

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 Act ¹ 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.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court by July 2, 2013. Please provide a paper copy and an electronic version of all responses to the Grand Jury as well.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403

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