) 624-2110  
FAX: (831) 624-3693

June 18, 2018

Mr. Daniel Gho  
Public Works Director  
City of Pacific Grove  
2100 Sunset Drive  
Pacific Grove, CA 93950

Re: Sanitary Sewer Main Replacement  
14th Street - between Lighthouse Ave. & Central Ave.

Dear Mr. Gho,

Bids were opened for the City of Pacific Grove Sanitary Sewer Main Replacement 14th Street - between Lighthouse Ave. & Central Ave. Project on Friday June 15, 2018.

Only one bid was received from the following Contractor listed below:

<u>Contractor</u>	<u>Total</u>
Monterey Peninsula Engineering	\$550,880
Engineer's Estimate	\$525,380

The bid proposal was reviewed for mathematical accuracy, bid bond, and other proposal requirements. The proposal is in order; and considered responsive. A copy of the Tabulation of Bids is enclosed.

Due to the local busy construction climate, bids are harder to obtain, and have been generally coming in higher than estimated. Because of the close proximity of the bid (4.9% over the Engineer's Estimate), we recommend that the contract be awarded to Monterey Peninsula Engineering.

Very truly yours,

Sherman W. Low, PE  
City Engineer

w/enclosures

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**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Cynthia Garfield, Council Member

**MEETING DATE:** July 11, 2018

**SUBJECT:** Proposed Charter Amendment Discussion to Reduce the Size of the City Council

**CEQA STATUS:** Does not constitute a “Project” under California Environmental Quality Act (CEQA) Guidelines Section 15378

**RECOMMENDATION**

Direct City staff to bring an item back for City Council consideration for placing an item on the November 2018 ballot to reduce the number of City Council Members from 7 to 5.

**DISCUSSION**

The City of Pacific Grove’s Charter calls for a City Council comprised of 7 Members:

*“Article 6 Officers and Employees*

*The officers of the City of Pacific Grove shall consist of six Councilmembers and a Mayor, a City Manager, a City Clerk, a City Treasurer, a City Attorney, other officers as provided by ordinance, and members of Commissions, Boards and Committees as provided by Charter and by ordinance; provided, the Council may by ordinance provide for such subordinate officers, assistants, deputies, clerks and employees as it deems necessary, and that the Council may at any time, when in its judgment the interest of the City so demands, consolidate by ordinance the powers and duties of two or more City officers, and place the same in charge of one such officer. The Mayor and the members of the Council shall be elected from the City at large. All other officers, assistants, deputies, clerks, and employees shall be appointed as provided in this Charter, or as the Council may provide by ordinance in case no provision for their appointment is herein made, and they shall hold their respective offices or positions at the pleasure of the appointing power, except as otherwise herein provided.”*

Given this, virtually every other City within Monterey Council has a City Council comprised of 5 Members, and not 7. These municipalities believe that their system is efficient. Over the years, many have wondered why the City of Pacific Grove has 7 City Council Members, instead of 5.

Due to the fact that the City Charter calls for a City Council of 7 Members, a change would require a vote of the people. At this juncture, with the upcoming November 2018 General Election, it is appropriate and timely to entertain a discussion as to whether this change is desired for the November 2018 ballot.

The intent of this agenda report is to generate a discussion, debating the pros and cons of reducing the number of City Council Members from 7 to 5. Part of the discussion should include how to phase in any proposed change. The General Municipal election of 2018 would not be impacted by this proposal.

**OPTIONS**

1. Elect to not convene a discussion on this topic.
2. Table the discussion on this topic to a later date (please note that pursuing this option prevents placement on the November 2018 ballot).

**FISCAL IMPACT**

There is no fiscal impact in convening the discussion.

**GOAL ALIGNMENT**

Not applicable

**ATTACHMENT**

1. Proposed draft language for Charter amendment

RESPECTFULLY SUBMITTED:

*Cynthia Garfield*

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Cynthia Garfield  
City Councilmember



Proposed draft language for Charter amendment

*Shall Article 6 of the Pacific Grove Municipal Charter, which now requires a governance body comprised of six Councilmembers and a Mayor, be changed to a Council comprised of four Councilmembers and a Mayor, where this change shall occur over the two municipal elections immediately following approval of this measure and ensure two regular Council seats are open for election every even-numbered year?*

Yes (\_\_\_\_\_)

No (\_\_\_\_\_)

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**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Ben Harvey, City Manager

**MEETING DATE:** July 18, 2018

**SUBJECT:** Resolution to Add a Ballot Measure to Increase the Uniform Transient Occupancy Tax (TOT) on November 6, 2018

**CEQA STATUS:** Exempt from the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized may have a significant effect on the environment.

**RECOMMENDATION**

Adopt a Resolution to add one ballot measure to increase the Uniform Transient Occupancy Tax at the Municipal Election, which was consolidated with the General Election, set for November 6, 2018.

**DISCUSSION**

The City of Pacific Grove (City) currently imposes a uniform Transient Occupancy Tax (TOT) on visitors who stay overnight in City hotels, motels or short-term rentals for less than thirty days, which has been set at 10%. The TOT in neighboring areas ranges from 10 - 12%. TOT is often called a hotel tax, and is paid by “transients” for the privilege of renting hotel rooms or other lodging in the City on a short-term basis of 30 days or less. The City’s TOT also applies to short-term rentals rented through rental operators and third-party booking services, including, online travel companies such as Expedia, Orbitz, Airbnb, Vacation Rental by Owner (VRBO), etc. TOT is calculated as a percentage of the cost of the room or lodging.

The City Council has determined that financial circumstances of the City require enactment of this measure to increase the TOT from 10% to 12% to preserve the public peace, health and safety of the community, to avoid service disruptions, and to avoid permanent impairment of community services. The TOT shall be calculated based upon the total rent paid by the guest, not on a discounted rate that may be paid to a hotel operator by online travel companies or other third party booking agents.

If adopted, this measure will amend portions of Chapter 6.09 of the Municipal Code to increase the City’s TOT imposed on the rent paid for short-term rentals from 10% of the rent paid to 12% and to apply the TOT to the total rent “paid by the transient” for the short-term rental. The current TOT amount is 10% of the rent “charged by the operator.” The measure would also amend certain definitions in the Municipal Code to address online travel companies and other third-party bookings.

This “general” tax shall be enacted solely to raise revenue for any and all municipal purposes, and shall be placed into the City’s General Fund. The operative date for the increase to the TOT, if approved by a majority of the voters, shall be January 1, 2019.

On June 20, 2018, the City Council approved a resolution calling the Municipal Election for the mayor and Councilmembers and placing an initiative on the ballot. This measure shall be part of the Municipal Election, consolidated with the General Election, scheduled for November 6, 2018.

The City Clerk shall be authorized to publish a copy of this Resolution in a newspaper of general circulation once within fifteen (15) days after the adoption of this Resolution, and provide services and supplies in connection with the election as required by law.

The Resolution clarifies that City Council shall, in accord with Elections Code Section 9282, exercise its right to author and sign ballot arguments and rebuttal arguments regarding the measure, and delegates that power to the Mayor.

The Resolution also directs the City Attorney to provide an abbreviated statement of the ballot measure, and on or before August 16, 2018, to submit an impartial analysis of no more than 500 words as to each ballot measure pursuant to section 9203 of the California Elections Code.

The last day to submit arguments for or against the proposed measures is August 16, 2018. The last day to submit rebuttal arguments for or against the proposed measures is August 23, 2018.

This proposed Resolution is exempt from the CEQA, Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized may have a significant effect on the environment.

## **OPTIONS**

1. Do nothing.
2. Provide alternate direction.

## **FISCAL IMPACT**

1. The estimated cost of consolidating the next election (November 6) with the Monterey County Elections Office is \$6-\$8 per voter or \$58,206 to 77,608. This estimated cost, provided by the Monterey County Elections office in January 2018, is for the City’s local candidates, and any City measure and/or initiatives.
2. An increase in the TOT from 10 – 12% of the amount paid by the transient is estimated to yield an additional \$1,135,000 in revenues annual. This estimate is based upon updated projections for the period ending in Fiscal Year 17/18, and **DOES NOT** take into consideration any adjustments for the short-term rental license lottery held earlier this year, or the proposed citizen’s short-term rental initiative that will be on the November 6, 2018 ballot.

## **GOAL ALIGNMENT**

Fiscal Sustainability

**ATTACHMENTS**

1. Resolution

RESPECTFULLY SUBMITTED:



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Ben Harvey  
City Manager

REVIEWED BY:



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David C. Laredo  
City Attorney

**RESOLUTION NO. 18-XXX**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF PACIFIC GROVE  
SUBMITTING TO THE ELECTORS A MEASURE  
TO AMEND CHAPTER 6.09 OF THE MUNICIPAL CODE  
TO INCREASE THE UNIFORM TRANSIENT OCCUPANCY TAX**

**WHEREAS**, the City Council determines and declares that financial circumstances of the City of Pacific Grove (City) require enactment of measures to increase tax revenue to the City to preserve the public peace, health and safety of the community, to avoid the work stoppage and/or service disruptions that shall result from additional staff cuts and reductions in force, and to avoid permanent impairment of community services provided by the police, museum, recreation and other cultural resources within the City; and

**WHEREAS**, the City currently imposes a uniform Transient Occupancy Tax (TOT) on visitors who stay overnight in City hotels, motels or short-term rentals for less than thirty days; and

**WHEREAS**, the City uniform TOT has been set at ten percent; and

**WHEREAS**, neighboring cities on the Monterey Peninsula and the County have transient occupancy tax rates that range from ten to twelve percent; and

**WHEREAS**, the City would like to clarify the TOT is calculated based upon the total rent paid by the guest, and not on a discounted rate that may be paid to a hotel operator by online travel companies or other third party booking agents; and

**WHEREAS**, the transient occupancy tax proposed for enactment by this resolution shall be enacted solely to raise revenue for any and all municipal purposes, and shall be placed into the City's General Fund, is not intended for regulation, and shall constitute a "general tax"; and

**WHEREAS**, the voters of the State of California amended the state constitution, adding Article XIII C, which requires that all new or increased special taxes be submitted to the voters prior to becoming effective, and

**WHEREAS**, the operative date for the increase to the Uniform Transient Occupancy Tax, if approved by a majority of the voters, shall be January 1, 2019; and

**WHEREAS**, this Ordinance is exempt from the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

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

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. This resolution shall become effective immediately following passage and adoption thereof.

SECTION 3. The ordinance submitted to voters as provided by this Resolution shall take effect if and only if it is approved by a majority of the electors casting ballots at the November 6, 2018 election, and if so, said ordinance shall immediately amend Chapter 6.09 of the Pacific Grove Municipal Code, but the operative date for the increase to the Uniform Transient Occupancy Tax shall be January 1, 2019.

SECTION 4. The City Council of the City of Pacific Grove does hereby submit to the voters at the next election, an ordinance, which reads as follows:

The text set forth in existing Section 6.09.010, Definitions, of Chapter 6.09 of the Pacific Grove Municipal Code shall be changed by the deletion of all text shown in strikethrough text (~~strikethrough text~~) and the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

6.09.010 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

“Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structures or portion thereof, except that no lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure shall be deemed a hotel, when less than 10 percent of the annual dollar value of the rentals it earns derives from transient occupancy, and when it does not by signs or other advertising invite transient occupancy.

“Occupancy” means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

***“Online Travel Company” means any person, whether operating for profit or not for profit, which enables transients to purchase occupancy of space in a hotel via the Internet, or by similar electronic means.***

“Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, ***including but not limited to an online travel company***, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

“Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Rent” means the consideration ***charged to the transient (including but not limited to, room rates, service charges, retail markup, commissions, processing fees, cancellation charges, attrition fees or online booking fees)***, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

“Tax administrator” means the city clerk.

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.

The text set forth in existing Section 6.09.020 of Chapter 6.09 of the Pacific Grove Municipal Code shall be changed by the deletion of all text shown in ~~strikeout text~~ and the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

For the privilege of occupancy in any hotel ***on and after January 1, 2019***, each transient is subject to and shall pay a tax in the amount of ~~10~~ ***twelve*** percent (***12%***) of the ***total*** rent ~~charged~~ ***paid by the transient*** by the ~~operator~~. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the



transient’s ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

SECTION 5. All tax proceeds deriving from the provisions of Chapter 6.09 shall be a “general tax,” the revenue from which shall be placed into the City’s General Fund and be available for any and all municipal purposes.

SECTION 6. The ballot format for the proposal to authorize amendment of Chapter 6.09 of the Pacific Grove Municipal Code shall be substantially as follows:

CITY MEASURE ( )

Shall the measure amending the Pacific Grove Municipal Code be adopted to increase the City of Pacific Grove’s Transient Occupancy Tax (TOT), imposed on occupants of short-term rentals such as hotel rooms, from 10% to 12%, and apply TOT to total rent paid by a guest for the short-term rental, including online travel companies, which is anticipated to raise \$1,135,000 annually and will continue until repealed by City Council or City voters?

Yes (\_\_\_\_\_)

No (\_\_\_\_\_)

SECTION 7. If any provision, section, paragraph, sentence, clause, or phrase of this measure, 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 Resolution, or any part thereof, or its application to other persons or circumstances.

**PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE** this \_\_\_day of July 2018, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

\_\_\_\_\_  
BILL KAMPE, Mayor

ATTEST:

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SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

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DAVID C. LAREDO, City Attorney