



A G E N D A

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
Council Chamber
440 Harcourt Avenue
Thursday, July 6, 2017
7:00 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. **CALL TO ORDER**

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

Ralph Rubio	Mayor
Dennis Alexander	Council Member
Jason Campbell	Council Member
David R. Pacheco	Council Member
Kayla Jones	Council Member

3. **INVOCATION AND PLEDGE OF ALLEGIANCE**

4. **REVIEW OF AGENDA**

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. **PUBLIC COMMENT**

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. **PUBLIC AGENCY COMMUNICATIONS**

This is a time specifically set aside for representatives of public agencies to make brief comments of general interest to the City Council and the community.

7. **PRESENTATIONS**

**A. PRESENTATION FROM THE SEASIDE PUBLIC SAFETY MANAGERS
ASSOCIATION DONATION OF \$1,000 TO THE DEL MONTE MANOR
PLAYGROUND PROJECT**

B. RECEIVE PRESENTATION FROM A REPRESENTATIVE OF THE PRIDE PARADE ON EVENT OUTCOMES

PURPOSE: That the City Council receive a presentation from a representative of the Pride Parade organizers regarding the event outcomes as requested by the City Council.

RECOMMENDATION: That the presentation be received and the City Council ask questions as appropriate.

C. PRESENTATION OF THE JUNE 2017 HOUSE OF THE MONTH AWARD

PURPOSE: The purpose of this item is to recognize Barbara McGaughey, owner of 1780 Granada Street for beautifying and maintaining her property.

RECOMMENDATION: It is recommended that the Mayor present Barbara McGaughey, owner of 1780 Granada the June 2017 House of the Month Award.

D. PRESENTATION OF THE 2017 BUSINESS OF THE QUARTER AWARD

PURPOSE: The purpose of this item is to recognize the Board of Directors and dedicated volunteers who oversee the Boys & Girls Club located at 1332 La Salle Avenue for their efforts in upgrading, beautifying and maintaining their property.

RECOMMENDATION: It is recommended that the Mayor present the 2017 Business of the Quarter Award to the operators of the Boys & Girls Club located at 1332 La Salle Avenue.

8. CONSENT CALENDAR

The Consent Calendar includes routine items that can be approved with a single motion and vote. A member of the City Council or a member of the public may request that any time be pulled from the Consent Calendar for separate consideration.

A. APPROVE MINUTES OF JUNE 15, 2017

RECOMMENDATION: It is recommended that the minutes be reviewed and approved.

B. APPROVE AND FILE CITY CHECKS

PURPOSE: It is requested that the City Council approve and file the accounts payable and wired payments made during the period of June 3, 2017 through June 23, 2017. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the periods of June 8, 2017 and June 22, 2017 are requested. Total Accounts Payable and Payroll for the above referenced period is \$2,467,913.02.

RECOMMENDATION: It is recommended that the City Council approve and file the attached checks.

C. CONSIDERATION OF A RESOLUTION APPROVING THE CANVASS OF THE JUNE 6, 2017 SPECIAL MUNICIPAL ELECTION AND DECLARING THE OFFICIAL RESULTS OF SAID ELECTION

PURPOSE: Consideration of a resolution approving the Canvass of the June 6, 2017 Special Municipal Election for the City of Seaside as submitted declaring the passage of Ballot Measure L and Ballot Measure G.

RECOMMENDATION: It is recommended that the City Council adopt a resolution certifying the election results as presented and authorize staff to submit the results of the election to the Secretary of State and the California State Board of Equalization.

D. A RESOLUTION AUTHORIZING AGREEMENTS WITH THE STATE BOARD OF EQUALIZATION TO IMPLEMENT THE CITY'S NEW TRANSACTION TAX AND DESIGNATING THE CITY MANAGER TO EXECUTE THE AGREEMENTS

PURPOSE: The purpose of this item is provide the City Council an opportunity to review, consider and approve a resolution approving two agreements with the State Board of Equalization and designating the City Manager to execute the agreements. The agreements authorize the State Board of Equalization to prepare, administer and operate the City of Seaside's .5% Transaction Tax approved by the voters on June 6, 2017.

RECOMMENDATION: It is recommended that the City Council adopt the resolution approving two agreements with the State Board of Equalization and designating the City Manager to execute the agreements. The agreements authorize the State Board of Equalization to prepare, administer and operate the City of Seaside's .5% Transaction Tax approved by the voters on June 6, 2017.

E. CONSIDER APPROVING A LETTER TO THE CALIFORNIA COASTAL COMMISSION SUPPORTING THEIR EFFORTS TO ELIMINATE SAND MINING OPERATIONS ALONG SOUTHERN MONTEREY BAY

PURPOSE: The purpose of this item is to consider approving a letter to the California Coastal Commission supporting their efforts to eliminate sand mining operations along southern Monterey Bay.

RECOMMENDATION: The City Council should consider approving a letter to the California Coastal Commission supporting their efforts to eliminate sand mining operations along southern Monterey Bay.

F. APPROVE A RESOLUTION MOVING THE PARKS AND RECREATION COMMISSION MEETING TO THE THIRD MONDAY AT 5:30 PM.

PURPOSE: To approve the change of meeting date and time of the Parks and Recreation Commission regular meetings to the third Monday of every month at 5:30 PM.

RECOMMENDATION: That the City Council adopt a resolution formally accepting the change of meeting date and time.

G. ADOPT RESOLUTION SUPPORTING CLIMATE CHANGE SCIENCE AND COMMITTING TO THE PRINCIPALS EMBEDDED WITHIN THE U.S. MAYORS CLIMATE PROTECTION AGREEMENT

PURPOSE: Adopt a statement acknowledging that scientific research leads to the conclusion that climate change is real and commit the City to a course of action consistent with the U.S. Conference of Mayors Climate Protection Agreement.

RECOMMENDATION: That the City Council adopt the resolution as presented.

9. PUBLIC HEARING

A. AMENDING SEASIDE MUNICIPAL CODE CHAPTER 2.44, PERSONNEL REGULATIONS, TO THE CODIFY THE CITY'S ESTABLISHED PERSONNEL SYSTEM AND CURRENT PRACTICES AND UPDATING CHAPTERS 3 REVENUE AND FINANCE AND CHAPTER 5 BUSINESS LICENSE AND REGULATIONS CORRECTING ERRORS, OMISSIONS AND LEGAL CONFLICTS IDENTIFIED DURING MUNICIPAL CODE CODIFICATION AND UPDATING INCONSISTENCIES WITH CURRENT LEGISLATION OR ORGANIZATIONAL BEST PRACTICES

PURPOSE: The purpose of this Ordinance is to amend Chapter 2 Administration and Personnel of the Seaside Municipal Code to codify the City's established personnel system and current practices and to update Chapters 3 Revenue and Finance and Chapter 5 Business License and Regulations to incorporate recommended changes identified through the Municipal Code Codification process and legal review.

RECOMMENDATION: It is recommended that the City Council review the proposed updates to Municipal Code Section 2.44 related to the City's personnel system and identified updates to Chapter 3 Revenue and Finance and Chapter 5 Business License and Regulations; open a public hearing to receive comments on the proposed Ordinance; and approve the first reading of the attached Ordinance modifying the City's Municipal Code as presented.

10. BUSINESS ITEMS

A. RECEIVE PRESENTATION AND DISCUSS BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENT PROCESS AND APPROVE UPDATED BOARDS, COMMISSIONS AND COMMITTEES HANDBOOK FOR 2017

PURPOSE: To receive a presentation regarding the Boards, Commissions and Committees appointment process, commission authority and to approve the updated Boards, Commissions and Committees Handbook.

RECOMMENDATION: That the City Council receive the presentation, ask questions and provide direction as necessary and approve the Handbook.

11. **MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY
COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS**

This is a time specifically set aside for members of the City Council, the City Manager and City Attorney to make brief comments of general interest to the community, make requests that items be added to future City Council meeting agendas as necessary and report on committee assignments.

12. **ADJOURNMENT**

Next Regularly Scheduled Meeting:
July 20, 2017
7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, they are asked to contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings.

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<http://cvp.telvue.com/player?id=T01629&video=52314&noplaylistskin=1&width=400&height=300>

Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



DRAFT MINUTES

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
COUNCIL CHAMBER
Thursday, June 15, 2017
7:00 PM

1. **CALL TO ORDER**

Mayor Rubio called the meeting to order at 7:10 PM.

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

PRESENT: Alexander, Campbell, Jones, Pacheco, Rubio
ABSENT: None

3. **INVOCATION AND PLEDGE OF ALLEGIANCE**

Pastor Elder Sims provided the invocation and Council Member Campbell lead the Pledge of Allegiance.

4. **REVIEW OF AGENDA**

Council Member Jones requested to add a proclamation supporting LGBT Pride month in the City of Seaside. City Attorney Freeman informed the Council that there must be two requirements to add an item to the agenda after it has been legally published, one is that it must be a matter of emergency that arose after the publication of the agenda and second, that it cannot wait until a future meeting. Mayor Rubio spoke to the rules of order indicating that the Council must vote and approve by 2/3 majority to put that on the agenda.

Council Member Jones motioned to add the proclamation to the agenda; Council Member Campbell seconded the motion.

On the discussion, Council Member Pacheco requested Ms. Jones explain why the item is an emergency to which Ms. Jones indicate that is not an emergency but is time sensitive as Pride month is celebrated in June. She said it could be moved to the first meeting in July. It does not impact city policy, but is just a proclamation. Council Members Pacheco, Campbell and Jones indicated that it is timely because of the parade that is scheduled for this Saturday and approval of the proclamation would make the LGBT community feel welcome. Mayor Rubio explained that from his point of view, the subject matter is not withstanding, it does matter, not as a policy but a statement of what the city is about. Something should be on the agenda with enough notice so people should have the ability to come talk about it. The larger community has not been apprised of this issue, and he knows it can be a sensitive topic so he feels that the timing is not appropriate, and is not in legal compliance.

Mayor Rubio invited comments from the public.

- Silvia Shee complimented City of for passing the ballot measures. She thinks the areas are broken up and the gateways to the City of Seaside need to be improved. She suggested that the parking lot for the County Library/City Hall be repaved, as it does not showcase the city well.
- Gracie Navay, thanked the City for hosting the Pride event, but the statement of LGBTQ inclusivity is not implied and if nothing is said, then there is not a message of inclusion. She spoke working with youth and to the climate and culture at Seaside High, which could be better and more tolerant, and if approached from a citywide level, a proclamation makes a difference to our youth who feel unsupported, overlooked or invisible.

- Tyler Williamson provided appreciation for discussing the issue and for support of the parade. It will be an extensive love-filled and pride-full event. He is proud of a group of community activism and engagement citizens. He spoke to the recent article that youth members of the LGBT community are 8.4 times likely to attempt suicide than those in supportive households. Youth need to know it's ok to be unique.
- Pastor Eugene Jones believes the City has and will be an inclusive community, though he did not appreciate adding to the agenda without notice for the public to be able to weigh in, it does not meet the criteria to add it to the agenda tonight.
- Steven Goings thanked the Council for supporting the Pride event and hoped that they remember June 12th for the anniversary for the largest terror attack on an LGBT community; on a community of color and thinks it is ok if it happens in July. We celebrate black history month and this minority community needs to be celebrated too.
- Anthony Donnam, pastor of Friendship Baptist Church, requested the last speaker not to equate Black History the LGBT community. Please wait till July and let the community converge on the issue.
- Helen Rucker wanted to congratulate Council Member Jones for honoring the LGBT Community before the Pride parade. She is looking for inclusion, and spoke to the fact she suffered, as a black woman, being discriminated against and it hurts to see anyone be discriminated against. She will not stand by not defending anyone who is discriminated against. She does speak in support of the effort and believes the action is appropriate now, more than next month.
- Kenneth Murray, Ocean View Baptist Church said there is an appropriate time and hour, and the fact the ministerial alliance was emailed by Ms. Jones, but that only is a certain number of pastors, and does not give the residents the opportunity to speak for or against the proclamation. He expressed concern that the only pastors in attendance are African American when there is a diversity of pastors. Give the opportunity to not only the church leaders but also the residents to discuss their opinion on this matter. We are not fighting the parade or the lifestyle, only the proclamation.
- Lisanne Sawney spoke to Ms. Rucker's Comments that discrimination is discrimination and we are trying to be an inclusive society and visionary as a city. She encouraged moving forward if not tonight, in the future and showing that we are an inclusive community.
- Reverend Lusk spoke against the item, against the parade and indicated there are 126 churches on the peninsula and did not think that the Council should make that decision until the other churches are contacted.
- Ray Dandridge married June 4, 1052 and two days later he was deployed. He spoke to his transport, via cattle car and other methods where there was nothing but discrimination. He urged the City to move forward and get out of that mode. Don't discriminate against anyone.
- Brenda Lewis was saddened by the irreprehensible way public commenters spoke to members of the LGBT community knowing what some people lived through in the past. She chose the Seaside Community as home because of the diversity and inclusiveness. Please move forward and not backwards.
- Pastor Ron Britt, Greater Victory Temple assured that they are not discriminating against anyone. We are saying to the Council and the City, that they believe the bible is right. As a prophet of a man of god, we have to be careful of what we allow. He spoke to Council Member Pacheco's comment that it's not always good to be first. Not allowing the proclamation to go forward does not mean discrimination. He spoke to his religious position about homosexuality.
- Wanda Sue Parrott spoke in response to comments and that Seaside is magnificent and on the verge of being on the world stage. She posed the question of her favorite bible verse "Jesus wept." but did he weep with joy or sorrow. Good luck.
- John Wizard expressed offended by some of the statements and comments made and believes that there is civil discourse that should not be allowed. He spoke in support of Council Member Jones reaching out to the opposition to provide the ability to weigh in. The item is cost neutral. He said he believes that the Mayor is making excuses and that he is not

enforcing the point of order consistently for everyone.

Mayor Rubio closed public comment.

Mayor Rubio, you would be surprised for what we have to tolerate and those that we don't have to tolerate. He said he was not being inconsistent, when he said that this came up quickly. There is a 72-hour process, a State law that allows the public to decide if they want to participate. It is commendable that Ms. Jones called the pastors, but there are more that she didn't call. There is a City of 35,000 residents that don't know about this. Over the years, the public has talked about transparency, and adding this is not transparent. When he says that it is not consistent with the process. It's not about the subject, but the appropriateness and transparency of the item. Council Member Pacheco requested Council Member Jones read the proclamation and believes there is relationship to the parade. Council Member Jones clarified that the parade organizers did not go to other cities and get rejected. They have been operating out of the Democratic Center for Change. She spoke to her religious upbringing and that she is disappointed in the language heard during public comments. She indicated she tried to reach out to the ministerial alliance, and acknowledged that request that if not approved now, it will be requested to be move to the first meeting in July.

On request, City Attorney Freeman spoke to the regulations of the Ralph M. Brown act that means that the public business needs to be done in public. At a regular meeting you are not allowed to add items to an agenda without a two-thirds vote and it has to qualify under the two categories discussed previously.

Council Member Campbell believes that we have added proclamations to the agenda in the past; he agrees that using the parade as a trigger to meet the two-part test. Mayor Pro Tem Alexander expressed concern with process rather than content. If we don't follow process, then there may be issues going forward. It's not emergency, but mater of urgency, as written in the code.

Mayor Rubio called for the vote to put it on the agenda, clarifying his comments are not associated with the subject matter, but associated with the process and keep with transparency for full public.

On call for the vote, the City Council approved adding it to the agenda by the following vote; motion passes 4-1 Rubio voting no,

Council Member Jones made a motion and was seconded by Council member Campbell to proclaim the Month of June as LGBT Month in the City of Seaside.

Speaking for public comment, Ian Oglesby spoke about process, and that people should not be surprised that Pastors would say the same thing they say on Sundays, but clarified that it's not blacks against LGBT. As Seaside, we need to move forward, together. He thought there was urgency to get it on there, to save lives. As the people that participate in Seaside, we should not allow people to divide us. He appreciated the strength of the voices that spoke but everyone has the right to be passionate on both sides.

Council Member Pacheco knows that the church will not appreciate his support of this item. The negativity that was said was hurtful and he does not think that we need that in this community. Mayor Rubio agreed that there were forceful comments, and spoke in support of freedom of speech and his rule is that if there is cursing or personally attacking someone he will intervene on the dais but he will not abridge free speech.

On call for the vote, motion carries 4-0-1, Rubio abstained.

5. PUBLIC COMMENT

Mayor Rubio invited public comments.

- Nina Beatty spoke to her AT&T bill this month that had a threatening tone that if you didn't agree to change that if they want to install equipment on someone's house, if they don't allow it, their telephone may be disconnected. She suggested anyone who has a concern to voice it to your state representatives. She feels that the company is trying to strong arm States to discontinue landline service. She also expressed concern regarding the burns in Fort Ord citing documentation regarding the chemicals that were used in Fort Ord over the decades, which are lofted into the atmosphere and asked the Council to oppose any future burns at Fort Ord.
- Sue Hawthorne indicated that it is exciting that the Lower Broadway project has commenced and requested that for large projects, that signs be posted to inform citizens of the great improvements. She also questioned if there was a way to put in the water run off catchment device as part of the region wide contaminants that run into the bay.
- Lisanne Sawney expressed concern as part of the Parks and Recreation appointment process indicating it was an inconsistent process and expressed concern that the Council had very little time to review the 400-page packet. She understands the timing of the recent vote, and encouraged deferring the budget to the next meeting.
- Ian Oglesby spoke in support of Ms. Hawthorne's message to have a sign that would change every so often about the significant things that are going on the roadways, to tell the citizens of new things that are coming up in the community.

6. **PUBLIC AGENCY COMMUNICATIONS**

- Tim Flannigan from Monterey Regional Waste Management District spoke to the Household Hazardous Waste Drop Off Event next Saturday at MPC from 9-2. Residents can drop off e-waste or HHW.
- Economic Development Manager Gloria Stearns spoke in promotion of the new SeaWeeds volunteer group introductory meeting June 20th, to discuss registration and establish a list of projects to work on. The commitment is one hour on one Saturday per month.
- Division Chief Blaha reported that the Seaside Fire Department annual report is now available and posted on the City's website. Mayor Rubio spoke to the DLI Navy students that have been assigned to volunteer within the City of Seaside.
- Brenda Lewis, Board Member of MPWMD is reported that the WMD is making great strides in developing the new water opportunities for the Peninsula. She requested citizens attend the next Board Meeting on June 19 at 700 PM to support her appointment to meaningful water committees so Seaside has a voice at the table.

7. **PRESENTATIONS**

8. **CONSENT CALENDAR**

Items E, F were pulled for discussion. Mayor Rubio invited public comment for items on the consent agenda and had no requests to speak.

On motion by Mayor Pro Tem Dennis Alexander and seconded by Council Member Jason Campbell and passed by the following vote the City Council approved the Consent Calendar as presented.

RESULT:	Approved
MOVER:	Mayor Pro Tem Dennis Alexander
SECONDER:	Council Member Jason Campbell
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla

	Jones
NOES:	None
ABSENT:	None

A. APPROVE MINUTES OF JUNE 1, 2017

Action: Approved

B. APPROVE AND FILE CITY CHECKS

Action: Approved

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE MODIFYING THE CITY'S CLASSIFICATION PLAN TO ADD THE CLASSIFICATIONS OF UTILITIES SUPERVISOR, MAINTENANCE AND UTILITIES WORKER II, MAINTENANCE AND UTILITIES WORKER III, SENIOR MAINTENANCE AND UTILITIES WORKER, ADMINISTRATIVE ASSISTANT, AND ADMINISTRATIVE ANALYST II AND ESTABLISHING THE SALARY FOR THE CLASSIFICATIONS

Action: Approved

D. APPROVAL OF A RESOLUTION ADOPTING AGREEMENTS WITH THE SEASIDE PUBLIC SAFETY MANAGERS ASSOCIATION AND SEASIDE MANAGERS AND SUPERVISORY EMPLOYEES' ASSOCIATION

Action: Authorized

E. CONSIDER MEASURE X MASTER PROGRAMS FUNDING AGREEMENT BETWEEN THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY AND THE CITY OF SEASIDE

Council Member Pacheco questioned if the money has been allocated for this project already to which City Engineer Riedl indicated that the grant funding does not go all the way to Del Monte Blvd. Mr. Pacheco followed up asking if it can be used to reconstruct Hilby, and the answer was Cal Am is reconstructing parts of Hilby and this would reconstruct the Rest. Mr. Riedl indicates that any improvement plans will come before the Council before Final Approval. Mr. Pacheco expressed that he believes there is a difference in the quality of work on behalf of Cal Am when comparing the Monterey and the Seaside portions and requested staff to ensure that the road is taken care of as promised.

Mayor Rubio invited comments from the public.

- A resident expressed concern that the projects were not Seaside centric, as he reads the list and staff reports and requested clarification of the actual work to be done.

Mayor Rubio responded that Measure X was to demonstrate the types of projects to give the public the understanding of what the project funds can do, but the Council has the ultimate decision. We are voting to put the process in place as well as the means of communicating and defend our decisions. It's setting up the groundwork for great things meant to come. This does not replace funds, but this is an add-on to what we currently spend.

F. APPROVE REAPPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Council Member Campbell requested clarification about the history of appointments and the rules regarding reappointments. City Clerk Milton-Rerig spoke to the process of appointments, appointment authority and that members serve at the pleasure of the Council and unless the City Council declares a vacancy, members continue to serve at the pleasure of the Council. Ms. Milton-Rerig noted specifically that historically we have not had a substantial amount of citizen engagement and that there were routine vacancies on Commissions, with no applicants to fill positions. Members

stayed on past their appointed term, so that commissions or committees did not cease to be able to meet due to lack of members. She was pleased that there is such a renewed interest in the community by the residents.

Mayor Rubio invited comments from the public.

- Lisanne Sawney spoke to her interpretation of the municipal code and the Boards and Commissions Handbook citing she does not believe that the current Parks and Recreation members have valid appointments on file. She further clarified her position and spoke to her application process. She spoke to her interest in serving on the Parks and Recreation commission. Above all, she requested clear communication with open process.
- John Wizard spoke to submitting an application to sit on a commission and never being contacted, but never following up to make sure it application was received.

On motion by Council Member Jason Campbell and seconded by Council Member Dave Pacheco and passed by the following vote the City Council Approved the reappointments to Boards, Commissions and Committees as presented.

RESULT:	Approved
MOVER:	Council Member Jason Campbell
SECONDER:	Council Member Dave Pacheco
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

9. PUBLIC HEARING

A. PUBLIC HEARING TO CONSIDER THE 2017-2018 ANNUAL ACTION PLAN FOR SEASIDE'S USE OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG) FUNDS.

Sharon Mikesell indicated that this is the second presentation to the Council and reported that the awards were granted today by HUD and the total grant amount was more than anticipated therefore all of the allocations would be adjusted upward.

Mayor Rubio opened the public hearing on the item and had no requests to speak.

On motion by Mayor Pro Tem Dennis Alexander and seconded by Council Member Dave Pacheco and passed by the following vote the City Council Accepted the Proposed 2017-18 Annual Action Plan and plan allocations and requested that it be forwarded to HUD for final approval.

RESULT:	Approved
MOVER:	Mayor Pro Tem Dennis Alexander
SECONDER:	Council Member Dave Pacheco
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

B. CONDUCT A PUBLIC HEARING AND CONSIDER ADOPTION OF A RESOLUTION APPROVING THE 2017-2018 GENERAL AND OTHER FUNDS OPERATING BUDGET, CAPITAL OUTLAY BUDGET, CAPITAL

**IMPROVEMENT BUDGET, POSITION CONTROL LIST AND SALARY SCHEDULE,
THE APPROPRIATIONS LIMIT, THE CAPITAL IMPROVEMENT PLAN, AND SET THE
RESERVE AMOUNTS AND AUTHORIZE STAFF TO TAKE ACTIONS AS NECESSARY
FOR BUDGET IMPLEMENTATION**

Mr. Malin detailed the three categories of expenditures including Community/Capital improvements, personnel expansions to increase services and budgets for increased or improved programming. He further explained that Seaside has an extraordinary opportunity for a substantial street program with the TAMC and the SBX monies. He spoke to the possibility to have up to \$8 million dollars for a street maintenance program which the council will have the opportunity to provide direction on later this year. Cutino park is a significant park and is budgeted in a manner that we can extend the payments through the life of the project as we go from the regular turf to artificial turf. He clarified that the improvements to Cutino is not the only park improvement the community will see but that there will be multiple improvements to multiple parks throughout the FY 17-18 year. Mr. Malin also spoke to the Boards, Commissions and Committee's ability to provide guidance to the Council in an advisory capacity.

He did speak to the smaller capital improvement projects, equipment/tools to provide better services, facility maintenance and public safety equipment. He also spoke to a study to improve traffic conditions in the City. As we achieve our vision and become a growing community, we need to think about how to arrive at the appropriate facilities for our growing population. There is money in the budget for conceptual thinking for future services. These are the revenues that will be making the community better in a visible, responsible way. Staff's goal was to be the most impactful budget in a decade.

Services need to improve along with facility improvements and that makes for needs to improve staffing services. How to use existing personnel in more optimal ways and identify what new personnel are needed. Proposed staffing changes were outlined and the position changes are anticipated to provide a better continuity of services. We have to build a public safety capacity for personnel safety. To improve our maintenance capacity of our parks and facilities, we need to hire PW workers. Instead of contracting for building inspection, we can get better services in-house. In order to add technology-based programs, such as body cams, there has to be technology-based positions to manage the technology. To support our staff, we need extra Human Resources to recruit and manage more employees. For continuity and succession planning, we need to recognize we can achieve our community vision, and we can shape it ourselves rather than contractors can. We have many projects on going that need planning assistance. Cities get better when we collect vision and move forward with plans. The City of Seaside is turning the corner and being able to provide new and better services with a good complement of personnel.

The final piece is programming. Programming enhancements in budget includes plans for farmers markets, intern and volunteer support, community scale fireworks display with a long term vision that is more appropriate for a community experience, homeless assistance, Council Member childcare reimbursement, website and social media improvements and a Broadway celebration week. He justified that if we provide incentives, this may enable more young people to participate in public service. He spoke to the opportunities to obtain better tools for technology, social media and the website. Also he spoke to the investment of work and funds into The Downtown Broadway area and the idea to have a week of activities on Broadway to show the community the new downtown and help the businesses. He closed by speaking to the analysis that was done for fees and that the amount of the fees was stopping progress. As we remake Broadway into a vibrant downtown, the businesses that are suffering through the months of construction should be incentives and encouraged to make their business better.

Deputy City Manager Administrative Services Daphne then spoke to the total expenditures for Fiscal Year 17-18 and the resulting operating surplus of \$71,300. Noting it is a bigger surplus than the City has had in recent memory. The budget additions from the ballot measures L & G total \$1.34

million and are delineated into personnel, programming, capital Improvements and reserves. The capital category looks funny because many of the components, like roads, will likely have debt service financing to match the term of the project. She detailed the current status of the reserves at \$6.4 million for general fund reserves, which is still under the threshold for the Municipal Code, but is an improvement since 2015. Staff answered questions from the Council.

Staff answered questions from the Council.

Council Member Campbell requested to retitle childcare to Council Member Family care. He spoke to comments made during the 5:30 PM meeting. Council Member Alexander questioned the 17-18 budget regarding funds expected from other agencies and questioned the level of confidence we will receive this level of funding. He questioned the details of the bike safety to which staff explained it is replacement of the grates so that they are safe for bicycles and prevent wheels getting stuck and causing accidents. Mr. Alexander questioned the starting of the K9 police program to which Chief Jackson spoke to the methods and understandings to acquire and train the animals as well as the staff and will return with a full plan prior to implementation.

Council Member Pacheco did not think that there was adequate time to review and analyze the whole budget document and requested to continue the item to the next meeting to which City Attorney Freeman indicated State Law requires budgets to be adopted by June 30. Mr. Pacheco questioned the process to issue business license to marijuana vendors to which Mr. Malin responded that the Council will be engaged in the crafting of both zoning and licensing not later than September of this year so that we are ready to go before the State issues licenses. Mr. Pacheco spoke in support of the facade improvement strategy on Broadway, to the proposed fireworks show, the POMA Contract revenue and the transition of part-time staff to full-time staff to maximize the ability to do more work effectively. He questioned the lobbyist contract and the line item intent for marketing and branding. Economic Development Manager Sterns indicated that we will be doing more events and activities to encourage people to stay in Seaside to spend their "fun money" and their time, but to get the businesses investing in the community again. It's will lead to pride and loyalty. Mr. Pacheco spoke in support of the intent of using Code Enforcement on weekends. He requested an update on the STEMA Cameras and the length of process for hiring any new police officers, and the change in equipment budget for the Fire Department, decreasing, as it was for a one-time purchase of turn out gear in the previous fiscal year. Council Member Pacheco questioned the intended impact of two new public works staff members with maintaining the parks to which staff indicated that we are still behind in staffing levels previously but this will help improve the parks appearance. He asked about the Laguna Grande Parking Authority, expenditures to the water systems and questioned if there was any way to expedite improvements to Cutino Park.

Council Member Jones questioned the expenditures for the website and social media, what platforms we would be using and how would we expand the users of those platforms, The Volunteer support line item and spoke in support of the interns being paid interns. She questioned if the Police Department received bias training to which staff responded it is a required training and she finished by questioning if the EB5 has any expense to the City to which staff indicated no.

Mayor Rubio opened the public hearing.

- Sylvia Shee spoke in support to discuss Short Term Rentals and disagreed with the Fireworks event as something we should be spending money on. She also does not think that \$30,000 is not adequate for homeless services and the fireworks money should be reallocated to increase homeless services.
- Felix Bachofner indicated that there was not adequate time to review the full budget document and he had a hard time finding the document on the website. He also indicated that there was a competing meeting that is not allowing full participation from the public. He said the comment from the City Manager was disingenuous in that he believes that the new budget expenses are primarily for personnel.

- Ian Oglesby said if you didn't have enough time to look at it, you asked many pointed detailed questions. He spoke in support of the things that the Council requested to be in the budget, and it's in the budget. What are the things you see in the budget that will impact the community, not just the things you don't understand.

Mayor Rubio closed public comments and provided his comments about the budget. He spoke to the positive ability to restore services that have been missing so long and the community has been asking for them and believes the budget addresses the issues. What he found missing was programs for youth and seniors, as they have been decreased over the years and he would like some reestablished. He was pleased to see the Youth Violence Prevention Program still in the budget as it has had a positive impact. Council Member Alexander thanked the staff for all the allocations and energy for park improvements. Council Member Campbell requested that we discuss the lobbyist allocation and the MPRWA allocation during the special meeting.

On motion by Council Member Jones and seconded by Council Member Campbell and passed by the following vote the City Council continued items 9B, 9C and 10A to a Special Meeting on June 27, 2017 at 5:30 PM in the Council Chamber.

RESULT:	Approved
MOVER:	Council Member Jones
SECONDER:	Council Member Campbell
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

C. REVIEW, DISCUSS, CONDUCT A PUBLIC HEARING, AND CONSIDER ADOPTION OF A RESOLUTION TO APPROVE THE PROPOSED 2017-2018 FEE SCHEDULE

Action: Continued to a Special Meeting June 27, 2017 at 5:30 PM

10. BUSINESS ITEMS

A. CONSIDER A RESOLUTION APPROVING THE PURCHASE OF BODY WORN CAMERAS, THE REPLACEMENT OF CONDUCTIVE ELECTRICAL WEAPONS AND IMPLEMENT EVIDENCE.COM CLOUD DATA STORAGE FOR THE SEASIDE POLICE DEPARTMENT, USING A SOLE SOURCE VENDOR AGREEMENT WITH AXON (FKA TASER), FOR A TOTAL FIVE YEAR COST OF \$315,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT.

Action: Continued to a Special Meeting June 27, 2017 at 5:30 PM

B. CONSIDER ADOPTION OF A RESOLUTION APPROVING GARBAGE COLLECTION RATES FOR FISCAL 2017-2018

Hodgson said this is an annual adoption of the GreenWaste service rates. Included in the proposed rates is an increase of 7.1% for residential services and 5.8% for commercial customers and 2% for roll off services. This rate increase is in accordance with the franchise agreement effective in May of 2015. The Consultant that works for the District has reviews the proposals for the rate increase determined that it meets the criteria established in the Franchise agreement. Part of the increase reason was due to the decrease last year, and a leveling off of the tonnages and rates. The Waste Management District did increase the rates this year, after holding the rates for 3.5 years. The resolution is to approve the rates as presented. Members of GreenWaste and MRWMD General Manager Flannigan were present to speak about the increases.

Council Member Alexander clarified that the agreement states that if the rates adjustment is

calculated correctly within the parameters of the agreement, the rate increase goes forward and comes before the Council for review and discussion. On question, Mr. Flannigan spoke to the structure that was made collectively regarding the rate setting process. The policy concluded with a prescriptive process for rate setting which is only adjusted by a certified indices. Council Member Campbell questioned how Seaside rates increases compare to other cities to which Monique from GreenWaste indicated they decreased last year, where others did not but this is normalizing to be equivalent. GreenWaste had estimated less services initially, but actually had more.

Mayor Rubio invited comments from the public.

- Felix Bachofner is thrilled with the new provider services but noted that the request for residential rate increase is double what the CPIU rate is. He spoke to previous comments and agreement that the residential is not subsidizing the commercial and requested the Council ask why they are proposing a larger increase for residential vs commercial.

Monique explained how the calculation is done and expanded that rate adjustments are supposed to take into account actual expenses, not merely applying the CPIU, and have multiple factors such as labor and fuel costs and other full process expenses.

On motion by Council Member Campbell and seconded by Council Member Pacheco and passed by the following vote the City Council Approved the proposed rate increase for GreenWaste Recovery.

RESULT:	Approved
MOVER:	Council Member Campbell
SECONDER:	Council Member Pacheco
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

11. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

Council Member Pacheco requested a study session of the impact of Air B & B homes in Seaside and the possibility of assessing fees. Council Member Jones requested that staff add to the agenda for the July 6th meeting a proclamation indicating Seaside's support for climate change science. She also requested to discuss the process for Commission and Committee appointments and to write a letter regarding the Cemex site prior to the Coastal Commission meeting

12. ADJOURNMENT

Having continued the public hearings items 9A and 9B and Item 10A to June 27th at 5:30 PM, the meeting was adjourned at 10:55 PM.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ralph Rubio, Mayor



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Daphne Hodgson, Deputy City Manager Administrative Services

DATE: July 6, 2017

SUBJECT: APPROVE AND FILE CITY CHECKS

PURPOSE

It is requested that the City Council approve and file the accounts payable and wired payments made during the period of June 3, 2017 through June 23, 2017. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the periods of June 8, 2017 and June 22, 2017 are requested. Total Accounts Payable and Payroll for the above referenced period is \$2,467,913.02.

RECOMMENDATION

It is recommended that the City Council approve and file the attached checks.

BACKGROUND

In accordance with Government Code Section 37208, at each City Council meeting the Council is provided a listing of the payroll and general checks issued since the last report so that it can inspect and confirm these checks. Each purchase has been reviewed and approved by the department making the purchase at the time of procurement. The invoice has been reviewed by the Finance Department prior to payment to ensure that it conforms to the approved budget.

Therefore, in accordance with Government Code Section 37208, the above referenced, and linked list of checks conforms to the approved budget and has been paid. These checks are submitted to the City Council for inspection and confirmation.

A description of the checks and wires exceeding \$10,000 are as follows:

\$2,000,358.94 for payroll and benefits;
\$11,711.93 to Community Partnership for Youth for Cal Grip grant reimbursement - May 2017

\$38,178.62 to Monterey Peninsula Engineering for collapse in sewer at California Ave., cut existing clay WYE video, AC repair
\$12,189.46 to Access Monterey Peninsula for quarter ending 3/31/17
\$10,987.90 to John Gemma for 110 MS Windows7 VDA licenses 1-year
\$10,290.00 to Liebert Cassidy Whitmore for negotiation services through 4/30/17
\$16,768.62 to Monterey Co. Convention and Visitor's Bureau for April 2017 Tourism Improvement District remittance
\$43,618.22 to PG&E for gas/electric consumption
\$21,866.77 to Public Safety Consulting for PD investigation
\$11,650.00 to Keith Higgins for International School of Monterey traffic control study
\$37,623.43 to Raimi & Associates for general plan update - May 2017
\$87,000.00 to Randazzo Enterprises for Lightfighter sign removal
\$24,085.91 to United Site Services for fence rental at Gigling / 7th Ave.

The remaining checks, totaling \$141,583.22 include payments to vendors for operating expenditures.

The Checks report is available on the City's website here:
<http://www.ci.seaside.ca.us/194/Check-Draft-Register>

FISCAL IMPACT

The listed checks have been budgeted and paid from the various funds, as appropriate.

ATTACHMENTS

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.C.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, City Clerk

DATE: July 6, 2017

**SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING THE
CANVASS OF THE JUNE 6, 2017 SPECIAL MUNICIPAL ELECTION
AND DECLARING THE OFFICIAL RESULTS OF SAID ELECTION**

PURPOSE

Consideration of a resolution approving the Canvass of the June 6, 2017 Special Municipal Election for the City of Seaside as submitted declaring the passage of Ballot Measure L and Ballot Measure G.

RECOMMENDATION

It is recommended that the City Council adopt a resolution certifying the election results as presented and authorize staff to submit the results of the election to the Secretary of State and the California State Board of Equalization.

BACKGROUND

On March 2, 2017 the City Council adopted Resolution No. 17-19 declaring the existence of a fiscal emergency due to the loss of grant revenue, recent damage due to heavy winter storms and potential fiscal impacts of recent elections, including the loss of federal and state funding, future capital project needs and the costs of the recent passage of California Proposition 64 (adult use of marijuana act). On March 2, 2017 the City Council also adopted Resolution 17-20, calling a Special Municipal Election on June 6, 2017, for the purpose of submitting a proposal to adopt an Ordinance amending Chapter 5.04 of the Seaside Municipal Code to authorize the City to apply a business operations tax of up to 10% on the gross receipts of marijuana businesses in the City of Seaside for general purpose revenues and approving the ballot language. Additionally, the City Council adopted Resolution 17-21 submitting a proposal to adopt an Ordinance at the June 6, 2017, Special Municipal Election to amend Chapter 3.21 of the Seaside Municipal Code to increase the transactions and use tax by 0.5% for general purpose revenues, approving the ballot language as reviewed by the City Attorney, directing the City Attorney to prepare an impartial

analysis, and providing direction regarding the submission of ballot arguments for or against the measure.

Immediately following the adoption of the above Resolutions, the Monterey County Elections department proposed to conduct a Special Election with cost estimate between \$180,000 and \$268,000. The cost was significantly more than any previous elections because this would be a stand alone election and there would be no cost sharing through consolidating with other City or County municipal elections. Since the City Council had declared a fiscal emergency it was most prudent to find a more cost effective way to conduct the election. Therefore on March 16, 2016 the City Council entered into an agreement with Martin and Chapman for election consultation services. The consultant provided professional guidance on public noticing, election guide and balloting development, production and mailing, a proprietary tracking system and election counting assistance on election night. The contract for services was a not to exceed amount of \$85,000. Total invoiced cost for election related services from Martin and Chapman was \$57,479.21.

ELECTION PROCESS

For the June 6, 2017 election, the City postmarked 8,800 vote by mail ballots to all registered permanent Vote By Mail voters which could either be returned via USPS or dropped off at City Hall. On election day, five different precinct voting locations were established and staffed by City staff members from 7:00 AM to 8:00 PM. Each location operated in compliance with the provisions of the California Election Code.

At the closing of the polls at 8:00 PM, a Ballot Counting Board was established made up of representatives from the Cities of Monterey, Pacific Grove and Carmel By The Sea who proceeded to count the Vote By Mail ballots as well as the precinct ballots. On June 12, 2017 a manual tally of one percent of the precincts was conducted in accordance with §15360 of the California Elections Code. The results of the manual tally found no discrepancy and the results are detailed in Exhibit "A".

That the questions for Measures G & L considered by the electorate was as follows:

City of Seaside Measure G	
MARIJUANA BUSINESS TAX. To generate an estimated \$300,000 annually until ended by voters to maintain essential City services such as 9-1-1 emergency response; anti-drug/anti-gang programs; repairing streets, potholes, storm drains; earthquake, flood preparedness; improving parks, youth/senior programs; other general services; with required independent audits and all funds staying in Seaside, shall the ordinance levying an ongoing tax of up to 10% of gross receipts of marijuana businesses be adopted?	YES
	NO

City of Seaside Measure L

SEASIDE VITAL CITY SERVICES MEASURE. To generate an estimated \$1,900,000 annually until ended by voters to maintain essential City services such as police, fire, 9-1-1 emergency response; hiring police officers/firefighters; youth violence prevention programs; improving street maintenance, water cleanliness, earthquake, flood preparedness, parks, beaches, youth/senior programs, and other general services; with required independent audits and all funds staying in Seaside; shall the ordinance increasing the City's sales tax by ½ cent be adopted?	YES
	NO

ELECTION RESULTS

The whole number of ballots cast in the City at the Special Election was 2,244, of which 1,810 were voted for Measure G and 409 were voted against Measure G, and of which 1,403 were voted for Measure L and 822 were voted against Measure L. Measures G and L were approved by a majority of the votes cast at the Special Election, and if the attached resolution is approved by the City Council, both measures will be declared to have passed.

Total Registered Voters	13,261
Total Ballots: Vote By Mail	1,670
Total Ballots: Precinct	186
Total Ballots: Late VBMs	388
Total Ballots Cast	2,244

MEASURE G

Marijuana Business Tax

Yes	%	No	%
1388	4.13735	272	0.86265
140	3.73288	45	1.26712
282	3.70864	92	1.29136

Total:

1810 81.6% 409 18.4%

MEASURE L

Vital City Services Measure

Yes	%	No	%
1058	3.13718	598	1.86282
116	3.07805	70	1.92195
229	2.95643	154	2.04357

Total:

1403 63.1% 822 36.9%

The Special Election was held and conducted in accordance with the provisions of the California Elections Code; the Final Official Statement of Votes Cast by Precinct and Certificate of the Canvass of the Election Returns relating to the official canvass of the votes cast in the Special Election is attached as Exhibit "A". California Elections Code §10262 requires the governing body of a city, upon completion of the canvass, to pass a resolution reciting the facts of the election. Adoption of the resolution will allow the newly adopted ballot measures to be implemented as approved by the voters.

FISCAL IMPACT

There is no fiscal cost associated with approving this item. But with the passage of the two ballot measures, it is estimated to generate up to \$2.2 million in additional annual revenue for the City General Fund.

ATTACHMENTS

1. Draft Resolution and Election Certification
 2. Resolution 17-19 Declaring Fiscal Emergency
 3. Resolution 17-20 Calling for a Special Municipal Election and Marijuana Business Tax
 4. Resolution 17-21 Proposed Ordinance to Increase Transaction Users Tax
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION 17-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

RECITING THE FACT OF A SPECIAL MUNICIPAL ELECTION IN THE CITY OF SEASIDE HELD ON JUNE 6, 2017, DECLARING THE RESULTS THEREOF AND OTHER SUCH MATTERS AS PROVIDED BY LAW

RECITALS:

WHEREAS, the City Council of the City of Seaside (“City Council”) adopted on March 2, 2017, a resolution entitled, “A Resolution of the City Council of the City of Seaside Declaring the Existence of a Fiscal Emergency Due to the Loss of Grant Revenue, Recent Damage Due to Heavy Winter Storms and Potential Fiscal Impacts of Recent Elections, Including the Loss of Federal and State Funding, Future Capital Project Needs and the Costs of the Recent Passage of California Proposition 64 (Adult Use of Marijuana Act)” (“Resolution Declaring Fiscal Emergency”), declaring the existence of a fiscal emergency in the City of Seaside (“City”); and

WHEREAS, the City Council adopted on March 2, 2017, a resolution entitled, “A Resolution of the City Council of the City of Seaside Calling a Special Municipal Election on June 6, 2017, for the Purpose of Submitting a Proposal to Adopt an Ordinance Amending Chapter 5.04 of the Seaside Municipal Code to Authorize the City to Apply a Business Operations Tax of Up to 10% on the Gross Receipts of Marijuana Businesses in the City of Seaside for General Purpose Revenues, Approving the Ballot Language as Reviewed by the City Attorney, Directing the City Attorney to Prepare an Impartial Analysis, and Providing Direction Regarding the Submission of Ballot Arguments For or Against the Measure (“Resolution Calling Election and Approving Marijuana Tax Ordinance”), calling for a special municipal election (“Special Election”) of the qualified electors within the City; and

WHEREAS, the City Council adopted on March 2, 2017, a resolution entitled “A Resolution of the City Council of the City of Seaside Submitting a Proposal to Adopt an Ordinance at the June 6, 2017, Special Municipal Election to Amend Chapter 3.21 of the Seaside Municipal Code to Increase the Transactions and Use Tax by 0.5% for General Purpose Revenues, Approving the Ballot Language as Reviewed by the City Attorney, Directing the City Attorney to Prepare an Impartial Analysis, and Providing Direction Regarding the Submission of Ballot Arguments For or Against the Measure” (“Resolution Approving Transactions and Use Tax Ordinance”); and

WHEREAS, pursuant to the terms of the Resolution Declaring Fiscal Emergency, Resolution Calling Election and Approving Marijuana Tax Ordinance, and the Resolution Approving Transactions and Use Tax Ordinance, which are by this reference incorporated herein, the Special Election was held on June 6, 2017; and

WHEREAS, the Special Election was held and conducted in accordance with the provisions of the California Elections Code; and

WHEREAS, the City Clerk has on file the Final Official Statement of Votes Cast by Precinct and Certificate of the Canvass of the Election Returns relating to the official canvass of the votes cast in the Special Election (the “Certificate”), a copy of which is attached hereto as Exhibit “A” and by this reference incorporated herein; and

WHEREAS, this City Council has reviewed the Certificate and hereby approves the Certificate;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEASIDE DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. That the above recitals are all true and correct.

Section 2. That the question for Measure G considered by the electorate was as follows:

City of Seaside Measure G	
MARIJUANA BUSINESS TAX. To generate an estimated \$300,000 annually until ended by voters to maintain essential City services such as 9-1-1 emergency response; anti-drug/anti-gang programs; repairing streets, potholes, storm drains; earthquake, flood preparedness; improving parks, youth/senior programs; other general services; with required independent audits and all funds staying in Seaside, shall the ordinance levying an ongoing tax of up to 10% of gross receipts of marijuana businesses be adopted?	YES
	NO

Section 3. That the question for Measure L considered by the electorate was as follows:

City of Seaside Measure L	
SEASIDE VITAL CITY SERVICES MEASURE. To generate an estimated \$1,900,000 annually until ended by voters to maintain essential City services such as police, fire, 9-1-1 emergency response; hiring police officers/firefighters; youth violence prevention programs; improving street maintenance, water cleanliness, earthquake, flood preparedness, parks, beaches, youth/senior programs, and other general services; with required independent audits and all funds staying in Seaside; shall the ordinance increasing the City’s sales tax by ½ cent be adopted?	YES
	NO

Section 4. That the whole number of ballots cast in the City at the Special Election was 2,244, of which 1,810 were voted for Measure G and 409 were voted against Measure G, and of which 1,403 were voted for Measure L and 822 were voted against Measure L. The results of the Special Election are as set forth in the Certificate on file with the City Clerk and attached hereto as Exhibit "A". Pursuant to the Certificate, Measures G and L were approved by a majority of the votes cast at the Special Election, and both measures are hereby declared to have passed.

Section 5. That the City Clerk is hereby directed to insert in the minutes of the meeting of this Council, a statement of the results of said election, as above set forth, as required by Section 10264 of the Elections Code.

Section 6. That the Mayor shall sign and the City Clerk shall attest to the adoption of this resolution.

PASSED AND ADOPTED at a regular meeting of the City of Seaside City Council duly held on the 6th day of July 2017 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

APPROVED:

Ralph Rubio, Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk

EXHIBIT "A"
FINAL OFFICIAL STATEMENT OF VOTES CAST BY PRECINCT AND
CERTIFICATE OF THE CANVASS OF THE ELECTION RETURNS

I, Lesley Milton-Rerig City Clerk of the City of Seaside, California do certify that I have canvassed the returns of the Special Municipal Election held on June 6, 2017, and find that the number of votes given at each precinct and the number of votes given in the City for and against the measure were as follows:

PRECINCT		MEASURE G Marijuana Business Tax		MEASURE L Vital City Services Measure	
Precinct 100065A	Total Ballots	Yes	No	Yes	No
Vote by Mail	198	157	40	119	79
Polling Location	24	19	5	16	8
Late VBMs & Provisionals	48	34	14	30	15
Precinct 100066A	Total Ballots	Yes	No	Yes	No
Vote by Mail	209	169	39	126	81
Polling Location	27	16	11	14	13
Late VBMs & Provisionals	63	40	23	32	30
Precinct 100067A	Total Ballots	Yes	No	Yes	No
Vote by Mail	592	504	85	394	191
Polling Location	65	50	15	42	23
Late VBMs & Provisionals	103	79	24	62	40
Precinct 100068A	Total Ballots	Yes	No	Yes	No
Vote by Mail	357	305	47	234	120
Polling Location	38	33	4	26	12
Late VBMs & Provisionals	114	93	21	74	40
Precinct 100072A	Total Ballots	Yes	No	Yes	No
Vote by Mail	314	253	61	185	127
Polling Location	32	22	10	18	14
Late VBMs & Provisionals	60	36	10	31	29
SUMMARY	2,244	1,810	409	1,403	822

Total Registered Voters	13,261
Total Ballots: Vote By Mail	1,670
Total Ballots: Precinct	186
Total Ballots: Late VBMs	388
Total Ballots Cast	2,244

I have also conducted a manual tally of one percent of the precincts, in accordance with §15360 of the California Elections Code. The results of the manual tally are as follows:

<u>Measure</u>	<u>Manual Tally</u>	<u>Machine Tally</u>	<u>Difference If discrepancy</u>
Measure G	Yes: 169/No: 39	Yes: 169/No: 39	– No Discrepancy
Measure L	Yes: 126/No: 81	Yes: 126/No: 81	– No Discrepancy

I make this certification on July 6, 2017.

Lesley Milton-Rerig, City Clerk

RESOLUTION NO. 17-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

DECLARING THE EXISTENCE OF A FISCAL EMERGENCY DUE TO THE LOSS OF GRANT REVENUE, RECENT DAMAGE DUE TO HEAVY WINTER STORMS AND POTENTIAL FISCAL IMPACTS OF RECENT ELECTIONS, INCLUDING THE LOSS OF FEDERAL AND STATE FUNDING, FUTURE CAPITAL PROJECT NEEDS AND THE COSTS OF THE RECENT PASSAGE OF CALIFORNIA PROPOSITION 64 (ADULT USE OF MARIJUANA ACT)

WHEREAS, the City of Seaside holds the authority to adopt taxes pursuant to Article XI, Section 7 of the California Constitution; and

WHEREAS, the imposition of a general tax requires, among other things, a two-thirds vote of the City Council (Government Code Section 53724) and a majority vote on the tax (Article XIIC of the California Constitution); and

WHEREAS, any tax measure submitted to voters must be consolidated with a regularly scheduled general election for members of City Council except in cases of emergency as determined by a unanimous vote of the Council pursuant to Article XIIC of the California Constitution; and

WHEREAS, the City Council unanimously finds and declares that the financial circumstances of the City requires immediate and urgent enactment of locally-controlled funding that cannot be taken by the state due to the loss of two significant grants, the recent damage caused by heavy winter storms and the potential impacts on funding from the November 8, 2016 national election, including a potential loss of Federal and State funding, future capital project needs and the implementation costs from the legalization of adult use of marijuana.

WHEREAS, the City of Seaside needs locally-controlled funding to maintain financial stability and vital city services such as street maintenance and paving, emergency response services, public parks and waterfronts, and youth violence prevention, senior programs and other general City services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEASIDE:

Section 1. The foregoing recitations are found and determined to be true and correct, and are adopted as findings in support of this Resolution.

Section 2. A special municipal election of the City of Seaside is required to be held on June 6, 2017, for the purpose of authorizing two general tax measures, with the call for the election set forth in a separate Resolution.

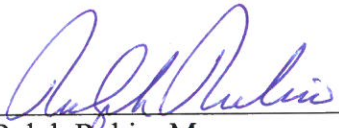
Section 3. Pursuant to California Constitution, Article XIIC, Section 2(b), the City Council, by unanimous vote, hereby declares the existence of an emergency in that there are imminent financial risks and dangers, as described above, to the public welfare and the City's financial ability to provide necessary municipal services without disruption, so that a special election is necessary to address such risks and dangers.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution.

Section 5. The City Clerk shall publish a copy of this resolution in a newspaper of general circulation once within fifteen (15) days after its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 2nd day of March 2017.

AYES:	5	COUNCIL MEMBERS:	Alexander, Campbell, Jones, Pacheco, Rubio
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None



Ralph Rubio, Mayor

ATTEST:



Lesley Milton-Rerig, City Clerk

RESOLUTION NO. 17-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

CALLING A SPECIAL MUNICIPAL ELECTION ON JUNE 6, 2017, FOR THE PURPOSE OF SUBMITTING A PROPOSAL TO ADOPT AN ORDINANCE AMENDING CHAPTER 5.04 OF THE SEASIDE MUNICIPAL CODE TO AUTHORIZE THE CITY TO APPLY A BUSINESS OPERATIONS TAX OF UP TO 10% ON THE GROSS RECEIPTS OF MARIJUANA BUSINESSES IN THE CITY OF SEASIDE FOR GENERAL PURPOSE REVENUES, APPROVING THE BALLOT LANGUAGE AS REVIEWED BY THE CITY ATTORNEY, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, AND PROVIDING DIRECTION REGARDING THE SUBMISSION OF BALLOT ARGUMENTS FOR OR AGAINST THE MEASURE

WHEREAS, the City of Seaside (the “City”), despite its diligent efforts of fiscal prudence and responsibility, is operating with limited funds due to the loss of two significant grants, the recent damage caused by heavy winter storms and the potential impact on funding from the November 8, 2016 national election, including a potential loss of Federal and State funding, future capital project needs and the implementation costs from the legalization of adult use of marijuana; and

WHEREAS, the community relies on the City’s services and requires improved local services; and

WHEREAS, the City’s infrastructure has deteriorated due to deferred maintenance and insufficient funding to maintain and rebuild the infrastructure; and

WHEREAS, the City Council has found and declared the existence of an emergency that requires an immediate increase in locally-controlled funding that cannot be taken by the state; and

WHEREAS, the City Council has identified a marijuana business tax measure of up to 10% on gross receipts from marijuana sales that will provide some of the locally controlled funding to maintain city services, such as street maintenance and paving, emergency response service, public parks and waterfronts, youth violence prevention, senior programs, other general city services, fiscal stability and our quality of life; and

WHEREAS, nearly 50 other California jurisdictions – typically in collaboration with marijuana businesses – have enacted local measures to impose a general tax on marijuana businesses for the privilege of operating within the local jurisdiction; and

WHEREAS, such business taxes are imposed on marijuana businesses, and not directly on marijuana users or consumers; and

WHEREAS, the City desires to remain competitive with nearby communities that have already acted to tax and regulate marijuana businesses; and

WHEREAS, adopting a local marijuana business tax measure will benefit City residents

by ensuring that marijuana businesses contribute reasonably and fairly towards the costs associated with allowing this emerging industry to operate within the City of Seaside while allowing the City to maintain stable funding for essential City services and continued quality of life; and

WHEREAS, any tax measure submitted to voters must be consolidated with a regularly scheduled general election for members of City Council except in cases of emergency as determined by a unanimous vote of the Council pursuant to Article XIII C of the California Constitution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEASIDE:

Section 1. Pursuant to California Elections Code Sections 9222 and 10201, the City Council hereby orders that a special municipal election shall be held in the City of Seaside on June 6, 2017 for the purpose of approving an annual business operations tax on marijuana businesses at a rate of up to 10% of gross receipts in addition to a proposed measure to increase the transactions and use tax measure by 0.5% for general purpose revenues, as provided in Resolution 17-21, and to submit such other measures to the voters as the City Council deems appropriate. The full text of the proposed Ordinance, attached to this Resolution as Exhibit , if approved A shall be printed in the voter pamphlet. The measure to be submitted to the voters shall appear and be printed on the ballot as follows:

City of Seaside Measure ____	
MARIJUANA BUSINESS TAX. To generate an estimated \$300,000 annually until ended by voters to maintain essential City services such as 9-1-1 emergency response; anti-drug/anti-gang programs; repairing streets, potholes, storm drains; earthquake, flood preparedness; improving parks, youth/senior programs; other general services; with required independent audits and all funds staying in Seaside, shall the ordinance levying an ongoing tax of up to 10% of gross receipts of marijuana businesses be adopted?	YES
	NO

Section 2. The City Council hereby approves proposed Ordinance in the form attached to this Resolution as Exhibit A, to be submitted to the voters. The proposed measure is a general tax as defined in Article XIII C of the California Constitution and shall not take effect unless and until approved by a vote of at least a majority of the voters voting on the question in the election.

Section 3. The City Clerk is authorized to print such forms, publish such notices, set deadlines, and provide such information and contract for such services as may be necessary or convenient to assure the orderly holding of the election, and the City Clerk shall do all other things necessary to facilitate the holding of the election in a manner harmonious and consistent with law.

Section 4. The City Attorney is directed to submit an impartial analysis of the measure pursuant to Elections Code Section 9280 on or before March 16, 2017.

Section 5. The last day to submit arguments for or against the measure shall be March 1st, 2017. Submittals must be delivered to the City Clerk on or before 5:00 p.m.

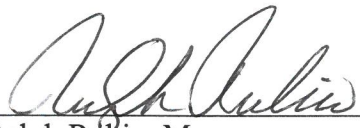
Section 6. The City Clerk shall publish a copy of this resolution in a newspaper of general circulation within the City once within fifteen (15) days after the adoption of this resolution.

Section 7. The City Council shall meet to declare the results of the election called for by this Resolution at their first regular meeting following certification of the election results.

Section 8. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 2nd day of March 2017.

AYES:	5	COUNCIL MEMBERS:	Alexander, Campbell, Jones, Pacheco, Rubio
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None


Ralph Rubio, Mayor

ATTEST:


Lesley Milton-Rerig, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SEASIDE AMENDING CHAPTER
5.04 OF THE SEASIDE MUNICIPAL CODE RELATING TO THE
REGULATION AND TAXATION OF MARIJUANA BUSINESSES**

THE PEOPLE OF THE CITY OF SEASIDE DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 5.04.010 of the Seaside Municipal Code is amended to read in full as follows:

5.04.010 Definitions.

As used in this chapter the words set out in this section shall be defined as follows:

- A. “Business” means professions, trades and occupations, and all and every kind of calling carried on for profit or livelihood.
- B. “Gross receipts” means the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service or employment of whatever nature it may be for which a charge is made or credit allowed, whether or not such act, service or employment is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in gross receipts shall be all receipts, cash, credits and property of any kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom an account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from gross receipts shall be cash discounts allowed and taken on sales, any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, and such part of the sale price of the property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit.
- C. “Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, oil, salt, derivative, mixture, or preparation of the plant, its seeds or resin.
- D. “Marijuana business” means any business which entails the distribution, delivery, dispensing, exchanging, bartering or sale of marijuana, including but not limited to, transporting, manufacturing, cultivating, compounding, converting, processing, preparing, storing, packaging, wholesale, or retail sales of marijuana and any ancillary products.
- E. “Person” means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business or common law trusts, societies, and individuals transacting and carrying on any business in the city.

Section 2. Sections 5.04.320 through 5.04.520 of the Seaside Municipal Code are hereby renumbered as Sections 5.04.330 through 5.04.530, respectively.

Section 3. A new Section 5.04.320 is added to the Seaside Municipal Code to read in full as follows:

5.04.320 Tax-marijuana businesses.

A. Every person carrying on a marijuana business shall pay an annual business operations tax at a rate of up to ten percent of gross receipts.

B. Notwithstanding Elections Code Section 9217 or the maximum tax rate of ten percent of gross receipts imposed under subsection A of this section, the city council may, in its discretion, at any time by ordinance, implement a lower tax rate for all marijuana businesses or establish differing tax rates for different categories of marijuana businesses, as defined in such ordinance, subject to the maximum rate of ten percent of gross receipts. The city council may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent of gross receipts established under subsection A of this section. The city council may make other minor technical changes to the ordinance to respond to changes in applicable state law.

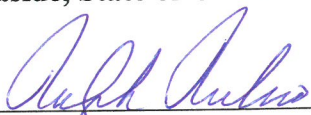
Section 4. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. This ordinance shall be considered as adopted upon the date the vote is declared by the legislative body, and shall go into effect ten days after that date.

Section 6. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause this ordinance to be published in accordance with the law.

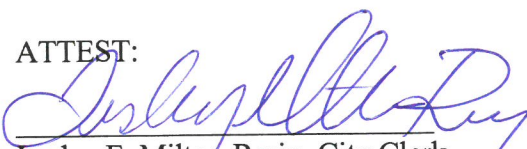
Section 7. The Mayor shall sign and the City Clerk shall attest to the adoption of this ordinance.

PASSED AND ADOPTED by the People of the City of Seaside, State of California, on June 6, 2017.



Ralph Rubio, Mayor

ATTEST:



Lesley E. Milton-Rerig, City Clerk

RESOLUTION NO. 17-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

SUBMITTING A PROPOSAL TO ADOPT AN ORDINANCE AT THE JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION TO AMEND CHAPTER 3.21 OF THE SEASIDE MUNICIPAL CODE TO INCREASE THE TRANSACTIONS AND USE TAX BY 0.5% FOR GENERAL PURPOSE REVENUES, APPROVING THE BALLOT LANGUAGE AS REVIEWED BY THE CITY ATTORNEY, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, AND PROVIDING DIRECTION REGARDING THE SUBMISSION OF BALLOT ARGUMENTS FOR OR AGAINST THE MEASURE

WHEREAS, the City of Seaside (the “City”), despite its diligent efforts of fiscal prudence and responsibility, is operating with limited funds due to losing two significant grants, the recent damage caused by heavy winter storms and the potential impact on funding from the November 8, 2016 national election, including a potential loss of Federal and State funding, future capital project needs and the implementation costs from the legalization of adult use of marijuana; and

WHEREAS, the community relies on the City’s services and requires improved local services; and

WHEREAS, the City’s population has grown by more than 35% in the past 20 years, but the number of police officers and firefighters has remained the same; and

WHEREAS, the City’s infrastructure has deteriorated due to deferred maintenance and insufficient funding to maintain and rebuild the infrastructure; and

WHEREAS, the City Council has found and declared the existence of an emergency that requires an immediate increase in locally-controlled funding that cannot be taken by the state; and

WHEREAS, the City Council has identified an increase in the Transaction and Use Tax of up to 0.5% that will provide some of the locally-controlled funding to maintain vital city services, fiscal stability and our quality of life; and

WHEREAS, people live in Seaside because of its quality of life, beautiful natural surroundings, and small-town feel; and

WHEREAS, the City of Seaside needs locally-controlled funding to maintain financial stability and vital city services such as street maintenance and paving, emergency response services, public parks and waterfronts, and youth violence prevention, senior programs, and general City services; and

WHEREAS, the City of Seaside is dedicated to maintaining and improving public safety; and

WHEREAS, drug trafficking and gang-related crimes are seen by residents as being

serious problems in Seaside; and

WHEREAS, locally-controlled funding will help fight these problems by expanding drug and gang prevention efforts, as well as after-school programs that help keep youth off the streets and out of trouble; and

WHEREAS, the region's marine life in Monterey Bay is currently suffering from urban runoff and water pollution; and

WHEREAS, the City of Seaside must comply with state and federal clean water laws; and

WHEREAS, locally-controlled funding will help update storm drains to prevent toxic chemicals from entering our gutters and drains to be dumped into coastal waters where it is affecting marine life; and

WHEREAS, the City needs a reliable, stable source of local funding that keeps taxpayer dollars local and cannot be taken by the State; and

WHEREAS, California Revenue and Taxation Code section 7285.9 authorizes the City to levy a transactions and use tax by ordinance following approval by two-thirds of the City Council and a majority vote of the qualified electors of the City voting in an election on the issue; and

WHEREAS, any funds generated by a locally-enacted revenue measure will be subject to annual audits by an independent auditor for public review; and

WHEREAS, the transactions and use tax would be levied in addition to the current sales tax and would be collected at the same time and in the same manner as the existing sales tax; and

WHEREAS, the levying of the transactions and use tax of 0.5% would not cause the overall transactions and use tax in the City to exceed 2% in accordance with California Revenue and Taxation Code section 7251.1; and

WHEREAS, a transactions and use tax is not a property tax on homeowners, and visitors to the Seaside community will pay their fair share of the costs to use our parks, roads, and police; and

WHEREAS, a transactions and use tax is not applied to food purchased as groceries or prescription medication; and

WHEREAS, any tax measure submitted to voters must be consolidated with a regularly scheduled general election for members of City Council except in cases of emergency as determined by a unanimous vote of the Council pursuant to Article XIIC of the Constitution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEASIDE:

Section 1. The City Council, pursuant to its right, power and authority, has called a

special municipal election to be held on June 6, 2017 for the purpose of submitting a question or questions to the voters. At the special municipal election, the City Council hereby directs that the following ordinance also be submitted to the voters:

City of Seaside Measure	
SEASIDE VITAL CITY SERVICES MEASURE. To generate an estimated \$1,900,000 annually until ended by voters to maintain essential City services such as police, fire, 9-1-1 emergency response; hiring police officers/firefighters; youth violence prevention programs; improving street maintenance, water cleanliness, earthquake, flood preparedness, parks, beaches, youth/senior programs, and other general services; with required independent audits and all funds staying in Seaside; shall the ordinance increasing the City's sales tax by ½ cent be adopted?	YES
	NO

Section 2. The City Council hereby approves proposed Ordinance No. [], attached to this Resolution as Exhibit A, to be submitted to the voters. The proposed measure is a general tax as defined in Article XIIC of the California Constitution, to be collected as a sales and use tax as provided by applicable law and shall not take effect unless and until approved by a vote of at least a majority of the voters voting on the question in the election.

Section 3. The City Clerk is authorized to print such forms, publish such notices, establish deadlines and provide such information and contract for services as may be necessary or convenient to assure the orderly holding of the election, and the City Clerk shall do all other things necessary to facilitate the holding of the election in a manner harmonious and consistent with law.

Section 4. The City Attorney is directed to submit an impartial analysis of the measure pursuant to Elections Code Section 9280 on or before March 16, 2017.

Section 5. The last day to submit arguments for or against the measure shall be March 16, 2017. Submittals must be delivered to the City Clerk on or before 5:00 p.m.

Section 6. The City Clerk shall publish a copy of this resolution in a newspaper of general circulation within the City once within fifteen (15) days after the adoption of this resolution.

Section 7. The City Council shall meet to declare the results of the election called for by this Resolution at their first regular meeting following certification of the election results.

Section 8. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 2nd day of March 2017.

AYES:	5	COUNCIL MEMBERS:	Alexander, Campbell, Jones, Pacheco, Rubio
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None



Ralph Rubio, Mayor

ATTEST:



Lesley Milton-Rerig, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SEASIDE INCREASING THE
TRANSACTIONS AND USE TAX ADMINISTERED BY THE STATE
BOARD OF EQUALIZATION**

THE PEOPLE OF THE CITY OF SEASIDE DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 3.21 of the Seaside Municipal Code is amended to read in full as follows:

CHAPTER 3.21 TRANSACTIONS AND USE TAX

3.14.010 Title.

This chapter shall be known as the Seaside Transactions and Use Tax Ordinance. The City of Seaside hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.14.020 Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.14.030 Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.14.040 Contract with State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.14.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.14.060 Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.14.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.14.080 Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.14.090 Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.14.100 Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.14.110. Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as

common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.14.120 Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically

become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.14.130 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.14.140 Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

3.14.150. Independent Financial Audit.

By no later than December 31 of each year, the City's independent auditors shall complete a Transactions and Use Tax Ordinance Compliance and Internal Control Audit Report. Such report shall review whether the tax revenues collected pursuant to this ordinance are collected, managed and expended in accordance with the requirements of this ordinance."

Section 2. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

Section 3. The City Clerk shall certify the passage of this ordinance and forward a copy of the adopted ordinance to the Board of Equalization.

PASSED AND ADOPTED by the People of the City of Seaside, State of California, on June 6, 2017.

Ralph Rubio, Mayor

ATTEST:

Lesley E. Milton-Rerig, City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.D.

TO: City Council

FROM: Craig Malin, City Manager

BY: Daphne Hodgson, Deputy City Manager Administrative Services

DATE: July 6, 2017

SUBJECT: A RESOLUTION AUTHORIZING AGREEMENTS WITH THE STATE BOARD OF EQUALIZATION TO IMPLEMENT THE CITY'S NEW TRANSACTION TAX AND DESIGNATING THE CITY MANAGER TO EXECUTE THE AGREEMENTS

PURPOSE

The purpose of this item is provide the City Council an opportunity to review, consider and approve a resolution approving two agreements with the State Board of Equalization and designating the City Manager to execute the agreements. The agreements authorize the State Board of Equalization to prepare, administer and operate the City of Seaside's .5% Transaction Tax approved by the voters on June 6, 2017.

RECOMMENDATION

It is recommended that the City Council adopt the resolution approving two agreements with the State Board of Equalization and designating the City Manager to execute the agreements. The agreements authorize the State Board of Equalization to prepare, administer and operate the City of Seaside's .5% Transaction Tax approved by the voters on June 6, 2017.

BACKGROUND

On June 6, 2017 the voters in the City of Seaside approved a .5% transaction tax. The California State Board of Equalization (BOE), to be called the California Department of Tax and Fee Administration, is responsible for the collection and administration of sales and transaction taxes in the City of Seaside and throughout the State.

In order to have the BOE begin the process of collecting and distributing the new transaction tax to the City, the City must enter into agreements with the BOE. Attached to this staff report are the two required agreements and a resolution approving the agreements and authorizing the City Manager to sign the agreements.

FISCAL IMPACT

Agreements needed to collect Transaction Tax Revenue.

ATTACHMENTS

1. Resolution Approving Agreements with the State Board of Equalization
 2. Exhibit A - Preparatory Agreement
 3. Exhibit B - Administrative Agreement
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF SEASIDE APPROVING THE AGREEMENTS WITH THE
STATE BOARD OF EQUALIZATION AND
AUTHORIZING THE CITY MANAGER TO EXECUTE
AGREEMENTS WITH THE STATE BOARD OF EQUALIZATION FOR
IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX.**

WHEREAS, on July 6, 2017, the City Council of the City of Seaside approved Ordinance No. [] amending the City Municipal Code and providing for a local transactions and use tax; and

WHEREAS, the State Board of Equalization (Board) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Board will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Board requires that the City enter into a “Preparatory Agreement” and an “Administration Agreement” prior to implementation of said taxes, and

WHEREAS, the Board requires that the City Council authorize the agreements;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Seaside that the “Preparatory Agreement” attached as Exhibit A and the “Administrative Agreement” attached as Exhibit B are hereby approved and the City Manager is hereby authorized to execute each agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 6th day of July 2017.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Ralph Rubio, Mayor
City of Seaside

ATTEST:

Lesley Milton, City Clerk

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the CITY OF SEASIDE, hereinafter called *City*, and the STATE BOARD OF EQUALIZATION, hereinafter called *Board*, do agree as follows:

1. The Board agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Board at the times and in the amounts hereinafter specified all of the Board's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Board's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Board's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Board. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Board shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Board shall be billed by the Board periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Board the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Board's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879 MIC: 27
Sacramento, California 94279-0027

Attention: Supervisor,
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Board has received all payments due from City under the terms of this agreement.

CITY OF _____

STATE BOARD OF EQUALIZATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

(Typed Name)

(Title)

(Rev. 11/16)

**AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Seaside has adopted, and the voters of the City of Seaside (hereafter called "City") have approved by the required majority vote, the City of Seaside's Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the State Board of Equalization, (hereinafter called the "Board") and the City do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.9, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No.[], as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES**

A. Administration. The Board and City agree that the Board shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

B. Other Applicable Laws. City agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Board pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Board shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

F. Security. The Board agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Board.

G. Records of the Board.

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Board agrees to permit authorized personnel of the City to examine the records of the Board, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Board's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Board pursuant to this Agreement.

H. Annexation. City agrees that the Board shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Board. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III

ALLOCATION OF TAX

A. Allocation. In the administration of the Board's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Board, to all districts with which the Board has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Board, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Board in determining the place of use.

ARTICLE IV

COMPENSATION

The City agrees to pay to the Board as the Board's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Board for the City.

ARTICLE V

MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to the City shall be addressed to:

City Manager and Finance Director
City Seaside
440 Harcourt Avenue
Seaside, CA 93955

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on October 1, 2017. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Board written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Board the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Board may retain all payments made by City to Board to prepare to administer the City Ordinance.

2. City will pay to Board and allow Board to retain Board's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Board or to the State of California the amount of any taxes plus interest and penalties, if any, that Board or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Board its costs for rebating or refunding such taxes, interest, or penalties. Board's costs shall include its additional cost for developing procedures for processing the

rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Board's staff for use in making these rebates or refunds and any other costs incurred by Board which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Board's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Board. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Board shall bill City on or before the 25th of each month for all costs incurred by Board for the preceding calendar month. City shall pay to Board the amount of such costs on or before the last day of the succeeding month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Board costs incurred in making those refunds.

CITY OF SEASIDE

STATE BOARD OF EQUALIZATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

Craig Malin

City Manager



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.E.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Riedl, City Engineer

DATE: July 6, 2017

**SUBJECT: CONSIDER APPROVING A LETTER TO THE CALIFORNIA
COASTAL COMMISSION SUPPORTING THEIR EFFORTS TO
ELIMINATE SAND MINING OPERATIONS ALONG SOUTHERN
MONTEREY BAY**

PURPOSE

The purpose of this item is to consider approving a letter to the California Coastal Commission supporting their efforts to eliminate sand mining operations along southern Monterey Bay.

RECOMMENDATION

The City Council should consider approving a letter to the California Coastal Commission supporting their efforts to eliminate sand mining operations along southern Monterey Bay.

BACKGROUND

The Cemex Sand Mine is a 104-acre sand-dredging and -processing operation located between Lapis Road and the Monterey Bay in Marina, California. The Cemex operation dredges sand from an artificial pond located between the shoreline and dunes. The pond acts as a “sand sink,” drawing in sand from the nearshore and public tidelands during particular high tides and annual storms. A suction dredge in the pond extracts sand from the pond floor and feeds it to a processing plant via a pipe. Sand mining at this site began in 1965, and by the time of that CEMEX purchased the facility in 2005, several scientific studies had identified the Lapis Sand Mine extraction operations as a significant contributor to coastal erosion in the southern Monterey Bay. The processed sand product sold by CEMEX—known as “Lapis Lustre”—has a low dust content and unique grain size and is used for water filtration systems, golf courses, sand blasters, construction, and other commercial purposes.

For the past several decades, the sand mining operation at Lapis Road in Marina(a.k.a. Lapis Sand Mine and/or Cemex Sand Mine) has been extracting significant volumes of beach sand

from the public beach through the use of a dredge pond adjacent to the shoreline. Studies show that the Cemex Sand Mine is removing approximately 47 to 63 percent of the available local sand supply useful for beach nourishment in southern Monterey Bay. Removing this volume of sand from the shoreline has contributed to the erosion in the southern Monterey Bay, including Seaside, where shoreline erosion rates are the highest in California. Robert S. Young, PhD, PG, Professor of Geology at Western Carolina University and Director for the Program for the Study of Developed Shorelines states "... I conclude that beach sand extraction by the Lapis Sand Mine constitutes a significant source of sand loss from the southern Monterey Bay central littoral cell and, as a result, is causing or contributing to significant adverse effects on coastal property, resources, and uses. " M. Young also concludes that "...the Lapis mining operation is removing somewhere around 750,000 to just over 1 million cubic meters of sand every five years. This is the equivalent of a large beach nourishment project for many beaches in the United States."

Erosion along the Monterey Bay has come at a price. It is jeopardizing public safety by putting coastal infrastructure at risk, impeding public access and the use of beaches. One of the City's attractions is the sandy beach at the end of Canyon Del Rey Boulevard that includes the Monterey State Beach. The continued loss of sand at this beach is threatening the city's waterfront and access to the public beach. The erosion along the beach threatens public infrastructure, such as storm drain infrastructure and the public parking lot for Monterey State Beach.

The California Coastal Commission is the state agency created by, and charged with, administering the Coastal Act, which, amongst other goals, were designed to protect and restore sensitive habitats(such as dunes and wetland habitats), protect natural land forms, protect scenic landscapes and views of coastal areas, and provide maximum public access to the coastal zone. The Commission, in coordination with local governments, plans and regulates development and natural resource use in the coastal zone in keeping with the requirements of the Coastal Act.

Although Commission staff have been aware of the sand mining operation at the Property for years, in 2010, in response to allegations from the public that the property owner was using bulldozers to push sand into the dredge pond, Commission staff began a more detailed investigation regarding the status of the operation. In April 2014, Commission staff began a series of discussions with representatives of the property owner to discuss the status of the sand mining operation on the Property. Since that time, Commission staff has continued to investigate this matter and discuss the unpermitted development with the representatives of the property owner, through a number of meetings, phone calls, and visits to the Property by Commission staff.

On March 17, 2016, the California Coastal Commission issued a Notice of Intent to Commence Cease and Desist Order and Restoration Proceedings and Administrative Civil Penalties Proceedings against CEMEX for unpermitted development, including sand dredging and extraction and related activities and development (see attachment). That investigation remains ongoing and the Commission is set to consider potential further actions during it July meeting.

On May 26, 2017, the City of Marina, adopted a resolution authorizing the City Attorney to

pursue the possibility of a civil action against CEMEX to declare and abate the Lapis Mine as a public nuisance. The City of Marina also commissioned a report by Robert S. Young, PhD, PG, Professor of Geology at Western Carolina University and Director for the Program for the Study of Developed Shorelines in support of these actions (available at the following link: <http://ca-marina.civicplus.com/Archive.aspx?ADID=8117>).

On June 15, 2017, the City Council requested that this item be included for discussion at the next City Council meeting. The City Council should consider approving the attached letter to the California Coastal Commission supporting their efforts to eliminate sand mining operations along Monterey Bay.

FISCAL IMPACT

There is no fiscal impact to send the proposed letter to the California Coastal Commission.

ATTACHMENTS

1. Draft Letter to Coastal Commission
2. Notice by California Coastal Commission
3. An Evaluation of the Ongoing Impacts of Sand Mining at the CEMEX Lapis Sand Plant in Marina <http://ca-marina.civicplus.com/ArchiveCenter/ViewFile/Item>

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



CITY COUNCIL

440 Harcourt Avenue
Seaside, CA 93955

Telephone (831) 899-6700
FAX (831) 899-6227

July 6, 2017

Chair Dayna Bochco and Coastal Commissioners
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: Lapis Sand Plant (a.k.a. Cemex Sand Mine), Lapis Road, Marina California

The City of Seaside (City) is a coastal community located on the Monterey Bay south of the subject site, the Lapis Sand Plant (a.k.a. Cemex Sand Mine). One of the city's attractions is the sandy beach that includes the Monterey State Beach. The continued loss of sand at this beach is threatening the city's waterfront and access to the public beach. The erosion along the beach threatens public infrastructure, such as storm drain infrastructure and the public parking lot for Monterey State Beach.

Erosion rates appear to be exacerbated by the Cemex Sand Mine located in the City of Marina. Studies indicate that the Cemex plant contributes to the loss of sand along the beaches south of the site, including the City of Seaside. Robert S. Young, PhD, PG, Professor of Geology at Western Carolina University and Director for the Program for the Study of Developed Shorelines states "... I conclude that beach sand extraction by the Lapis Sand Mine constitutes a significant source of sand loss from the southern Monterey Bay central littoral cell and, as a result, is causing or contributing to significant adverse effects on coastal property, resources, and uses.¹" M. Young also concludes that "...the Lapis mining operation is removing somewhere around 750,000 to just over 1 million cubic meters of sand every five years. This is the equivalent of a large beach nourishment project for many beaches in the United States."

The City of Seaside is concerned about the erosion along the Central Coast and supports the Coastal Commission's efforts to eliminate sand mining, a significant cause of coastal erosion.

¹ Report to the City of Marina titled *An Evaluation of the Ongoing Impacts of Sand Mining at the CEMEX Lapis Sand Plant in Marina, California on the Southern Monterey Bay Shoreline* by Robert S. Young, 2017.

We appreciation your efforts in protecting and restoring the coastline along the Southern Monterey Bay.

Sincerely,
City of Seaside

Ralph Rubio, Mayor

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**VIA REGULAR AND CERTIFIED MAIL**

March 17, 2016

Eric Wittmann
Regional President, West Region
929 Gessner Road, Suite 1900
Houston, Texas 77024
Certified Mail No. 7015 1730 0002 1802 7556

RMC Pacific Materials, LLC
dba CEMEX
929 Gessner Road, Suite 1900
Houston, Texas 77024
Attention: Vice President, Planning
Certified Mail No. 7015 1730 0002 1801 6819

Subject: Notification of Intent to Commence Cease and Desist Order and
Restoration Order Proceedings and Administrative Civil Penalties
Proceedings

Violation File Number: V-3-14-0151

Property Location: Lapis Sand Plant, Lapis Road, City of Marina, Monterey County
Assessor's Parcel Number 203-011-019-000

Alleged Violation: Unpermitted Development, including, but not necessarily limited to:
Dredging and extraction of sand, including resulting in the creation of
ponds; placement of floating dredges and development associated with
the dredges, such as placement and installation of anchors and mooring
cables, pipes, a pump station(s), and other facilities; grading; and
changes in the intensity of use of the property.

Dear Mr. Wittman:

I would first like to thank Cemex and their representatives for meeting multiple times with Coastal Commission staff over the last several months to discuss the issues related to the above-referenced matter. We have spent a great deal of time reviewing the materials that Cemex has provided to us and have done our own, additional, independent research into the issues discussed below. As Commission staff has discussed in numerous meetings with Cemex and counsel for Cemex, we feel there are significant resource, policy and legal issues related to the activities that are occurring at the above-referenced site, as I will discuss in more detail below. With that said, we remain open to further discussions with Cemex to resolve this matter. As discussed with your representatives, Bonnie Neely and Geoff Etnire, in a meeting on December 17, 2015, and in subsequent conversations between Ms. Neely and Commission staff, this

letter is a step in the formal administrative process intended to remedy the Coastal Act violations that Commission staff believes exist on the property. We are encouraged by Cemex's willingness so far to discuss the issues related to the sand mining operation on the site, and we hope to continue working with Cemex to determine the appropriate path forward for this matter.

Therefore, the purpose of this letter is to notify you of my intent, as the Acting Executive Director of the California Coastal Commission, to commence proceedings for issuance of a Cease and Desist Order and a Restoration Order ("the Orders") and for the imposition of administrative civil penalties, to resolve the violations of the California Coastal Act resulting from unpermitted development that has occurred and continues to occur on property owned by you at Lapis Road, as described above ("the Property"). The unpermitted development at issue on the Property includes, but is not necessarily limited to: dredging and extraction of sand, including such activities that have resulted in the creation of ponds; placement of floating dredges and development associated with the dredges, such as the placement or installation of anchors and mooring cables, pipes, a pump station(s), and other facilities; grading; and changes in the intensity of use of the Property.

As discussed with your agents Bonnie Neely and Geoff Etnire in a meeting on December 17, 2015 this letter does not preclude our ability to continue to work together to resolve this matter. As stated previously, this letter is a standard step in the ongoing administrative process that will legally resolve the Coastal Act violations through an enforcement hearing. If we cannot resolve this matter through consent orders, we plan to bring regular cease and desist and restoration orders and administrative penalty proceedings to the Commission unilaterally in the near future.

Background

As you may know, the California Coastal Act¹ was enacted in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program that would manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with, administering the Coastal Act. In making its permit, enforcement, and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, were designed to protect and restore sensitive habitats (such as dunes and wetland habitats), protect natural landforms, protect scenic landscapes and views of coastal areas, and provide maximum public access to the coastal zone. The Commission, in coordination with local governments, plans and regulates development and natural resource use in the coastal zone in keeping with the requirements of the Coastal Act.

Although Commission staff has been aware of the sand mining operation at the Property for years, in 2010, in response to allegations from the public that the property owner was using bulldozers to push sand into the dredge pond, Commission staff began a more detailed investigation regarding the status of the operation. In April 2014, Commission staff began a series of discussions with representatives of the property owner to discuss the status of the sand mining operation on the Property. Since that time, Commission staff has continued to investigate this matter and discuss the unpermitted development with the representatives of the property owner, through a number of meetings, phone calls, and visits to the Property by Commission staff.

¹ The California Coastal Act of 1976 ("Coastal Act") is codified in Division 20 of the Public Resources Code (sections 30000 to 30900).

Cease and Desist and Restoration Orders

As stated above, this letter provides notice of my intent to commence proceedings for issuance of a Cease and Desist Order and a Restoration Order. The purpose of these proceedings is to resolve outstanding issues associated with unpermitted development activities that violate the Coastal Act. Collectively, the Orders will direct you to cease and desist from performing any unpermitted development, will compel the removal of unpermitted development, and order the restoration of the areas impacted by the unpermitted development².

Cease and Desist Order

The Commission is authorized to issue an order to cease and desist pursuant to Section 30810 of the Coastal Act. Section 30810(a) of the Coastal Act states, in part:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:

(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.

Pursuant to the Coastal Act (Public Resources Code Section 30600(a))³ and the Implementation Plan portion of the City of Marina's Local Coastal Program ("LCP"), any person wishing to perform or undertake development in the Coastal Zone must obtain a Coastal Development Permit ("CDP"), in addition to any other permit required by law. Development is defined by Section 30106, as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land...change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation....

² Although violations that consist of unpermitted development can sometimes be resolved through the issuance of an after-the-fact coastal development permit, the Commission's Central Coast office permitting staff have indicated that the operation would likely not be consistent with the applicable standard of review under the Coastal Act and City of Marina LCP, and likely advise against submitting a CDP application. Moreover, although Commission staff asked Cemex representatives during the above-referenced December meeting if they planned to submit a coastal development permit application, Cemex representatives then indicated a reluctance to do so and of course Cemex has not moved to seek a permit in the intervening months.

³ Unless otherwise specified, all section references herein (including references to "Coastal Act" sections or sections "of the Coastal Act") are technically to sections of the Public Resources Code (and thus, to the Coastal Act).

Development is defined in the City of Marina Implementation Plan as follows:

Development: Shall mean, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredge materials or waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity or use of land including subdivision and any other division of land except where division occurs as a result of purchase by a public agency for public recreational use; change in the intensity of use of water, or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure; and the removal or harvesting of major vegetation other than for agricultural purposes or kelp harvesting.

As confirmed by Commission staff, development has occurred and continues to occur without a CDP on your property at Lapis Road, Monterey County Assessor's Parcel Number 203-011-019-000 (the "Property"). The activities that constitute unpermitted development in this case include, but are not necessarily limited to: dredging and extraction of sand, including resulting in the creation of ponds; placement of floating dredges and development associated with the dredges, such as placement and installation of anchors and mooring cables, pipes, a pump station(s), and other facilities; grading; and changes in the intensity of use of the property. Changes in intensity of use of the property include a significant increase in the volume of sand extraction. These are all activities that constitute development as defined in Section 30106 of the Coastal Act and the City of Marina certified Implementation Plan, occurred without any coastal development permit, and occurred on the Property, which is within the Coastal Zone.

No exemptions from the Coastal Act's and the LCP's permit requirements apply for the development. The one type of exemption that we have discussed is the potential for an exemption based on vested rights and Coastal Act section 30608; however, neither the property owner nor its predecessors in interest to the Property have filed, or received confirmation of, a vested rights claim pursuant to Section 30608 of the Coastal Act and Sections 13200 to 13202 of Title 14 of the California Code of Regulations. Notwithstanding the fact that no such formal claim has been made, your representatives have provided information, such as the March 31, 2014 letter to Commission staff. We have reviewed these materials as well as done independent research to assess the possibility that such rights might exist. Although we recognize that review is not based on a formal application and is therefore not a formal determination on an application for vested rights, based on that review, in addition to the issue noted above with regard to an increase in the volume of sand extraction, it appears that a vested rights claim could not be granted for the unpermitted development, as the development listed above did not receive all necessary authorizations as of the relevant date under Proposition 20 (November 8, 1972) or the Coastal Act (January 1, 1977). One example of such a missing authorization is the failure to secure the issuance of a Use Permit from Monterey County prior to the creation and commencement of use of the main dredge pond in 1965. Similarly, once the City of Marina ("City") incorporated, there was no attempt to rectify that permitting problem by securing an after-the-fact permit from the City. Finally, though this is not necessarily the only other permit that was lacking, there is the failure to have obtained a CDP from the Coastal Zone Conservation Commission prior to 1977. Additionally, vested rights law provides that other factors, such as changes to or cessation of an activity, including such factors as an increase in the volume extracted, may also result in a new requirement for authorization of an activity. Therefore, the development required a CDP and none was obtained, and, as such, undertaking this development constitutes a violation of the Coastal Act and the LCP.

The activities described in this letter clearly constitute "development" as that term is defined in both the Coastal Act (Section 30106) and the LCP and are not otherwise exempt from Coastal Act and LCP permitting requirements. No CDP was issued to authorize the subject unpermitted development. Therefore, development occurred that required a permit from the Commission without one having been

obtained and that violated the City's LCP, satisfying both of the criteria of Section 30810(a) of the Coastal Act.

Because the City has a certified Local Coastal Program, the City has the option to enforce its own LCP. However, some of the development at issue began before the City's LCP was certified, and some of the development at issue may be occurring in the area of the Commission's retained jurisdiction pursuant to section 30519(b) of the Coastal Act. All such development required a permit from the Commission, so the Commission has jurisdiction to enforce the failure to obtain such a permit before commencing development, pursuant to the first sentence of Section 30810(a). In addition, for the development that required a permit from the City, the Commission has jurisdiction over enforcement of that unpermitted development based on the second sentence of Section 30810(a), and in particular, Section 30810(a)(1), which enables the Commission to take enforcement action to enforce the requirements of a certified Local Coastal Program when the local government requests that the Commission assist with or take primary responsibility for enforcement. In this case, the City requested that the Commission assume primary enforcement responsibility regarding this violation via a resolution passed by the City on March 15 and confirmed via phone call on March 16, 2016.

Section 30810(b) of the Coastal Act also states that a Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development or material. The proposed Order will therefore direct the property owner and others subject to their control and/or in a legal relationship with the property owner to come into compliance with the Coastal Act and LCP by, among other potential actions: 1) cease and desist from maintaining any development on the Property not authorized pursuant to the Coastal Act and the City's LCP; 2) cease and desist from engaging in any further development on the Property unless authorized pursuant to the Coastal Act; 3) remove the physical elements of unpermitted development, and 4) take all steps, as identified, necessary to comply with the Coastal Act.

For these reasons, I am issuing this Notice of Intent to Commence Cease and Desist Order proceedings. The procedures for the issuance of these Cease and Desist Orders are described in Sections 13180 through 13188 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

Restoration Order

Section 30811 of the Coastal Act provides the Coastal Commission the authority to issue a restoration order to address violations at the Property. Coastal Act section 30811 gives the Commission the authority to issue a Restoration Order when three criteria are satisfied: 1) development has occurred without the requisite CDP, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage.

The first of those three criteria was discussed in the prior section. However, along with being unpermitted, the above-referenced activities on the Property also raise significant substantive issues in that they have continuing natural resource impacts that are inconsistent with Chapter 3 of the Coastal Act, including impacts to the shoreline sand supply, to environmentally sensitive habitat areas ("ESHA"), and to public access.

The unpermitted development has resulted in the removal of sand from the littoral system and its transport inland for commercial sale, with associated impacts on the sand supply of the area. Sand is a mobile resource that is moved by wave and wind action. The unpermitted development has altered and continues to alter the natural shoreline processes at this location. The vast majority of the sand that is removed as a

result of the unpermitted development comes from the littoral system. As a result of the unpermitted development, sand that would under natural conditions remain a part of the littoral system is instead captured in the dredge pond and extracted for commercial sale. That sand is removed from the littoral system, and is not able to build or accrete to beaches, dunes, or offshore areas along the Monterey Bay. This is inconsistent with Coastal Act Sections 30233, 30235, and 30253, and Policies 8 and 22 of the Land Use Plan portion of the City's LCP (the "LUP"), which prohibits further degradation of the beach environment. The unpermitted development therefore decreases the amount of sand on the Monterey Bay shoreline, and narrows beaches within the Monterey Bay, inconsistent with Coastal Act Section 30210 and 30211. Existing development, including a wastewater treatment plant and the highway are located just downcoast near the edge of the dunes. Narrower beaches lead existing development to have greater susceptibility to erosion by wave action, potentially impacting the stability of existing development on the Monterey Bay shoreline, inconsistent with Coastal Act Section 30253 and Policy 38 of the LUP. The unpermitted development also results in impacts to public access, as a reduction in the width of the beach reduces the area of the sandy beach available to the public with additional potential impacts to lateral access. Especially critical here is that, as sea levels continue to rise, the impacts to public access will become even more significant. Given this, among the other issues stated herein, the unpermitted development is also inconsistent with the public access policies of the Coastal Act and Policy 1 of the LUP.

Coastal dunes, which are located on the Property, are important habitat for many species of native plants that are adapted to the shifting dune sands, including special status plants that have been observed on the site, including the federally threatened Monterey spineflower, which has designated critical habitat on the property, the state and federally endangered Yadon's wallflower, and the CNPS listed coast wallflower⁴. Native dune plants also provide important habitat for many native animal species, including the federally threatened Smith's blue butterfly which has suitable habitat on the Property and provides foraging and nesting grounds for shore bird species such as the federally threatened Western snowy plover, which is present and has designated critical habitat on the Property⁵. However, the presence of unpermitted extraction of sand on the beach and the physical elements of unpermitted development have eliminated the beach and dune habitat used by sensitive species in this location. Instead of the unique dune system that is located adjacent and throughout this area, there is an artificial dredge pond. Use of mechanized equipment, including the floating dredge, causes noise and disturbance that further impacts ESHA here and in the dunes surrounding the dredge pond, which are also ESHA, inconsistent with Section 30240 and Policy 25 of the LUP. The unpermitted development at issue is located in and adjacent to the dune habitat, and is also not consistent with Section 30240(b), which requires that development in areas adjacent to ESHA be "sited and designed to prevent impacts which would significantly degrade those areas," and be "compatible with the continuance of those habitat and recreation areas," and Policy 26 of the LUP, which has similar requirements.

Coastal Act section 30811 gives the Commission the authority to issue a Restoration Order when three criteria are satisfied: 1) development has occurred without the requisite CDP, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage. The third and final criterion for issuance of a restoration order, as explained above, is that the development at issue is causing continuing resource damage. That phrase is defined by Section 13190 of the Commission's regulations as: "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in

⁴SWCA (2014) Draft Initial Study and Mitigated Negative Declaration for the California American Water Slant Test Well Project.

⁵ Ibid.

before it was disturbed by unpermitted development.” The unpermitted development at issue here continues to exist, and therefore, the Coastal Act resources remain degraded and reduced compared to their condition before the unpermitted development occurred.

In sum, pursuant to Section 13191 of the Commission’s regulations, I have determined that the activities specified in this letter meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development has occurred, including but not necessarily limited to: dredging and extraction of sand, including resulting in the creation of ponds; placement of floating dredges and development associated with the dredges, such as placement and installation of anchors and mooring cables, pipes, a pump station(s), and other facilities; grading; and changes in the intensity of use of the property. Such unpermitted activity is “development” as that term is defined by section 30106 of the Coastal Act, and it has occurred without a CDP from the Commission.
- 2) This unpermitted development is inconsistent with several of the resource protection policies of the Coastal Act and the applicable City of Marina LUP policies, including, but not necessarily limited to:
 - a. Coastal Act Section 30210 and 30211 and LUP Policy 1(access)
 - b. Coastal Act Section 30233 and LUP Policy 22 (dredging)
 - c. Coastal Act Section 30235 (shoreline processes)
 - d. Coastal Act Section 30240 and LUP Policies 25 and 26 (protection of environmentally sensitive habitat areas);
 - e. Coastal Act Section 30253 and LUP Policy 38 (minimization of adverse impacts);
- 3) The unpermitted development remains in place and therefore continues to cause continuing resource damage.

For the reasons stated above, I am therefore issuing this notice of intent to commence proceedings for a Restoration Order before the Commission in order to compel the restoration of the Property. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission’s regulations, which are codified in Title 14 of the California Code of Regulations.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

Under Section 30821 of the Coastal Act, in cases involving violations of the public access provisions of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, as described above, the unpermitted development impacts the public access provisions of the Coastal Act; and therefore the criteria triggering Section 30821 have been satisfied. The penalties imposed may be an amount up to \$11,250, for each violation, for each day the violation has persisted, or is persisting, for up to five (5) years. Under Section 30821(h), a violator may avoid administrative penalties by correcting the violation within 30 days of receiving written notice of the violation, if that violation can be corrected without undertaking development that requires a CDP. If a person fails to pay an administrative civil penalty imposed by the Commission, under Section 30821(e) the Commission may record a lien on that person’s property in the amount of the assessed penalty. This lien shall be equal in force, effect, and priority to a judgment lien.

Response Procedure

In accordance with Sections 13181(a) and 13191(a) of the Commission's Regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order and Restoration Order and Administrative Penalty proceedings by completing the enclosed Statement of Defense (SOD) form. The completed SOD form, including identification of issues and materials for Commission consideration, and documents and issues that you would like the Commission to consider, must be returned to the Commission's San Francisco office, directed to the attention of John Del Arroz, no later than April 6, 2016.

Civil Liability, Exemplary Damages, and Fines

As you may know, the Coastal Act provides a number of provisions to address civil liabilities. Section 30820(a) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission, in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each violation. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission, when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which each violation persists. Section 30821.6 also provides that a violation of an Order issued by the Commission can result in civil liabilities of up to \$6,000 for each day in which each violation persists, and Section 30822 provides for additional exemplary damages for intentional and knowing violations of the Coastal Act or a Commission Cease and Desist Order. Additionally, as noted above, a person who undertakes unpermitted development that is in violation of the public access provisions of the Coastal Act may also be assessed administrative civil penalties pursuant to Section 30821 in the amount of up to \$11,250 a day for each day in which the violation persists.

Potential for Recordation of a Notice of Violation of the Coastal Act

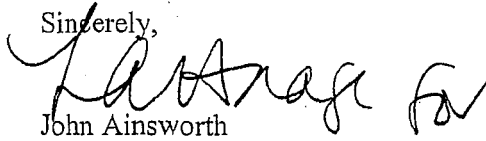
Finally, I would like to notify you that Section 30812 of the Coastal Act allows for the recordation of a notice of the existence of a Coastal Act violation on the property after providing notice and the opportunity for a public hearing. Notice may also be recorded when a property owner agrees to stipulate to the recordation of a Notice of Violation while working with the Commission to resolve the violations through mutual agreement. If we pursue recordation of a Notice of Violation, you will first be given separate notice of the Executive Director's intent to record such a notice, and will have the opportunity to object to such recordation and to provide evidence to the Commission at a public hearing as to why such a notice should not be recorded.

Resolution

We remain encouraged by the cooperation of Cemex to date to provide information regarding details and history of the operation on the Property. We remain open to working with you to resolve the violations of the Coastal Act on the Property, and we remain committed to working with you to achieve that end.

Please contact John Del Arroz, Statewide Enforcement Analyst at (415) 904-5220 by April 6, 2016 to discuss options to resolve this case.

Sincerely,



John Ainsworth
Acting Executive Director

cc: Bonnie Neely, Nossaman LLP, Certified Mail No. 7015 1730 0002 1801 6802
Geoff Etnire, Venable LLP, Certified Mail No. 7015 1730 0002 1801 6796
Layne Long, City Manager, City of Marina
Mike Novo, Planning Director, Monterey County
Lisa Haage, Chief of Enforcement
Aaron McLendon, Deputy Chief of Enforcement
Alex Helperin, Senior Staff Counsel
John Del Arroz, Statewide Enforcement Analyst
Dan Carl, Deputy Director, North Central and Central Coast Districts

Encl. Statement of Defense Form for Cease and Desist Order and Restoration Order and Administrative Penalty Proceeding

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by a notice of intent to initiate cease and desist order, restoration order, and administrative civil penalties proceedings before the commission. This document indicates that you are or may be responsible for or in some way involved in either a violation of the commission's laws or a commission permit. The document summarizes what the (possible) violation involves, who is or may be responsible for it, where and when it (may have) occurred, and other pertinent information concerning the (possible) violation.

This form requires you to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You should complete the form (please use additional pages if necessary) and return it **no later than April 6, 2016** to the Commission's enforcement staff at the following address:

**John Del Arroz
45 Fremont St.
Suite 2000
San Francisco, CA 94105**

If you have any questions, please contact **John Del Arroz** at **(415) 904-5272**.

- 1. Facts or allegations contained in the notice of intent that you admit (with specific reference to the paragraph number in such document):**

- 2. Facts or allegations contained in the notice of intent that you deny (with specific reference to paragraph number in such document):**

- 3. Facts or allegations contained in the notice of intent of which you have no personal knowledge (with specific reference to paragraph number in such document):**

4. **Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:**

5. Any other information, statement, etc. that you want to offer or make:

6. Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in chronological order by date, author, and title, and enclose a copy with this completed form):



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.F.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, City Clerk

DATE: July 6, 2017

**SUBJECT: APPROVE A RESOLUTION MOVING THE PARKS AND
RECREATION COMMISSION MEETING TO THE THIRD MONDAY
AT 5:30 PM.**

PURPOSE

To approve the change of meeting date and time of the Parks and Recreation Commission regular meetings to the third Monday of every month at 5:30 PM.

RECOMMENDATION

That the City Council adopt a resolution formally accepting the change of meeting date and time.

BACKGROUND

During the June 19, 2017 Parks and Recreation Commission Regular meeting, the Commission unanimously voted to request the City Council to authorize the change of the Regular meeting date from the last Wednesday of every month at 5:30 PM to the third Monday of every month at 5:30 PM. This meeting date and time was the most convenient time for Commissioners and staff and the Commission believed would still provide adequate opportunity for public involvement.

According to the Seaside Municipal Code 2.14.080 - Meetings

"Commissions shall hold at least one regular meeting per month, on the day and time approved by resolution of the city council. (Ord. 773 § 1 (Exh. A), 1990)"

The Commission is respectfully requesting approval to change of meeting date and time to the third Monday of every month at 5:30 PM.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ATTACHMENTS

1. Draft Resolution
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 17-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AUTHORIZING CHANGING THE REGULAR MEETING DATE OF THE PARKS AND RECREATION COMMISSION MEETING

WHEREAS, During the June 19, 2017 Parks and Recreation Commission regular meeting, the Commission unanimously voted to request the City Council to authorize the change of the Regular meeting date from the last Wednesday of every month at 5:30 to the third Monday of every month at 5:30 PM.

WHEREAS, This meeting date and time was the most convenient time for Commissioners and staff and the commission believed would still provide adequate opportunity for public involvement.

WHEREAS, According to the Seaside Municipal Code 2.14.080 Meetings: Commissions shall hold at least one regular meeting per month, on the day and time approved by resolution of the city council.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the City Council approves the Parks and Recreation Commission request to change the meeting date and time to the third Monday of every month at 5:30 PM.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 6th day of July, 2017, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ralph Rubio, Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.G.

TO: City Council

FROM: Craig Malin, City Manager

BY: Craig Malin, City Manager

DATE: July 6, 2017

**SUBJECT: ADOPT RESOLUTION SUPPORTING CLIMATE CHANGE SCIENCE
AND COMMITTING TO THE PRINCIPALS EMBEDDED WITHIN
THE U.S. MAYORS CLIMATE PROTECTION AGREEMENT**

PURPOSE

Adopt a statement acknowledging that scientific research leads to the conclusion that climate change is real and commit the City to a course of action consistent with the U.S. Conference of Mayors Climate Protection Agreement.

RECOMMENDATION

That the City Council adopt the resolution as presented.

BACKGROUND

The overwhelming majority of scientific research concludes that human activity is altering natural systems which support life as we know it. With retrenchment from policies and practices intended to mitigate the acceleration of global warming and its attendant destructive impacts at the national level, it is appropriate and necessary to consider local actions that may positively impact environmental systems. Twelve local policies and practices, derived from the U.S. Conference of Mayors' Climate Protection Agreement are suggested as appropriate local responses to the global challenge of climate change.

FISCAL IMPACT

Indeterminate in the aggregate. Specific actions to be evaluated consistent with good management practice and / or City Council budget review, if necessary.

ATTACHMENTS

1. Draft Resolution

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION 17-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

RECOGNIZING CLIMATE CHANGE SCIENCE AND SEASIDE'S COMMITMENT TO CLIMATE CHANGE ACTION AND COMMITTS TO THE SERIES OF PRINCIPALS OF THE U.S. CONFERENCE OF MAYORS CLIMATE PROTECTION AGREEMENT

WHEREAS, multiple studies published in peer-reviewed scientific journals show that 97 percent or more of actively publishing climate scientists agree: Climate-warming trends over the past century are extremely likely due to human activities' and

WHEREAS, International Science Academies including the United States National Academy of Science, the Russian Academy of Science, the Chinese Academy of Sciences, the Royal Society of the United Kingdom, the Science Council of Japan and the Indian National Science Academy, among others, have jointly concluded *"there is now strong evidence that significant global warming is occurring. The evidence comes from direct measurements of rising surface air temperatures and subsurface ocean temperatures and from phenomena such as increases in average global sea levels, retreating glaciers, and changes to many physical and biological systems. It is likely that most of the warming in recent decades can be attributed to human activities"*: and

WHEREAS, the Paris Agreement adopted by the United Nations Framework Convention on Climate Change specifically identifies the importance of local governments in the role of environmental protection; and

WHEREAS, research from The United States Conference of Mayors states that cities comprise 91% of the United States' Gross Domestic Product, placing cities at the center of jointly pursuing environmental stewardship and economic growth; and

WHEREAS, cities are already having to invest billions of dollars annually in infrastructure and support services to deal with climate change's impacts of heat waves, droughts, and torrential rain events; and

WHEREAS, a 2015 report from the U.S. Environmental Protection Agency showed that aggressively combatting climate change would result in 12,000 fewer deaths in major U.S. cities due to extreme heat; up to \$2.8 billion in avoided flooding costs; and \$6.4 billion in avoided urban drainage costs by 2100; and

WHEREAS, it is increasingly important for cities to commit to doing their part on climate action via aggressive policies and programs that reduce our environmental footprint while promoting a 21st century economy,

NOW, THEREFORE, BE IT RESOLVED, that the City of Seaside recognizes the overwhelming body of scientific research which finds climate change to be real, and caused by human activities.

BE IT FURTHER RESOLVED, that the City of Seaside herein commits itself to a series of principles embedded in the U.S. Conference of Mayors Climate Protection Agreement, including:

1. Inventory global warming emissions in City operations and in the community, set reduction targets and create an action plan;
2. Adopt and enforce land-use policies that reduce sprawl, preserve open space, and create compact, walkable urban communities;
3. Promote transportation options such as bicycle trails, commute trip reduction programs, incentives for car-pooling and public transit;
4. Increase the use of clean, alternative energy;
5. Make energy efficiency a priority through building code improvements, retrofitting city facilities with energy efficient lighting and urging employees to conserve energy and save money;
6. Purchase only Energy Star equipment and appliances for City use;
7. Practice and promote sustainable building practices using the U.S. Green Building Council's LEED program or a similar system;
8. Increase the average fuel efficiency of municipal fleet vehicles;
9. Evaluate opportunities to increase pump efficiency in water systems;
10. Increase recycling rates in City operations and in the community;
11. Maintain healthy urban forests; promote tree planting to increase shading and to absorb CO₂; and
12. Help educate the public, schools, other jurisdictions, professional associations, business and industry about reducing global warming pollution.

PASSED AND ADOPTED at a Regular City Council meeting duly held on July 6, 2017 by the following vote.

AYES:
NOES:
ABSENT:
ABSTAIN

Attest: _____
Lesley Milton-Rerig, City Clerk

Signed: _____
Ralph Rubio, Mayor



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 9.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, City Clerk
Roberta Greathouse, Human Resources Director
Daphne Hodgson, Deputy City Manager Administrative Services

DATE: July 6, 2017

SUBJECT: **AMENDING SEASIDE MUNICIPAL CODE CHAPTER 2.44,
PERSONNEL REGULATIONS, TO THE CODIFY THE CITY'S
ESTABLISHED PERSONNEL SYSTEM AND CURRENT PRACTICES
AND UPDATING CHAPTERS 3 REVENUE AND FINANCE AND
CHAPTER 5 BUSINESS LICENSE AND REGULATIONS
CORRECTING ERRORS, OMISSIONS AND LEGAL CONFLICTS
IDENTIFIED DURING MUNICIPAL CODE CODIFICATION AND
UPDATING INCONSISTENCIES WITH CURRENT LEGISLATION
OR ORGANIZATIONAL BEST PRACTICES**

PURPOSE

The purpose of this Ordinance is to amend Chapter 2 Administration and Personnel of the Seaside Municipal Code to codify the City's established personnel system and current practices and to update Chapters 3 Revenue and Finance and Chapter 5 Business License and Regulations to incorporate recommended changes identified through the Municipal Code Codification process and legal review.

RECOMMENDATION

It is recommended that the City Council review the proposed updates to Municipal Code Section 2.44 related to the City's personnel system and identified updates to Chapter 3 Revenue and Finance and Chapter 5 Business License and Regulations; open a public hearing to receive comments on the proposed Ordinance; and approve the first reading of the attached Ordinance modifying the City's Municipal Code as presented.

BACKGROUND

In 2015 the City Council authorized a contract to recodify the City Municipal Code. The

contracted services included a review of all of the existing City ordinances to ensure the code was accurately codified to include all adopted regulations and to identify any legal conflicts or inconsistencies within the code due to adoption of new ordinances or changes to state or federal regulations. To finalize the codification, staff is bringing before you approvals to update the code to eliminate identified conflicts or inconsistencies as well as to update the code to reflect current organizational best practices or new legislation that has been enacted.

The proposed changes to update Chapters 2, 3 and 5 of the Seaside Municipal Code are listed in red-line strike out in Attachments A, B and C. A summary of the changes are included below. The draft Ordinance accepting the modifications is also attached for your review.

UNIFORM CHANGES THROUGHOUT THE CODE:

- Changing the designation of responsibilities to the appropriate parties or appropriate job title. As an example, Chapter 3.24.010 defines the Tax Administrator as the City Clerk. This would modify it to the City Manager
- Capitalizing the word City, City Council, City Attorney, City Manager, Police Chief, Planning Commission, State
- Modifying all code provisions that read; "In addition to any other state or city penalties or enforcement procedures, violation of any of the provisions of this chapter may be prosecuted as a misdemeanor which shall be punishable by a fine of not more than one thousand dollars or by imprisonment for a period of not more than one year or by both such fine and imprisonment." to eliminate "which shall be punishable by a fine of not more than one thousand dollars or by imprisonment for a period of not more than one year or by both such fine and imprisonment." Penalties for misdemeanors are not established or controlled by the Municipal Code but by the Penal Code or Health and Safety Code

CHAPTER 2 - PERSONNEL REGULATIONS

- 2.42.130 Appendix – Designated Employees (Conflict of Interest Code): Updating the designated employees, Boards and Commissions required to be in compliance with the Conflict of Interest Code. This is modifying titles to reflect recent staffing changes
- 2.44.010 – 2.44.020 Adoption of System/Administration: Consolidates and organizes Personnel System and City Manager Responsibilities
- 2.44.030 Classified Service: Defines the Classified Service
- 2.44.060 Appointments and Probation: Update to reflect negotiated changes
- 2.44.070 Leave of Absence without Pay: Update to reflect Leave of Absence Practice
- 2.44.090 - 2.44.100 Discipline: Language clean-up consistent with adopted Personnel Rules

CHAPTER 3 REVENUE AND FINANCE

- 3.04.020 Purchasing Officer - Office Created - Designated: modifying section (c) to

allow the City Manager to appoint the Purchasing Officer instead of the Fiscal Services Officer and deleting section (d) as we do not require staff to furnish a corporate surety bond

- 3.04.090 Open Market Procedures: Updating "purchasing orders and procurement" to be consistent with City Council Ordinance 1035: Purchasing System
- 3.16.010 Assessments and Collections: Clarifying the authority of who collects property taxes to the Monterey County Assessor and Tax Collector and not the City of Seaside
- 3.28.010 Schedules Adopted: Modified to allow the fees to be adopted annually and referenced by Resolution
- 3.28.020 Adjustments: Updating the code to reflect previous council action that allows the fees to be adjusted annually according to the San Francisco-Oakland-San Jose Urban wage Earners and Clerical Workers Consumer Price Index
- 3.28.040-.050 Non-Profit organizations: Update the code to be consistent with policy for use of City facilities by public agencies and non-profit organizations on a reduced-fee basis
- 3.30.070 - 3.30.080 Tax Rate and Annual Review: Deleted code section as it's in violation with current California Tax Law
- 3.30.090-3.30.130 - Inserted the 6% Utility Users tax rate which was authorized by the November 5, 2002 Election
- Changing the word "warrants" to "checks" as it is outdated language no longer commonly used in the ordinary course of business

CHAPTER 5 BUSINESS LICENSE AND REGULATIONS

- Uniformly modifying the Chapter to rename "adult" as "adult oriented" as adopted in Chapter 17 Zoning Ordinance adopted in 2014
- Uniformly eliminating the term "Skid Row Atmosphere" atmosphere" as the term is not defined in the code and modified to "less than desirable commercial atmosphere"
- Updating references in multiple locations referencing "Chapter 1.7" to "Chapter 1.16 PENALTIES, ENFORCEMENT, ADMINISTRATIVE AND LEGAL PROCEDURES"
- 5.20.050 Security Alarm Systems: Modifying the penalty for false alarms from "Twenty Five Dollars" to "a service charge established by resolution" Resolution" as adopted in the fee schedule annually
- Chapter 5.24 CATV Franchise: Elimination of sections 5.24.020-5.24.200 to be consistent with State regulations regarding cable franchise agreements

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The recommended action does not constitute a "Project" as that term is defined under the California Environmental Quality Act (CEQA) Guideline Section 15378, as the modifications are organizational or administrative activities that will not result in direct or indirect physical changes in the environment.

RECOMMENDATION

Staff recommends the above changes to be authorized to update the code to be in compliance with current law, not in conflict of other city code sections and to reflect current organizational best practices. If the Council chooses to pass to print the draft Ordinance at this meeting, it will be presented for adoption at the July 20, 2017 City Council Regular meeting.

FISCAL IMPACT

The fiscal impact associated with this item is for the cost of codifying the changes into the Municipal Code, which is included in the current Fiscal Year 2017-18 adopted budget.

ATTACHMENTS

1. Draft Ordinance
 2. Municipal Code Chapter 2 Redline Text Amendments
 3. Municipal Code Chapter 3 Redline Text Amendments
 4. Municipal Code Chapter 5 Redline Text Amendments
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AMENDING SEASIDE MUNICIPAL CODE CHAPTER 2.44, PERSONNEL REGULATIONS, TO THE CODIFY THE CITY'S ESTABLISHED PERSONNEL SYSTEM AND CURRENT PRACTICES AND UPDATING CHAPTERS 3 REVENUE AND FINANCE AND CHAPTER 5 BUSINESS LICENSE AND REGULATIONS CORRECTING ERRORS, OMISSIONS AND LEGAL CONFLICTS IDENTIFIED DURING MUNICIPAL CODE CODIFICATION AND UPDATING INCONSISTENCIES WITH CURRENT LEGISLATION OR ORGANIZATIONAL BEST PRACTICES

THE CITY COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS AND PURPOSES.

A. The purpose of this Ordinance is to amend the Seaside Municipal Code Chapters 3 and 5 to update inconsistencies, errors identified during the recodification and compliance with new legislation or organizational best practices and to update Chapter 2.44 updating the Personnel Regulations to be consistent with current policies and employee negotiated changes.

Section 2. AMENDMENT AND RESTATEMENT OF SECTIONS OF CHAPTERS 2, 3 AND 5 OF THE SEASIDE MUNICIPAL CODE AS FOLLOWS

The City of Seaside Municipal Code Sections below are hereby amended to incorporate the text amendments included in Attachment A for Chapters 2, Attachment B for Chapter 3 and Attachment C for Chapter 5 of the Seaside Municipal Code.

Additionally, the following changes are authorized to be made throughout the code and are amended to be as follows:

- Capitalizing the words City, City Council, City Attorney, City Manager, Police Chief, Planning Commission, State, City Clerk
- Modifying all code provisions that read; "In addition to any other state or city penalties or enforcement procedures, violation of any of the provisions of this chapter may be prosecuted as a misdemeanor which shall be punishable by a fine of not more than one thousand dollars or by imprisonment for a period of not more than one year or by both such fine and imprisonment." to eliminate "which shall be punishable by a fine of not more than one thousand dollars or by imprisonment for a period of not more than one year or by both such fine and imprisonment." Penalties for misdemeanors are not established or controlled by the Municipal Code but by the Penal Code or Health and Safety Code

Section 4. SEVERABILITY.

A. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

B. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after its final passage and adoption.

INTRODUCED to the City Council of the City of Seaside during a duly held Regular Meeting on the 6th day of July, 2017.

PASSED AND ADOPTED by the City Council of the City of Seaside this ____ day of _____, 2016, by the following roll call vote:

AYES	COUNCIL MEMBERS
NOES	COUNCIL MEMBERS
ABSENT	COUNCIL MEMBERS
ABSTAIN	COUNCIL MEMBERS

Signed: _____
Ralph Rubio, Mayor

Attest: _____
Lesley Milton-Rerig, City Clerk

Chapter 2.44
PERSONNEL ~~REGULATION~~ SYSTEM

Sections:

- 2.44.010 Adoption of Personnel System**
- 2.44.020 Administration**
- 2.44.030 Basic salary plan.**
- 2.44.040 Outside occupations.**
- 2.44.050 Probation.**
- 2.44.060 Leave of absence without pay.**
- 2.44.070 Longevity.**
- 2.44.080 Discipline--Grounds.**
- 2.44.090 Discipline--Procedure.**
- 2.44.100 Grievance--Grounds.**
- 2.44.110 Grievance--Informal procedure.**
- 2.44.120 Grievance--Formal procedure.**
- 2.44.130 Grievance--Conduct of procedure.**

2.44.010 Adoption of Personnel System.

In order to establish an equitable and uniform system for addressing personnel matters, and to comply with applicable laws relating to the administration of the personnel process, the following personnel system is hereby adopted.

2.44.020 Administration.

The City Manager shall administer the City personnel system, and shall serve as Personnel Officer. In addition to the duties and powers outlined in Section 2.04, the City Manager shall:

- A. Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the City Council.
- B. Prepare revisions and amendments to the personnel rules.
- C. Prepare or cause to be prepared a position classification plan, including class specifications, and revisions of the plan.
- D. Provide for the publishing or posting of notices of tests for positions in the classified service; the receiving of applications therefor; the conducting and grading of tests; the certification of a list of all persons eligible for appointment to the appropriate position in the classified service; and the performance of any other duty that may be required to administer the personnel system.
- E. The City Manager may delegate those portions of his/her responsibilities which he/she deems appropriate.

2.44.030 Classified Service.

The provisions of this chapter shall apply to all offices, positions and employments in the service of the City, except:

- A. Elective officers.
- B. The City Manager and any assistants to the City Manager.
- C. The City Attorney and any assistant or deputy City Attorneys.
- D. Members of appointive boards, commissions, and committees.
- E. All department directors.
- F. Persons engaged under contract to supply expert, professional, technical or any other services.
- G. Volunteer personnel.

H. Emergency employees who are hired to meet the immediate requirements of any emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.

I. Employees, other than those listed elsewhere in this section, who are not employed in regular positions. "Employed in regular positions" means an employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than two thousand eighty (2,080) hours per year, and has successfully completed the probationary period and been retained as provided in this chapter and the personnel rules.

J. Any position primarily funded under a state or federal employment program.

K. Any newly created position, which is designated at the time of its creation as being exempt from the classified service.

L. Employees not included in the classified service under this section shall serve at the pleasure of their appointing authority. They may be terminated or disciplined at will by the City Manager at any time, without any right of appeal.

2.44.040 Basic salary plan.

The salary ranges and the classes of positions shall be adopted annually by resolution in the same manner and at the same time as the budget. (Ord. 442 § 1(part), 1974: prior code § 1-402).

2.44.050 Outside occupations.

No employee of the city shall engage in any outside occupation or activity which is incompatible with his employment by the city. Such occupation or activity shall not be engaged in without prior approval by the city manager, upon recommendation of the department head. Employees engaging in outside occupations without such authorization do so at their own risk, and may thereby jeopardize their city employment. (Ord. 442 § 1(part), 1974: prior code § 1-408).

2.44.030 Probation.

~~Except as provided by city council adopted departmental rules and regulations, employees of the city shall serve probationary periods of six months' duration at the following times:~~

~~A. Upon employment;~~

2.44.060 Appointments and probation.

Appointments to vacant positions in the classified service shall be made in accordance with the personnel rules. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. All appointments and promotions in the City service shall be made without regard to race, religious creed, color, national origin, ancestry, sex, age, physical or mental disability, medical condition, sexual orientation, marital status, gender identity, gender expression, genetic characteristics or information, military or veteran's status, and/or any other category protected by federal, state, or local law.

All full-time appointments shall be for a probationary period of not less than 12 months. Appointments will not be considered regular until successful completion of the probationary period, which may be extended in accordance with the personnel rules. Probation for promotional appointments shall be for a period of not less than six months except members of police and fire service associations which are subject to 12-month probationary periods.

~~B. Upon promotion to, or transfer to, a new position. (Ord. 442 § 1(part), 1974: prior code § 1-409).~~

2.44.040-2.44.070 Leave of absence without pay.

The city manager may grant a leave of absence to any employee appointed by him/her for a period not to exceed ~~three-six~~ months which will be approved in monthly increments, and may grant such a leave of absence in excess of three months upon approval by the city council. ~~The~~ council may grant a leave of absence to any officer appointed by the council. Military leave leaves of absence shall be controlled by the provisions of ~~the Military and Veterans' Code of the state~~ federal and state law, as well as by relevant City policy and personnel rules. Persons on a leave of absence without pay shall not accumulate sick leave or vacation time, but may at their option, remain in the health and life insurance program by paying all the premium from their own resources. (Ord. 442 § 1(part), 1974: prior code § 1-410).

2.44.080 Longevity.

All service to the city, regardless of whether or not such service is consecutive, shall be considered for longevity purposes. In cases where employees serve forced military service, such time shall be counted for longevity purposes. (Ord. 442 § 1(part), 1974: prior code § 1-411).

2.44.060 Discipline grounds.

~~An employee may be reprimanded, suspended, denied a merit increase, demoted or dismissed for any of the following reasons:~~

2.44.090 Demotion, Dismissal, Reduction in Pay, Suspension, Reprimand

The City Manager shall have the authority to demote, discharge, reprimand, reduce in pay, or suspend any regular employee for cause in accordance with procedures included in the personnel rules.

- ~~1.—Furnishing false information to secure employment;~~
- ~~2.—Incompetence, which shall mean that the employee lacks adequate ability, knowledge or fitness to perform the duties which are within the scope of employment. "Fitness" shall include, but is not limited to, physical ability to perform the duties of a class, and shall be applied in a manner consistent with local, state, and federal statutes, regulations and case law, with respect to employment of the physically handicapped;~~
- ~~3.—Inefficiency in performance of work which results in performance lower than that which is typically expected of a similar position;~~
- ~~4.—Neglect of duty;~~
- ~~5.—Insubordination, which shall mean refusal or failure to follow a direct, lawful order which the employee is capable of following;~~
- ~~6.—Any act of moral turpitude which adversely reflects on the employee's ability or fitness to perform his/her duties;~~
- ~~7.—Soliciting or taking for personal use a fee, gift or other valuable thing in the course of the employee's work, or in connection with the contributing party's expectation or hope of receiving favorable or better treatment than that afforded other persons;~~
- ~~8.—Taking an active part during scheduled working hours in receiving or contributing money toward the nomination or election of any elective candidate for a city municipal office, or using official position to support any elective candidate;~~
- ~~9.—Disclosure of confidential information to an unauthorized source;~~
- ~~10.—Nonobservance of work hours;~~
- ~~11.—Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment by the city;~~

- ~~12.—Conduct either during or outside of duty hours which damages the city or its reputation;~~
- ~~13.—Falsification of time sheets or any official city records;~~
- ~~14.—Misuse of sick leave;~~
- ~~15.—Unless legally authorized, and approved by a superior to do so, consuming, possessing, or being under the influence of an alcoholic beverage, while on duty. The absence of a blood alcohol level test shall not preclude imposition of discipline under this section;~~
- ~~16.—Unless legally authorized, and approved by a superior to do so, using, consuming, injecting, possessing, being under the influence of, selling or offering for sale, while on duty, any drug, or any controlled substance as the latter term is defined in the California Health and Safety Code;~~
- ~~17.—Addiction to the use of any "controlled substance," as that term is defined in the California Health and Safety Code;~~
- ~~18.—Excessive absenteeism, tardiness, or absence without authorized leave;~~
- ~~19.—Conviction of a criminal offense involving moral turpitude, where the offense bears a rational relationship to employment;~~
- ~~20.—Discourteous or disrespectful treatment of the public, other employees, or city officials;~~
- ~~21.—Violation of city personnel rules, administrative policies and procedures, departmental rules and regulations, safety rules, resolutions, ordinances or codes;~~
- ~~22.—Damage to or waste of public property, equipment or supplies; or unauthorized possession or use of public property, supplies or equipment;~~
- ~~23.—Any conduct related to employment which impairs, disrupts or causes discredit to the employee's employment or the public service, including but not limited to conduct which is or would be cause for discipline under any other provisions of this section;~~
- ~~24.—Sexual harassment;~~

~~25. Willful failure or refusal to properly perform official duty;~~

~~26. Gross carelessness in the discharge of official duty;~~

~~27. Malfeasance in office;~~

~~28. Gambling for money or articles of value during the working day;~~

~~29. Refusal to report to an official call in an emergency. (Ord. 715 § 2 Exh. A(2), 1987).~~

2.44.070-2.44.100 Discipline-procedure.

The city's personnel rules ~~city manager shall adopt a standard operating procedure which~~ shall govern all proceedings relating to the discipline of city employees. (Ord. 715 § 2 Exh. A(3), 1987).

2.44.110 Grievance-grounds.

A grievance shall be considered as any matter for which appeal is not provided for, or prohibited, in this chapter, concerning:

- A. A dispute about the interpretation or application of any ordinance, rule or regulation governing personnel practices or working conditions.
- B. A dispute about the practical consequences of a city decision on wages, hours and other terms and conditions of employment.
- C. A decision affecting the employment of any permanent or probationary employee over which the city manager has partial or complete jurisdiction. (Ord. 442 § 1(part), 1974: prior code § 1-418(part)).

2.44.120 Grievance-informal procedure.

An employee who has a problem or complaint should first try to get it settled through discussion with his immediate supervisor without undue delay. If, after this discussion, he does not believe the problem has been satisfactorily resolved, he shall have the right to discuss it with his supervisor's immediate superior, if any, in the administrative service. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is not in agreement with the decision reached by discussion, he shall then have the right to file a formal grievance in writing within ten calendar days after

receiving the informal decision of his immediate superior. An informal grievance shall not be taken above the city manager. (Ord. 442 § 1(part), 1974: prior code § 1-418(a)).

2.44.130 Grievance-formal procedure.

A. First Level of Review. A grievance shall be presented in writing to the employee's immediate supervisor, who shall render his decision and comments in writing and return them to the employee within ten calendar days after receiving the grievance. If the employee does not agree with his supervisor's decision, or if no answer has been received within ten days, the employee may present the appeal in writing to his supervisor's immediate superior. Failure of the employee to take further action within ten calendar days after receipt of the written decision of his supervisor, or within a total of twenty calendar days if no decision is rendered, will constitute a withdrawal of the grievance.

B. Further Level or Levels of Review as Appropriate. The supervisor receiving the grievance shall review it, render his decision and comments in writing, and return them to the employee within ten calendar days after receiving the appeal. If the employee does not agree with the decision, or if no answer has been received within ten days, he may present the appeal in writing to the department head. Failure of the employee to take further action within ten days if no decision is rendered will constitute a withdrawal of the grievance.

C. Department Review. The department head receiving the grievance, or his designated representative, should discuss the grievance with the employee, his representative, if any, and with other appropriate persons. The department head shall render his decision and comments in writing, and return them to the employee within ten calendar days after receiving the appeal. If the employee does not agree with the decision reached, or if no answer has been received within ten calendar days, he may present the appeal in writing to the city manager. Failure of the employee to take further action within ten days after receipt of the decision, or within a total of twenty days if no decision is rendered, will constitute withdrawal of the grievance.

D. City Manager. The city manager, or his designated representative, should discuss the grievance with the employee, his representative, if any, and with other appropriate persons. The city manager may designate a fact-finding committee, or an officer not in the normal line of supervision, to advise him/her concerning the appeal. The appointing power shall render a decision in writing to the employee within twenty days after receiving the grievance. (Ord. 442 § 1(part), 1974: prior code § 1-418(b)).

2.44.140 Grievance-conduct of procedure.

- A. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- B. The employee may request the assistance of another person of his own choosing in preparing and presenting his appeal at any level of review.
- C. The employee and his representative may be privileged to use a reasonable amount of work time as determined by the appropriate department head in conferring about and presenting the appeal.
- D. Employees shall be assured freedom from reprisal for using the grievance procedures. (Ord. 442 § 1(part), 1974: prior code § 1-418(c)).

3.04.020 Purchasing officer – Office created – Designated – Duties generally—Bond.

A. There is created the position of purchasing officer. The ~~fiscal services officer~~ City Manager will appoint the ~~is designated as~~ purchasing officer, and in the absence of the purchasing officer, the functions of such position shall be performed by the appointed assistant purchasing officer ~~finance director~~.

~~C. The purchasing officer shall furnish a corporate surety bond in a form as approved by the city~~ City manager ~~Manager~~ Manager, in the amount of twenty-five thousand dollars, which shall be conditioned upon the faithful performance of the duties imposed by this chapter upon the purchasing officer. Any premium for such bond shall be a proper charge against the city.

3.04.060 Open market procedures – Departmental proprietary supplies, services and equipment costing more than five thousand dollars and less than twenty-five thousand dollars.

A. “Departmental proprietary supplies, services and equipment” are defined as goods and services professionally unique to one using department or primarily used by one department. In the latter case, the primary using department will act as procurement coordinator. Examples of professionally unique goods and services are:

1. Police equipment and ammunition;
2. Arrest/citation forms;
3. Fire hose/firefighting apparatus;
4. Accounting forms, city ~~City~~ warrants ~~checks~~, purchase orders;
5. Vehicle parts and equipment;
6. Street maintenance materials;
7. Parks/gardening supplies and equipment.

3.04.090 Open market procedures – Supplies, services and equipment costing less than five thousand dollars.

A. Department heads will be responsible for procuring items other than office supplies and reproduction paper costing less than five thousand dollars.

B. Department heads should make every effort to obtain the least possible price to the city ~~City~~ for items in this category. Department heads are encouraged to consult with the purchasing officer in identifying vendor sources resulting in the least possible price to the city ~~City~~.

~~C. Purchases in this category do not require the use of purchase orders. Department heads will be responsible for initiating purchasing orders for procuring items in this category. (Ord. 950 § 4, 2006; Ord. 587 § 2, 1981; prior code § 2-309)~~

3.04.120 Award and execution of contracts.

Except in emergency situations, all contracts for supplies, services and equipment in an estimated amount of twenty-five thousand dollars or more shall be awarded by the city ~~City council~~ Council. Contracts for supplies, services and equipment in an estimated amount of less than twenty-five thousand dollars shall be executed by the City Manager ~~purchasing officer~~. (Ord. 950 § 5, 2006; Ord. 587 § 2, 1981; prior code § 2-312)

3.10.010 Balanced budget – Requirements.

The staff is directed to institute measures to balance the budget annually, to ensure that expenditures do not exceed revenues in any fiscal year, except to the extent of a carefully long ranged and programmed use of city ~~City~~ fund balances which as determined by the City council ~~Council~~ are necessary and proper to maintain cost effective services to all of the citizens of the community. This section applies to all general purpose funds, as defined in SMC

~~3.08.010~~ 12.040. (Ord. 609 § 2, 1982; prior code § 3-206)

Chapter 3.12

RESERVES AND FUNDS

Sections:

- 3.12.010 Capital reserve.
- 3.12.020 Special reserve.
- 3.12.030 Emergency reserve.
- 3.12.040 Continuance, establishment and maintenance of funds.
- 3.12.110 Contribution to and maintenance of funds.

3.12.110 Contribution to and maintenance of funds.

The requirement of general fund contributions to those reserves established by SMC 3.12.010, 3.12.020 and 3.12.030, and the provisions relating to a minimum year-end balance, may be waived by resolution of the ~~city~~City ~~council~~Council at the time of adoption of the annual budget upon the written recommendation of the ~~city~~City ~~manager~~Manager. (Ord. 1000 § 2, 2011; Ord. 793 § 1, 1991)

Chapter 3.16

TAX ASSESSOR

Sections:

- 3.16.010 Assessment and collections.

3.16.010 Assessment and collections.

The ~~city~~City ~~council~~Council alleges that the duties of assessing property ~~and collecting taxes are~~—provided by law to be performed by the ~~Monterey County Aassessor and and collecting taxes tax collector of the city~~City shall be performed by the Monterey Ceounty Tax Ceollector, as provided by law. (Ord. 1, 1954; prior code § 3-101)

3.21.070 Imposition of use tax – Rate.

~~An~~ excise transaction tax is hereby imposed on the storage, use, or other consumption in the ~~city~~City of tangible personal property purchased from any retailer on and after the operative date of the ordinance codified in this chapter for storage, use or other consumption in said territory at the rate of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. 967 § 9, 2007)

3.24.010 Definitions.

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

~~“Tax administrator” means the city clerk~~shall be appointed by the City Manager.

3.24.130 Violations – Misdemeanor.

In addition to any other state or ~~city~~City penalties or enforcement procedures, violation of any of the provisions of this chapter may be prosecuted as a misdemeanor ~~which shall be punishable by a fine of not more than one thousand dollars or by imprisonment for a period of not more than one year or by both such fine and imprisonment.~~

3.28.010 Schedules adopted.

The schedules of fees and charges, ~~Schedules A, C, F, M, P, and W, attached to Ordinance 586, in file in the office of the city clerk, are adopted.~~ (Ord. 586 § 2, 1981) is adopted annually by resolution of the City Council.

3.28.020 Adjustments.

The fees and charges of SMC 3.28.010, unless otherwise excepted, will be adjusted each fiscal year by the San Francisco-Oakland-San Jose (Bay Area) Urban Wage Earners and Clerical Workers Consumer Price Index (CPI-W) not to exceed the limitations imposed by Article XIII B of the Constitution of the state. Such adjustments will be made by resolution of ~~the~~ ~~city~~City ~~council~~Council. (Ord. 625 § 1, 1982; Ord. 586 § 3(C), 1981)

3.28.030 Fees not enumerated in schedules.

All municipal services not specifically enumerated in the schedules referred to in SMC 3.28.010, or in another municipal ordinance, section of the municipal code, or municipal resolution, ~~will may~~ be provided and billed to the user at the full cost of time, material, and overhead. Such fee or charge will be determined by the ~~treasurer~~ City Manager or designee to ensure compliance with the limitations, as applicable, of Article XIII B of the Constitution of the state. (Ord. 586 § 3(D), 1981)

3.28.040 Public agencies and Non-profit organizations.

Fees and charges for use of ~~City~~ City Hall facilities by public agencies and non-profit organizations shall be established by resolution of the ~~city~~ City Council on a reduced fee basis and listed in the annual Fee Schedule. (Ord. 658 § 1, 1984)

~~**3.28.050 Public agencies.**~~

~~Fees and charges for use of city~~ City facilities are waived for public agencies. (Ord. 658 § 1, 1984)

3.30.040 Definitions.

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

“Collector” means the ~~finance director~~ City Manager or designee of the ~~city~~ City.

~~**3.30.070 Tax rate.**~~

~~The tax rate shall be that rate which is set by council resolution. (Ord. 642 § 1, 1983)~~

~~**3.30.080 Annual review.**~~

~~Each year, commencing in 1985, in conjunction with the city’s annual budget hearings, the city council shall reconsider the provisions and rate of the utility user’s tax. Following the hearings, the city council may modify the provisions and rate of the tax; and may provide no tax on one or more utilities for the utility tax year. The tax imposed shall continue to be levied for each utility tax year under the provisions of this chapter unless modified by the city council. (Ord. 642 § 1, 1983)~~

3.30.090 Electricity user’s tax.

A. Tax Imposed. There is imposed a 6% tax upon every person in the ~~city~~ City, other than an electrical corporation or a gas corporation, using electrical energy in the ~~city~~ City. The tax imposed by this section shall be ~~pursuant to the rate established by resolution~~ levied against charges made for such energy and shall be paid by the person paying for such energy. “Charges,” as used in this section, includes charges made for:

1. Metered energy; and
2. Minimum charges for service, including customer charges, service charges, demand charges, standby charges and annual and monthly charges.

B. Exclusions. As used in this section, the words “using electrical energy” shall not be construed to mean:

1. The storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received; provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; or
2. The mere receiving of such energy by an electrical corporation or a government agency at a point within the ~~city~~ City for resale.

3.30.100 Gas user’s tax.

A. Tax Imposed. There is imposed a 6% tax upon every person in the ~~city~~ City, other than a gas corporation or an electrical corporation, using gas in the ~~city~~ City which is delivered through mains or pipes. The tax imposed by this section shall be ~~pursuant to the rate established by resolution~~ levied against charges made for such gas, including minimum charges for service, and shall be paid by the person paying for such gas.

3.30.110 Telephone user's tax.

A. Tax Imposed. There is imposed a 6% tax upon every person in the cityCity, other than a telephone corporation, using intrastate telephone communication services in the cityCity. The tax imposed by this section shall be ~~pursuant to the rate established by resolution~~ levied against charges made for such services and shall be paid by the person paying for such services.

3.30.120 Water user's tax.

A. Tax Imposed. There is imposed a 6% tax upon every person in the cityCity, other than a water corporation, using water in the cityCity which is delivered through mains or pipes. The tax imposed by this section shall be ~~at the rate established by resolution~~ levied against charges made for such water, and shall be paid by the person paying for such water.

3.30.130 Cable television user's tax.

A. Tax Imposed. There is imposed a 6% tax upon every person in the cityCity, other than a cable television corporation, using cable television services in the cityCity. The tax imposed by this section shall be pursuant to the rate established by resolution levied against the charges made for such services, and shall be paid by the person paying for such services.

3.30.210 Exemptions.

A. Eligibility. Any service user who is sixty-five years of age or older and who is personally responsible for the payment of the utility services subject to this tax and who personally pays for those services shall be eligible for an exemption from the taxes imposed by this chapter on service supplied to the service user's residential living quarters. Only one such residential exemption shall be allowed to any person. The person in whose name the utility services are established with the utility companies ~~as of August 15, 1983,~~ will be deemed to be the person personally responsible for purposes of this section. The provisions of this exemption shall also apply to any individual who meets the criterion of disability, as established by the Social Security Administration's Supplemental Security Income Program for the Aged, Blind, and Disabled (Title XVI of the Social Security Act as amended), without regard to the age of the disabled individual.

3.32.060 Establishment of a regional development impact fee.

A. The regional development impact fee is hereby established in the amounts specified in a resolution to be adopted by the Monterey County Board of Supervisors for the purpose of paying for regional transportation improvement projects identified in Exhibit "B" of the JPA needed to meet increased demand created by traffic resulting from new development.

3.32.090 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the portions of this chapter not held to be unconstitutional or invalid. The ~~county board of supervisors~~City Council hereby declares that it would have passed this chapter and each section, subsection, clause or phrase hereof irrespective of the fact that one or more sections, subsections, clauses or phrases hereof be declared unconstitutional or invalid. (Ord. 973 § 6, 2008)

3.32.110 Administrative costs.

The RDIF agency may establish a processing fee or administrative surcharge to defray the reasonable cost of administration of the RDIF program by the RDIF agency in an amount not to exceed one percent of the fees collected by the county-City in accordance with Government Code Section 66014 and as otherwise provided by law. (Ord. 973 § 8, 2008)

Chapter 5.08

~~ADULT~~ADULT-ORIENTED BUSINESSES

5.08.010 Findings.

The ~~city council~~City Council makes the following findings regarding the establishment of adult-oriented businesses:

A. Certain uses of real property, variously described as adult bookstores, adult motion picture facilities, figure model studios, adult cabarets, adult motels, escort services and massage parlors, have serious objectionable characteristics which, if such uses were allowed to become concentrated in certain areas of the ~~city~~City, may have adverse effects upon the character of such areas and adjacent neighborhoods;

~~B. Permitting the concentration of adult businesses may tend to create and foster a skid row atmosphere in neighborhoods and areas within the city~~City;

~~C~~B. Permitting the concentration of such adult-oriented businesses in residential zones, or in zones adjacent to schools, churches or public recreational areas, or within close proximity of such uses, may expose minors to such facilities and this may adversely affect such minors due to their immaturity;

~~D.C~~. Special regulation of adult-oriented business uses is necessary to ensure that such uses do not become incompatible land uses and, further, will not contribute to the blighting or downgrading of zones in which they are permitted, therefore, adversely affecting property values and deterring or interfering with the development and operation of other businesses within the ~~city~~City;

~~E.D~~. There is a higher incidence of crime, especially crimes against the person, in areas in which adult-oriented businesses are permitted to cluster or become concentrated, and that such crimes and the incidence thereof increase in the late evening and night hours, requiring increased effort on the part of public safety personnel to police such activities, with resultant costs to the ~~city~~City. (Ord. 937 Att. 1, 2004)

5.08.050 Conditional use permit.

Any adult-oriented business, the location of which is otherwise permitted under this chapter, shall be a use subject to first obtaining a conditional use permit, as defined in SMC Title 17, Article 5, subject to the following criteria:

A. That the proposed use will not be contrary to the public health, peace, safety, morals, comfort and general welfare of persons residing or working in the zone or district in which the use is proposed;

B. That the proposed use will not result in creating a ~~skid row~~less than desirable commercial atmosphere in zones or districts in which it is proposed; and

C. That the proposed use will not be contrary to any program of or neighborhood conservation, nor interfere with any economic development program of urban renewal in the zones or districts in which it is proposed. (Ord. 937 Att. 1, 2004)

5.08.070 Regulation of escort service.

D. Failure to Comply.

2. Violations – Misdemeanors. Violation of any provisions of this section shall constitute a misdemeanor and may be prosecuted criminally as set forth in Seaside ~~City~~City Code ~~Section 1-7~~Chapter 1.16 PENALTIES, ENFORCEMENT, ADMINISTRATIVE AND LEGAL PROCEDURES.

3. Violations – Public Nuisance. Any escort service or escort operating contrary to the provisions of this section shall be, and the same is declared to be, unlawful and a public nuisance. The ~~city~~City attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action for abatement, removal or enjoinder thereof, in the manner provided by law or as set forth in Seaside ~~City~~City Code ~~Section 1-7~~Chapter 1.16 PENALTIES, ENFORCEMENT, ADMINISTRATIVE AND LEGAL PROCEDURES.

5.08.080 Amortization.

A. Within thirty-six months of the effective date of the ordinance codified in this chapter, all nonconforming adult-oriented businesses shall either be discontinued or made to conform to the provisions of this chapter, except that such nonconforming uses may be permitted to continue for a period not to exceed an additional twenty-four-month period upon the granting of a conditional use permit, upon application ninety days prior to the expiration of the present thirty-six-month use, pursuant to ~~Article XXIII~~Chapter 17 of the zoning ordinance.

B. In addition to the criteria contained in ~~Article XXIII~~Chapter 17 of the zoning ordinance and SMC 5.08.050, the ~~planning~~Planning eC Commission must find, in determining whether a conditional use permit should be issued, the following:

1. That the use, if continued, will not create a public nuisance, as defined in Sections 3479 and 3480 of the California Civil Code;
2. That the tenant, subtenant, lessee, sublessee, owner or other person, firm, partnership, association, or corporation who owns or operates such use is obligated under a lease or other binding rental agreement for the premises, which obligation was entered into before June 30, 1979, for a period exceeding five years; and
3. That the use represents an investment of money in leasehold and other improvements to such an extent that denial of such permit would result in undue financial hardship. (Ord. 937 Att. 1, 2004)

**Chapter 5.16
BINGO**

5.16.160 Violation – Penalty.

A. Violation of the provisions of SMC 5.16.060, and upon conviction thereof, shall be punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the general fund of the ~~city~~City, or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

B. It shall be a misdemeanor for any person to violate any provision of this chapter, other than SMC 5.16.060, ~~and upon conviction thereof, shall be punishable by imprisonment in the county jail not to exceed six months or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment.~~ (Ord. 487, 1977; Ord. 473, 1976; prior code §§ 4-115 and 4-116)

Chapter 5.20

SECURITY ALARM SYSTEMS

5.20.050 Notice to subscriber.

Upon receipt of the report described above, the chief of police or his designee shall cause a written notice to be served upon the subscriber of the security alarm system. The notice shall indicate that a false alarm was made from such premises, and that steps should be taken by the subscriber to prevent future false alarms. The notice also shall state that if more than one false alarm occurs on the premises, a service charge ~~of twenty five dollars~~established by ~~Resolution~~ shall be assessed against the subscriber for each subsequent false alarm which occurs. (Ord. 676 § 2, 1985)

Chapter 5.24

CATV FRANCHISE

~~**5.24.020 Granting authorized.**~~

~~A nonexclusive franchise to construct, operate and maintain a community antenna television system in the city may be granted by the city council to any person, firm or corporation offering to furnish and provide such system pursuant to Section 53066 of the California Government Code and pursuant to the terms and provisions of this chapter. (Ord. 822 § 1, 1993; Ord. 266, 1963; prior code § 12-1001)~~

~~5.24.030 — Application and issuance.~~

~~A. Application for a franchise under this chapter shall be filed with the city clerk in a form approved by the city and shall contain the following information:~~

- ~~1. The name and address of the applicant;~~
- ~~2. A general description of the applicant's proposed CATV operation, including map of areas to be served;~~
- ~~3. A copy of proposed service agreement between the grantee and its subscribers shall accompany the application. For unusual circumstances, such as underground cable required or more than one hundred fifty feet of distance from cable to connection of service to subscribers, an additional installation charge over that normally charged for installation as specified in the applicant's proposal may be charged, with easements to be supplied by subscribers. For remote, relatively inaccessible subscribers within the city, service will be made available on the basis of cost of materials, labor and easements if required;~~
- ~~4. A statement of the corporate organization of the applicant, including the names and addresses of its officers, directors and associates, and also including the names of subsidiary companies with a listing of other areas being served by CATV or similar systems;~~
- ~~5. A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person, firm, group or corporation with respect to the franchise and the proposed operations. If a franchise is granted to a person, firm, group or corporation posing as a front or representative for another person, firm, group or corporation, and such information is not disclosed in the original application, such franchise shall be revoked automatically, and the council shall consider awarding the franchise to another qualified applicant;~~
- ~~6. The applicant shall furnish sufficient financial information to establish the financial ability to complete installation and operation of the CATV system;~~
- ~~7. A statement of proposed percentage franchise payment to the city referred to in SMC 5.24.040.~~

~~B. Upon consideration of any such application, the city council may grant a franchise for CATV to such applicant as may appear from the application to be in its opinion best qualified to render proper and efficient CATV service to television viewers and subscribers in the city. The council's decision in the selection will be final.~~

~~C. Any franchise issued pursuant to this chapter shall include the following condition:~~

~~The CATV system herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by Ordinance of the city of Seaside and no other purpose whatsoever.~~

~~The inclusion of the foregoing statement in any such franchise shall not be deemed to limit the authority of the city council to include any other reasonable condition, limitation, or restriction which it may deem necessary to impose in connection with such franchise pursuant to the authority conferred by this chapter. (Ord. 822 § 2, 1993; Ord. 266, 1963; prior code § 12-1019)~~

~~5.24.050 — Faithful performance bond.~~

~~A. The grantee shall, currently with the filing of and acceptance of award of any franchise granted under this chapter, file with the city clerk, and at all times thereafter maintain in full force and effect for the term of such franchise, at grantee's sole expense, a corporate surety bond in a company approved by, and in a form to be approved by, the city attorney, in the amount of twenty five thousand dollars, renewable annually, and conditioned upon the faithful performance of the grantee, and upon the further condition that in the event the grantee fails to comply with any one or more of the provisions of this chapter, or of any franchise issued to the grantee under this chapter, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed hereby which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond; said condition to be a~~

~~continuing obligation for the duration of such franchise and thereafter until the grantee has liquidated all of its obligations with the city that may have arisen from the acceptance of the franchise by the grantee or from its exercise of any privilege therein granted. The bond shall provide that thirty days' prior written notice of intention not to renew, cancellation, or material change be given to the city.~~

~~B. Neither the provisions of this section, any bond accepted by the city pursuant thereto, nor any damages recovered by the city thereunder shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under any franchise issued under this chapter or for damages, either to the full amount of the bond or otherwise. (Ord. 266, 1963; prior code § 12-1014)~~

5.24.060 Indemnification of ~~city~~City.

A. The grantee shall, at all times during the existence of any franchise ~~issued under this chapter~~, maintain in full force and effect, furnish to the ~~city~~City and file with the ~~city council~~City Council, at its own cost and expense, a general comprehensive liability insurance policy, in protection of the ~~city~~City, its officers, boards, commissions, agents and employees, in a company approved by the ~~city manager~~City Manager and in a form satisfactory to the ~~city~~City attorney, protecting the ~~city~~City and all persons against liability for loss or damage for personal injury, death, and property damage, occasioned by the operations of the grantee under such franchise, with minimum liability limits of one million dollars for personal injury or death in any one occurrence.

B. The policies mentioned in subsection A of this section shall name the ~~city~~City, its officers, boards, commissions, agents and employees as additional insureds and shall contain a provision that a written notice of any cancellation or reduction in coverage of the policy shall be delivered to the ~~city~~City ten days in advance of the effective date thereof; if such insurance is provided in either case by a policy which also covers the grantee or any other entity or person than those above named, then such policy shall contain the standard cross-liability endorsement.

~~C. No franchise granted under this chapter shall be effective unless and until each of the foregoing policies of insurance as required in this section has been delivered to the city. (Ord. 822 § 3, 1993; Ord. 266, 1963; prior code § 12-1015)~~

5.24.070 — Duration.

~~No franchise granted by the city council under this chapter shall be for a term longer than twenty years following the date of acceptance of such franchise by the grantee or the renewal thereof, except as may be extended by city council resolution. Any such franchise may be terminated prior to its date of expiration by the city council in the event that the council finds, after notice and public hearing, that:~~

~~A. The grantee has failed to comply with any provision of this chapter, or has, by act or omission, violated any term or condition of any franchise or permit issued under this chapter; or~~

~~B. Any provision of this chapter has become invalid or unenforceable, and the council further finds that such provision constitutes a consideration material to the grant of the franchise; provided, however, that the grantee shall be given at least thirty days' notice of any proposed termination. (Ord. 653 § 1, 1983; Ord. 266, 1963; prior code § 12-1004)~~

5.24.080 — Uses permitted the grantee.

~~A. Any franchise granted pursuant to the provisions of this chapter shall authorize and permit the grantee to engage in the business of operating and providing a CATV system in the city, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street or highway such poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system; and, in addition, so to use, operate and provide similar facilities or properties rented or leased from a public utility franchised or permitted to do business in the city.~~

~~B. The grantee may make a charge to subscribers for connection to its CATV system and a fixed monthly charge as filed and approved, as herein provided, for transmission to them only of television and audio programs received free by the public generally at the same time from regularly licensed stations. No charge may be made to subscribers for any other transmissions directed to them. (Ord. 822 §§ 4(A), (B), 1993; Ord. 266, 1963; prior code § 12-1003)~~

5.24.090 — Limitations.

~~A. Franchises granted under this chapter shall be nonexclusive.~~

~~B. No privilege or exemption shall be granted or conferred by any franchise granted under this chapter except those specifically prescribed in this chapter.~~

~~C. Any privilege claimed under such franchise by the grantee in any street, or other public property, shall be subordinate to any prior lawful occupancy of the streets, or other public property.~~

~~D. Any such franchise shall be a privilege to be held in personal trust by the original grantee. It cannot in any event be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale, merger, consolidation or otherwise, without prior consent of the city council expressed by resolution, and then only under such conditions as may be therein prescribed. The consent of the city may not be arbitrarily refused; provided, however, the proposed assignee must show financial responsibility and must agree to comply with all provisions of this chapter; and, provided further, that no such consent shall be required for a transfer in trust, mortgage, or other hypothecation as a whole, to secure an indebtedness.~~

~~E. The grantee shall have no recourse whatsoever against the city for any loss, cost, expense or damage arising out of any provisions or requirements of this chapter or its enforcement.~~

~~F. The grantee is subject to all requirements of the city ordinances, rules, regulations and specifications of the city heretofore or hereafter enacted or established, including, but not limited to, those concerning street work, street excavation, use, removal and relocation of property within a street, and other street work. (Ord. 822 § 1, 1993; Ord. 266, 1963; prior code § 12-1006)~~

5.24.100 — Right reserved to city.

~~There is reserved to the city every right and power which is required to be herein reserved or provided by any ordinance of the city, and the grantee, by its acceptance of any franchise, agrees to be bound thereby and to comply with any action or requirements of the city in its exercise of such right or power, heretofore or hereafter enacted or established. (Ord. 266, 1963; prior code § 12-1007)~~

5.24.110 — Permits and authorizations.

~~The grantee shall proceed within thirty days with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including utility joint use attachment agreements, and microwave carrier licenses to be granted by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems, or their associated microwave transmission facilities. Further, the grantee shall commence installation and proceed to render service to subscribers within one hundred fifty days subsequent to the obtaining of all the necessary permits and authorizations. The completion of the installation shall be pursued with reasonable diligence thereafter, so that service to all areas designated on the map accompanying the application for franchise, as provided in SMC 5.24.030, shall be provided within one year from the date that service was first provided. Failure to do any of the foregoing shall be grounds for termination of franchise. (Ord. 266, 1963; prior code § 12-1008)~~

5.24.120 — Location of grantee's properties.

~~A. Any poles, wires, cable lines, conduits, or other properties of the grantee to be constructed or installed in streets, shall be so constructed or installed only at such locations and in such manner as shall be approved by the superintendent of streets of the city acting in the exercise of his reasonable discretion.~~

~~B. The grantee shall not install or erect any facilities or apparatus on public property or rights of way within the city, except those installed or erected upon public utility facilities now existing, without written approval of the superintendent of streets of the city.~~

~~C. In those areas and portions of the city where either the transmission and distribution facilities of the public utility providing telephone service or those of the utility providing electric service are underground or hereafter may be placed underground, then the grantee shall likewise construct, operate, and maintain all of its transmission and distribution facilities underground. Amplifiers in the grantee's transmission and distribution lines may be in concrete boxes or vaults upon the surface of the ground. (Ord. 266, 1963; prior code § 12-1009)~~

~~5.24.130 — Removal or abandonment of property of grantee.~~

~~In the event that the use of any part of the CATV system is discontinued for any reason for a continuous period of twelve months, or in the event such system or property has been installed in any street or public place without complying with the requirements of its franchise, or the franchise has been terminated, canceled or has expired, the grantee shall promptly, upon being given notice, remove from the streets or public places all such property and poles of such system other than any which the superintendent of streets may permit to be abandoned in such place. In the event of any such removal, the grantee shall promptly restore the street or other area from which such property has been removed, to a condition satisfactory to the superintendent of streets. (Ord. 266, 1963; prior code § 12 1010)~~

~~5.24.140 — Change required by public improvements.~~

~~The grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from the street, alley or public place, any property of the grantee when required by the superintendent of streets by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks, or any other type of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or any other structures or public improvements; provided, however, the grantee shall in all such cases have the privileges and be subject to the obligations to abandon any property of the grantee in place, as provided in SMC 5.24.130. (Ord. 266, 1963; prior code § 12 1011)~~

~~5.24.150 — Failure to perform street work.~~

~~Upon failure of the grantee to complete any work required by law or by the provisions of this chapter to be done in any street, within the time prescribed and to the satisfaction of the superintendent of streets, the superintendent of streets may cause such work to be done and the grantee shall pay to the city the cost thereof in the itemized amounts reported by the superintendent of streets to the grantee, within thirty days after receipt of such itemized report. (Ord. 266, 1963; prior code § 12 1012)~~

~~5.24.160 — CATV installation shielding.~~

~~The grantee shall at all times during the term of any franchise granted under this chapter, at its own cost and expense, properly and in a good workmanlike manner, install and maintain adequate shielding, filtering, and grounding at affected installations within the CATV system to eliminate television interference encountered from fundamental frequency overload by radio amateur transmissions which are in compliance with Federal Communications Commission regulations. (Ord. 266, 1963; prior code § 12 1013)~~

~~5.24.170 — Operational standards.~~

~~The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In determining the satisfactory extent of such standards, the following will apply:~~

~~A. The system shall be installed using all band equipment capable of passing the entire VHF and FM spectrum, and it shall have the further capability of converting UHF for distribution to subscribers on the VHF band.~~

~~B. The system, as installed, shall be capable of passing standard color television signals without the introduction of noticeable effects on color fidelity and intelligence.~~

~~C. The system and all equipment shall be designed and rated for twenty four hour per day continuous operation.~~

~~D. The system signal to noise ratio shall be not less than forty six decibels.~~

~~E. Hum modulation of picture signal shall be less than five percent.~~

~~F. The system shall use components having VSWR of 1.4 or less.~~

~~G. The master antenna to be installed for the CATV system shall be located at a point where the signal strength of the television stations to be received shall be not less than five hundred microvolts per meter for low band channels (two through six) and not less than eight hundred microvolts per meter for high band channels (seven through thirteen) for at least fifty percent of the time at a receiving antenna height of thirty feet above ground. Each CATV subscriber shall receive a minimum signal strength of two thousand microvolts as measured at the antenna terminals.~~

~~of the television set. Methods of measuring above standards, where necessary, will be established by the city council. (Ord. 266, 1963; prior code § 12-1017)~~

5.24.180 — Miscellaneous provisions.

~~A. All matters provided in this chapter to be filed with the city shall be filed with the city clerk.~~

~~B. If the grantee fails to operate its system for a period of two years from the date such service begins, the subscribers who have paid installation charges shall be entitled to a refund of the installation charges less one twenty fourth of each charge for each month elapsing from the time service was first started to that subscriber and during which time service was available to him.~~

~~C. The rate schedule for any service agreement or increase thereto to subscribers must have written approval of the city council.~~

~~D. In the event the Public Utilities Commission of the state or the Federal Communications Commission takes jurisdiction over the operations and rates of the grantee, then the authority of the city to approve rates and charges shall cease.~~

~~E. The grantee shall pay to the city a sum of money sufficient to reimburse it for expense incurred by it in publishing legal notice and ordinances in connection with the granting of a franchise pursuant to the provisions of this chapter, such payment to be made within thirty days after the city furnishes such grantee with a written statement of such expense.~~

~~F. The grantee shall make available, upon telephone request, prompt CATV maintenance service from within the city limits during normal business hours. From five p.m. on, the maintenance service shall be radio dispatched from the company offices. The grantee shall provide a location within the city limits of the city at which bills may be paid during regular business hours. Maintenance service shall be available by telephone twenty four hours a day.~~

~~G. The grantee shall not engage in the business of selling television or other receivers which make use of signals transmitted by its system, nor shall the grantee engage in the repair of such receivers or the sale of parts for the same. (Ord. 822 § 5, 1993; Ord. 488, 1977; Ord. 266, 1963; prior code § 12-1018)~~

5.24.190 — Inspection of property and records.

~~At all reasonable times, the grantee shall permit any duly authorized representative of the city to examine all property of the grantee, together with any appurtenant property of the grantee, situated within or without the city, and to examine and transcribe any and all maps and other records kept or maintained by the grantee or under its control which deal with the operations, affairs, transactions or property of the grantee with respect thereto. The grantee shall, at all times, make and keep in the city full and complete plans and records showing the exact location of all CATV system equipment installed or in use in streets, alleys and public places in the city. The grantee shall file with the superintendent of streets, on or before the last day in March of each year, a current map or set of maps drawn to scale, to be designated by the superintendent of streets, showing all CATV system equipment installed the previous year. (Ord. 266, 1966; prior code § 12-1016)~~

5.24.200 — Service rates and charges.

~~The city reserves the right to regulate a grantee's service rates and charges to the extent not preempted by federal and/or state laws. The grantee's service rates and charges shall be uniform throughout the city. The grantee shall comply with all federal and state laws, rules and regulations governing predatory pricing practices. (Ord. 822 § 6, 1993)~~

Chapter 5.28

CHARITABLE SOLICITATION

5.28.020 Administration – ~~City~~ City Manager.

~~A. The city~~ City Manager or designee shall administer the provisions of this chapter.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 10.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, City Clerk

DATE: July 6, 2017

**SUBJECT: RECEIVE PRESENTATION AND DISCUSS BOARDS, COMMISSIONS
AND COMMITTEES APPOINTMENT PROCESS AND APPROVE
UPDATED BOARDS, COMMISSIONS AND COMMITTEES
HANDBOOK FOR 2017**

PURPOSE

To receive a presentation regarding the Boards, Commissions and Committees appointment process, commission authority and to approve the updated Boards, Commissions and Committees Handbook.

RECOMMENDATION

That the City Council receive the presentation, ask questions and provide direction as necessary and approve the Handbook.

BACKGROUND

At the June 15, 2017 City Council Meeting, Council Member Jones requested a review of the process of appointment for Board and Commission members.

PURPOSE OF BOARDS AND COMMISSIONS

Boards, Commissions and Committees were created for the purpose of overseeing distinct issues and subjects affecting a city. The expertise and guidance that Boards and Commissions provide the City Council as the final decision-making body is very important and relied upon heavily by the Council when controversial or technical issues are discussed. Boards and Commissions are responsible for the following:

- Providing in-depth analysis of specific issues in their area of responsibility and providing

advice to the City Council

- Creating a forum to encourage broad citizen participation
- Providing an analysis of issues that will be brought forward to the City Council for action

Commissions are created by the City Council to act as advisory bodies and provide necessary information to the Council to help achieve the overall goals of the community. Active Boards, Commissions and Committees in the City of Seaside include the following:

- Planning Commission
- Board of Architectural Review
- Neighborhood Improvement Program Committee
- Community Development Advisory Committee
- Art and History Commission
- Parks and Recreation Commission

APPOINTMENT AUTHORITY

Appointment authority is set forth in the following two sections of the Seaside Municipal Code:

Seaside Municipal Code 2.02.100 Presiding officer – Powers and duties

E. Appointment of Committees. The majority of the council shall appoint such committees of council members, city staff and private citizens or a combination thereof as they deem necessary and expedient to assist and advise the council in its work. The Mayor may appoint an unofficial advisory committee (ad hoc).

Subcommittees of council members shall only be established to address specific issues to do specific tasks and shall only exist for a specified length of time. The life of council subcommittees may be extended if necessary by a vote of the council. (Ord. 502 § 3, 1977; Ord. 382, 1970; prior code § 1200(C2))

Seaside Municipal Code 2.14.040 Appointment of Members

The Mayor, with the advice and consent of the City Council, shall make appointments to boards, commissions and committees. The City council shall establish procedures for recommending applicants for appointment. (Ord. 773 § 1 (Exh. A), 1990)

Throughout the state of California there are varying processes for making appointments. These processes depend on the type of jurisdiction, size of their Council or Board and how they elect their officials. Cities and counties that elect their officials "At Large" typically have recommendations made by the Mayor, which are submitted for approval or ratification by the full City Council. For Cities or Counties that elect officials by district, they typically allow individual

officials to make recommendations for the full board approval. The City of Seaside elects their officials "at large" which is a designation for members of a governing body who are elected or appointed to represent the whole membership of the city, rather than just a subset or voting districts.

APPLICATION AND APPOINTMENT PROCESS

During recent City Council meetings, the process for applicant appointment has been unclear. This report and the modifications to the handbook are intended to clarify and provide the opportunity for modifications to the policy. The City of Seaside follows appointment practices that are similar to many California cities. The process flows as follows:

1. Interested applicants may submit an application for appointment for any commission, at any time to the City Clerk's office. Applications are kept on file for two years. Any time a vacancy is declared, or there is a resignation, applications on file are reviewed for interest. Periodic notices are submitted in our adjudicated newspaper as well as listed on our website. Future vacancies will be solicited on our social media platforms.
2. In the event of a vacancy, the City Clerk advertises to the community for interested and qualified participants.
3. After applications are received and reviewed to ensure all qualifications are met, the Council Subcommittee, made up of the Mayor and Mayor Pro Tem schedule a time to make contact with each applicant to discuss their background, community history, aspirations or interest in serving. This contact can be a scheduled personal meeting or an informal telephone call.
4. After contacting each applicant, the Council Subcommittee will make recommendations to the City Council for appointment to specific Boards, Commissions, and Committees. Appointments and reappointments are made by the full City Council at a publicly noticed City Council meeting.
5. Newly appointed applicants are requested to complete a series of paperwork including Form 700, Oath of Office and AB 1234 Ethics Training prior to taking office. Each Commissioner's term of office is for a specified term and until a successor is appointed and acting, except in the event of resignation or removal from office they are considered active members.

PURPOSE OF THE HANDBOOK

In 2014 the City Council adopted a Boards, Commissions and Committees Handbook to help explain the purpose, process and expectations of serving on a Commission and help those newly appointed become familiar with standard procedures and protocol. Although commissions are unique to themselves, there are procedures, protocols and policies that are common to all of them. The handbook has been prepared to:

1. Outline the role and function of each City Board, Commission, and Committee.
2. Review important guidelines for all Boards, Commissions, and Committees, as well as the responsibilities of appointed members.
3. Provide information about the history and composition of the City organization.

4. Provide members with the information necessary to understand areas of responsibility for their respective Board, Commission, or Committee, and their role in serving the City.

This handbook also attempts to impress upon members that the credibility of a commission is very important and is directly linked to the actions of its members. Public employees, elected officials and volunteers for public organizations have a responsibility to uphold the public trust. This responsibility demands the highest standards of conduct and education to our individual work assignments. All public servants have an obligation to remain objective and to render impartial services. The handbook lists suggestions for ways to maintain a high level of credibility throughout the community and to strengthen public trust.

CHANGES TO THE HANDBOOK

Changes to the Handbook and Boards, Commissions and Committee practices since last adopted in 2014 include the following:

- Clarification of Member's Scope of Authority
- Clarification regarding Appointment authority
- Clarification on Application and Appointment process
- Business Cards: The City will start providing business cards for Commissioners, at their request, so that the public can identify who they are and pass on suggestions and concerns.
- Work Plans: Written into the Municipal Code, BCCs are required to submit an annual work plan to the City Council but this obligation has not been enforced for many years. Now that all vacancies are filled, all BCCs will be required to submit annual work plans and present them to the Council for approval.
- Meeting archives
- Committee Liaisons: A recently adopted process here at the City of Seaside is to assign Committee Liaisons to act as a bridge between committees to provide synergies.
- Annual Application: All BCCs are volunteers. Every volunteer with the City of Seaside donates their time for the betterment of our community. Started last fiscal year and added into the budget for FY 17-18, there will be an annual BCC appreciation event to thank all members for their service.
- Explanation of changes to the Public Records Policy: Due to the recent court Decision from City of San Jose VS. Superior Court language was included to clarify communication practices for members.

RECOMMENDATION

It is recommended that the City Council adopt the attached handbook to provide guidelines to the City's appointed board, commission and committee members so that they can have a successful term in office and assist the Council in achieving the overall goals of the community.

FISCAL IMPACT

There is no fiscal impact associated with this action.

ATTACHMENTS

1. Draft Boards, Commissions and Committees Handbook
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

City of Seaside Boards, Commissions & Committees Handbook





THE CITY OF SEASIDE MISSION:

Include

Innovate

Inspire

Our Vision

Seaside is a vibrant, proudly diverse, energetic and safe community, with extraordinary natural beauty, quality of life and economic opportunities.

Strategic Goals

Provide an increasingly safe community

Create vibrant, sustainable economic development

Provide leadership to obtain water supply for desired development
& quality of life

Development and implement a quality infrastructure program

Achieve and sustain fiscal health and wellness



WELCOME TO THE CITY OF SEASIDE!

The expertise and guidance that Boards, Commissions & Committees provide the City Council as the final decision-making body is very important and relied upon heavily by the Council when issues are discussed. These Commissions were created for the purpose of overseeing distinct issues and subjects affecting a city. Although commissions are unique to themselves, there are procedures, protocols and policies that are common to all of them. This handbook has been developed to assist members in becoming familiar with standard procedures and protocol. Use this guide as a road map for your term in office.

For more information about your responsibilities as a Commissioner, please contact the City staff person supporting your board, or contact our City Clerk at cityclerk@ci.seaside.ca.us.

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The credibility of a commission is very important. Public employees, elected officials and volunteers for public organizations have a responsibility to uphold the public trust. This responsibility demands the highest standards of conduct and education to our individual work assignments.

[illegible]

In order to maintain a high level of credibility throughout the community and to strengthen public trust, the following suggestions are offered:

- Understand that you are in a visible position and represent the City and its citizens.
- Information received in the performance of commission duties should not be used as a means for making private profit or advancing the financial interests of others.
- Official actions should be disassociated from personal affiliations.
- Avoid special favors or privileges to individuals whether for remuneration or not.
- Do not accept gifts or benefits which could be construed as having influence over the performance of your official duties.

The role of the Commissioner is to represent the public and the public's best interest. Commissioners are responsible for reviewing meeting materials in advance, attending meetings regularly and on time, notifying the Staff Liaison and their Chairperson in advance if they cannot attend a meeting, and volunteering for committees (if the Commission has any). Commissioners are expected to have knowledge about City goals and the goals and priorities of the City Council. In order to be an effective Commissioner, you are expected to read this handbook to understand how to comply with all State and local laws and rules regarding meetings.



CODE OF ETHICS

Adopted July 5, 1979

Ethical behavior is the cornerstone for all aspects of city government. The Seaside City Council reinforces the City's commitment to ethical government by adopting the letter and spirit of this Code of Ethics. The Code's aim is to affirm an identity of excellence and integrity for our City's government through our citizens, our employees and our dealings with other communities and build public trust.

The Code applies to all who represent our City's government. It includes all elected and appointed officials, citizens campaigning for elective office, City employees and others who participate in City government. As representatives of the City, all are required to subscribe to and understand how the Code applies to them. All must agree to practice the values expressed in the Code in day to day service to the City.

"The ethical person should do more than he is required to do and less than he is allowed to do."

**- Michael Josephson;
Founder of the
Josephson Institute
of Ethics**

ANY PERSON IN GOVERNMENT SERVICE SHOULD:

- A. **LOYALTY:** Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
- B. **RULE OF LAW:** Uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be party to their evasion.
- C. **EFFORT:** Give a full day's labor for a full day's pay; giving to the performance of his/her duties his/her earnest effort and best thought.
- D. **EFFICIENCY:** Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- E. **INCLUSION:** Never discriminate unfairly by dispensing special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- F. **PROMISES:** Make no private promises of any kind binding upon the duties of office, since a Government employee has no private work which can be binding upon public duty.
- G. **CONSISTENCY:** Engage in no business with the Government, either directly or indirectly, which is inconsistent with the ideals and ethics which the public perceives as a faith and trust in public officials.
- H. **CONFIDENTIAL:** Never use any information confidentially in the performance of governmental duties as a means for making private profit.
- I. **INTEGRITY:** Expose corruption wherever discovered.
- J. **PUBLIC TRUST:** Uphold these principles, ever conscious that public office is a public trust.



Ethics Training

Assembly Bill No. 1234 requires that all members of a legislative body must undergo public service ethics training every 2 years. The requirement applies to the governing body of local agency as well as boards, commissions, and committees, or other local agency bodies, whether permanent or temporary, decision-making or advisory. Therefore, you are required to complete this training.

The Institute for Local Government and the [Fair Political Practices Commission](http://www.fppc.ca.gov) developed an [online ethics course](http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html) to help local officials meet their ethics training requirements. Upon completion of the ethics training, members are required to print their certificate, sign it, and return the original hard copy document to the Clerk's Office.

Conflict of Interest

The State of California, by statute, follows the common law rule prohibiting a representative of a municipality to vote in its legislative body on any issue that affects them individually, or for any public officer to participate in a matter in which there is a personal or private interest. The Seaside Municipal Code also provides against conflict of interest.

To best serve the community, the City Council appoints persons with knowledge of the issues that face the City to serve on boards, commissions, and committees. Consequently, it is inevitable that matters will occasionally come before boards, commissions, or committees in which individual members have a direct or indirect financial interest. When this happens, the member must disqualify him/herself from participating in the discussion and abstain from voting. The law also requires appointed members and certain other City officials to report various financial interests including income, interest in real property, and business interests.

The City of Seaside has adopted a local conflict of interest code as required by the Political Reform Act. This Act requires the financial disclosure of interests by certain individuals who are in decision-making positions within state and local government

As an appointed member, You are required to complete and file the appropriate conflict of interest forms within 10 days of your first meeting and annually thereafter. Forms and assistance will be provided by the City Clerk's Office, including an annual notification regarding Form 700 thirty in advance of the due date. Financial disclosure forms are filed with the City Clerk, as a matter of public record. The [Fair Political Practices Commission](http://www.fppc.ca.gov) (<http://www.fppc.ca.gov>) is available for questions concerning conflicts of interest and disqualifications.

Potential conflicts of interest should not be taken lightly. The City Council has placed a special trust in you that should not be abused. It is also important to note that it is a violation of the City Code to vote on a matter knowing that you have a conflict, and that this can result in forfeiture of your position.



If a Commissioner has any doubt as to the propriety or the legality of any proposed action on their part, they are urged to seek the advice of the City Attorney.

When a matter comes before a Commission in which a Commissioner has a direct or indirect financial interest, the Commissioner must disqualify him/herself from participating in the deliberation and must abstain from voting. An explanation for the abstention should be given to the Commission and that reason will be recorded in the minutes. Once the Commissioner has made a statement of disqualification, the Commissioner should leave the room and return only upon conclusion of the matter. The City Attorney may be consulted should it be unclear as to whether or not to abstain.



BOARDS, COMMISSIONS & COMMITTEES

Boards and Commissions are created by the City Council to act as advisory bodies and provide necessary information to the Council to help achieve the overall goals of the community.

Boards and Commissions are responsible for the following:

- Provide in-depth analysis of specific issues in their area of responsibility
- Creating a forum to encourage broad citizen participation
- Acting as a review body for Department operations
- Providing an analysis of issues that will be brought forward to the City Council for action

Active Boards and Commissions in the City of Seaside

Planning Commission	Term: 4 Yrs	Meeting Date & Time: 2nd and 4th Wednesday of each month at 7:00 p.m.
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The duties of the Planning Commission are to prepare and periodically review and revise, as necessary, the City's General Plan and implement the General Plan through actions such as administration of specific plans and zoning and subdivision ordinances. They also vet development proposals prior to submission to the Council.

Board of Architectural Review	Term: 4 Yrs	Meeting Date & Time: 1st and 3rd Wednesday of every month at 5:30 p.m.
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BAR is the decision-making body of the architectural review process and is responsible for the review of various residential and commercial design proposals, including second-story residential additions, commercial facade changes, new commercial signs, and other design related projects.

Art and History Commission	Term: 4 Yrs	Meeting Date & Time: 2nd Wednesday of each month at 5:30 p.m.
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A&H advises and facilitates the protection of the City's cultural resources including the collection, promotion, display and preservation of Seaside historical artifacts, and encourages and promotes programs of artistic merit.



Neighborhood Improvement Program

Term:
3 Yrs

Meeting Date & Time: 1st Tuesday of the month at 6:00 p.m.

The NIP advises in matters pertaining to general improvement of the neighborhoods within the City. The objectives are to encourage citizens to voluntarily comply with the various city codes relating to the general appearance of the City, make recommendations to the City Council on ways to improve the appearance of the City and to elicit voluntary cooperation to beautify and minimize vandalism in the City.

Parks and Recreation Commission

Term:
3 Yrs

Meeting Date & Time: Third Monday of the month at 5:30 p.m.

PRC advises on matters pertaining to parks and public recreation for the advancement of sound park and recreation planning through recommending policies on recreational services, facilities; administration and development of recreation areas, aiding in coordinating recreation facilities, programs and improved recreation services; advise in the preparation of long-range recreation capital improvement program; advises regarding a plan for the development, conservation and care of urban forest resources; and informs residents regarding tree planning, tree care, and forestry programs.

Community Development Advisory Committee

Term:
2 Yrs

Meeting Date & Time: 3rd Tuesday of the Month at 6:30 p.m.

CDAC advises for the Community Development Block Grant Program (CDBG) and assists with evaluation and assessment of proposed and implemented programs to meet community needs at both citywide and neighborhood levels and to develop realistic goals and objectives to meet identified needs and to assist in the implementation of the CDBG program and any modifications as determined by community assessment and HUD program requirements.



COMMISSIONS POLICIES AND PROCEDURES

The City Council encourages active citizen participation in the business of city government. Boards, Commissions, and Committees provide an opportunity for interested residents to participate in the governing of their community under guidelines and procedures established by the Council. Commissions can improve the quality of city government by providing to make better-informed decisions. These bodies improve lines of communication between the public and Council, create greater opportunities for discussion of public issues and more citizen involvement in City government.

Your role as an appointed representative of the City Council carries with it a significant responsibility. The City Council encourages you to conduct yourself with politeness and courtesy with staff and whenever in the public eye. Yours is a position of service that is charged with maintaining the public trust. It is important that you not abuse that trust.

General Guidelines for Appointed Members

Appointment to a Commission is an honor. It provides an opportunity for genuine public service. Each appointed member should be aware of the responsibilities that accompany official service with the City. The specific duties of each body vary with the purpose for which it was formed.

Responsibilities common to all appointed members:

1. Understand the role and responsibility of the Board, Commission, or Committee. Be informed of its functions, work programs and relationship with other bodies.
2. Represent the overall public good, not the exclusive point of view of a sole group or interest.
3. Keep all lines of communication open. Each appointed member serves as a communication link between the community, the City Council, and staff.
4. Do your homework and be prepared. Appointed members should become familiar with items under consideration prior to meetings in order to be fully prepared to discuss, evaluate, and act on matters scheduled for consideration. Feel free to seek staff's advice and assistance in advance of a meeting.
5. Establish a good working relationship with fellow appointed members, the City Council, and your staff liaison.
6. Understand the scope and authority or your appointed body's responsibility and strive to work within that scope.
7. Be a participant, an active representative, and enthusiastic about your role.



APPOINTMENT REQUIREMENTS & PROCESS

All Commissioners are appointed by the City Council. Each Commissioner's term of office is for a specified term and until successors are appointed and acting, except in the event of resignation or removal from office. Members are volunteer positions, appointed by and serve at the pleasure of the City Council. All members must be residents of the City of Seaside, with the exception of the Board of Architectural Review. (SMC 2.14.140)

Seaside Municipal Code: 2.14.040 Appointment of members.

The Mayor, with the advice and consent of the City Council, shall make appointments to boards, commissions and committees. The City council shall establish procedures for recommending applicants for appointment. (Ord. [773](#) § 1 (Exh. A), 1990)

PROCESS FOR FILLING VACANCIES

This handbook was adopted by the City Council as the procedures established for recommending applicants for appointment.

Application Process Qualified candidates come from many sources. Individuals who are interested in any commission purpose should submit applications for appointment to the City Clerk. Applications are accepted at any time and are valid for two years. Active recruitment efforts are always occurring, as well.



Recruitment In the event of a vacancy, the City Clerk advertises to the community for interested and qualified participants through a variety of methods which can include, but is not limited to the following: newsletters, emails, the agenda, newspaper publication, publication at public posting locations, the City website and social media.

Applicant Screening If a vacancy occurs, all current applications are reviewed to ensure all qualifications are met then forwarded to the Council Subcommittee, made up of the Mayor and



Mayor Pro Tem. The Council Subcommittee will then schedule a time to make contact with applicants to discuss their background, community history, aspirations or interest in serving. After contacting each applicant, the Council Subcommittee will make recommendations to the City Council for appointment to fill a vacancy. Appointments and reappointments are made by the full City Council at a publicly noticed City Council meeting. (SMC 2.14.040)

Appointment Limitations

By policy, Commissioners are not permitted to sit on more than one City Board, Commission, or Committee. This does not preclude a member from participating in an "outside" agency such as the Water Management District or Regional Park District. (SMC 2.14.130)

Holding Incompatible Offices

Under existing California law, no Commissioner may hold another public office where the two offices are incompatible. When two such offices are incompatible, the member of the board or commission shall be deemed to have forfeited the first office upon acceding to the second. (California Gov. Code Section 1099).



GETTING STARTED: You've Been Appointed! Now What?

Responsibilities

One of the first duties of a new commissioner is to become familiar with the laws governing the faithful performance of duties. This information may be obtained by referring to City Municipal Code sections governing Boards & Commissions (Seaside Municipal Code Chapter 2.14). Copies of City's Code are available online <http://www.codepublishing.com/CA/Seaside> or can be obtained from the office of the City Clerk. In addition, Members may consult with their Commission's Staff Liaison.

Staff Liaison & Committee Administration

Each Board or Commission is appointed a staff liaison, which works to facilitate the agenda, work-plan and resources needed for your board or committee. Any issues or concerns can either be directed to your staff liaison or the Chair of your Board or Commission. Commissioners may make direct contact with the department representative should they require additional material or clarification of data. On rare occasion, the Commission and staff may present to Council opposing recommendations. Should this occur, staff will objectively present both recommendations for Council's consideration.

Adherence To Policy

Appointed Commissioners should not approve projects that violate adopted City Council policies. Members can make recommendations to the City Council about exceptions to a City policy, and can also recommend policy changes when appropriate.

Resignations

A member of an advisory commission who intends to resign shall first file written notice thereof with the City Clerk, addressed to the City Council, with a copy provided to the chairperson of the advisory commission. (SMC 2.14.100)

Removal From Office

A member of a commission may be removed from office by a vote of the majority of all members of the City Council. In the event an individual is unable to perform as a commissioner due to health, business or personal reasons, a formal letter of resignation should be submitted to the City Council for action. The City Clerk maintains an active file of qualified commissioner applicants. Individuals may not serve concurrently on more than one commission. (SMC 2.14.110)



Business Cards

Commissioners may obtain business cards from the Office of the City Clerk. Business cards must contain only information concerning the Commission, not personal business information. Business cards will include the name of the Commissioner, the name of the Commission, the regular meeting dates and times and the City's website information.

Annual Work Plan

Each Commission is required to provide an update to the City Council about its past and future activities through an Annual Work Plan. The Annual Work Plan includes a list of prior year accomplishments. Work Plans are updated each Fiscal Year in accordance with a template and instructions provided by the City Clerk. The Work Plans are to be completed by each Commission and provided to the City Council at a Regular meeting no later than April 15th of each year (SMC 2.14).



MEETINGS

The Seaside Municipal Code requires that commissions meet at least once a month. If a regular meeting falls on a holiday, the meeting is canceled.

Meeting Types

There are three types of meetings: regular meetings, special meetings, and emergency meetings. All meetings must be open session meetings, with limited exceptions for specified items that may be discussed in a closed session. A Commission may want to use a meeting as a retreat or a planning session, but such a meeting would still have to be noticed and open to the public. These meetings are subject to Brown Act requirements, and the public may attend all meetings other than Closed Sessions. All meetings require a quorum to proceed with the meeting.

A quorum is a majority (half+1) of the entire Commission membership seats, not just those members present or those seats that are filled. When a quorum is not present for a scheduled meeting, the Commission cannot hold the meeting. If there is a chance that additional members needed to comprise a quorum will arrive within a reasonable time, the Chairperson or Deputy Clerk may orally announce that they will wait for a specified time (e.g., 15 minutes) to make a determination on whether the meeting will proceed or need to be declared cancelled due to lack of a quorum.

Brown Act - What is it and how does it affect the agenda?

The law which guarantees the public's right to attend and participate in Commission meetings is the Ralph M. Brown Act. The purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies. Commissions exist to aid in the conduct of the people's business, and the meetings must be open to the public. The agenda must be posted in an area that is accessible to the public at least 72 hours before the meeting and on the County's webpage for meeting agendas. The agenda must include all items which will be discussed or acted upon by the Commission. The Commission cannot discuss, deliberate, or take action on any item not included on the agenda. Every agenda must allow any member of the public to directly address the Commission on any agenda item before or during consideration of that item.

Every regular meeting agenda must also include time for any member of the public to address the Commission on any item not on the agenda which is within the subject matter jurisdiction of the Commission. The agendas will include a statement that such items cannot be acted upon or discussed in depth until they are included on a subsequent agenda for consideration and possible action.

Process For Developing The Meeting Agenda

The Chairperson works with the Staff Liaison to coordinate the meeting agenda; however, the method by which the agenda is developed varies according to the procedures of the individual Commissions. The Liaison advises the Chairperson of items to be carried forward from prior meetings, as necessary. Any Commissioner can request



that an item be placed on a future agenda during a public meeting, or directly to the Chair.

Conducting Meetings

All meetings are conducted in accordance with Robert's Rules of Order to enable the Commission to determine the will of the Commissioners in a fair and equitable manner. However, failure to follow Robert's Rules of Order in any instance does not invalidate any action taken.

Meeting Process

The meetings are called to order by the Chairperson, or Vice Chairperson in the absence of the Chairperson. If neither is in attendance, the Commission selects a Chairperson Pro Tempore to conduct the meeting. The Clerk calls the roll to determine the presence of a quorum, and the Chairperson announces the agenda items for discussion or action. The Chairperson may call for an agenda item out of the order listed on the agenda. Several things may happen with regard to each item on the agenda:

- The item can be deleted from the agenda.
- The Commission may discuss the matter without taking any action.
- The Commission can hold the matter to a future meeting.
- The Commission can refer the matter to staff or a committee for consideration and a subsequent report to the Commission.
- The Commission can vote in support **of a motion or in opposition to the motion on the matter.**

Public Comment

Pursuant to the Brown Act, members of the public have a right to comment on any agenda item. The Chairperson establishes the amount of time public speakers are authorized to speak on each item, typically limiting comments to three minutes.

Election of Officers

The commission chair and vice chair are elected by the commission members and serve a one-year term. The election process is conducted at the beginning of the new calendar year and during the first commission meeting of that year.

Role of the Chair

At the first meeting of every calendar year, the members of a commission are to elect a chairperson and vice chairperson from their members. The chair shall hold office for one year until a successor is appointed.

The principal role of the Chair is to manage the board, commission, or committee meeting. This includes helping to set meeting agendas, maintaining the order of business during the meeting, focusing discussion on the issues at hand, and ensuring that the public appearing before the body are treated courteously.



The Chairperson should take a back seat during discussions while all members of the governing body should know and understand the rules of procedure; it is the Chair who is charged with applying the rules of conduct. The Chair should be well versed in those rules, because the chair for all intents and purposes makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself. Because the Chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. The chair should strive to be the last to speak at the discussion and debate state, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

Attendance

Regular attendance at meetings is critical to the effective operation of City boards, commissions, and committees. Therefore, all Commissioners are expected to attend all of their appointed board, commission, or committee meetings, including study sessions. Attendance is critical due to the fact a quorum is required to be able to conduct business. A majority of those Commissioners currently appointed to a commission, half plus one, shall constitute a quorum for the purpose of transacting business. The affirmative vote of a majority of those present is required to take any action. If a quorum of commission members are not present, staff must adjourn the meeting.

If you are unable to attend a meeting, call your Chair or staff liaison prior to the meeting. If a problem with absenteeism arises, it should be handled between the appointed member and the respective Chair. If the issue cannot be resolved, the Chair should approach the staff liaison to help work toward a solution.

If a Commissioner misses more than twenty-five percent of all regular or special meetings in any four consecutive calendar quarters, unless excused in advance by the Chair or the Staff Liaison, the member shall be automatically terminated as a commissioner. Commissioners will be deemed absent from a meeting if they are not present for two-thirds (2/3) of the entire meeting.



BASIC CITY ORGANIZATION

Commissioners need to be familiar with the City organization and develop an understanding of the City departments and their operations.

Seaside is a General Law city operating under the Council/City Manager form of government. This sets forth certain guidelines for the City's government and operations.

CITY COUNCIL - The five-member City Council is the legislative and policy-making body that is elected on a nonpartisan basis to represent the residents of Seaside. The Mayor is elected every two years in a general election held in November of even-numbered years. Serving with the Mayor, are four members of the City Council who have overlapping terms; every two years, two members of the City Council are also elected by the voters through a general election. Each member of the City Council, including the Mayor, is not subject to term limits.

Policy decisions are made at City Council meetings, which are held on the first and third Thursdays of each month at 7:00 p.m. in the City Council Chambers at City Hall, with special meetings as needed. At these public meetings, the City Council makes policy determinations; approves agreements and contracts; adopts ordinances (local laws) and regulations; and authorizes the expenditure of City funds.

The City Council meetings are held on the first and third Thursday of each month, with special meetings as needed.

CITY BUDGET

The City budget document is an important document because the preparation of the budget by the City staff, and its review and adoption by the City Council, determines how resources available to the City are to be utilized by the City in the forthcoming fiscal year.

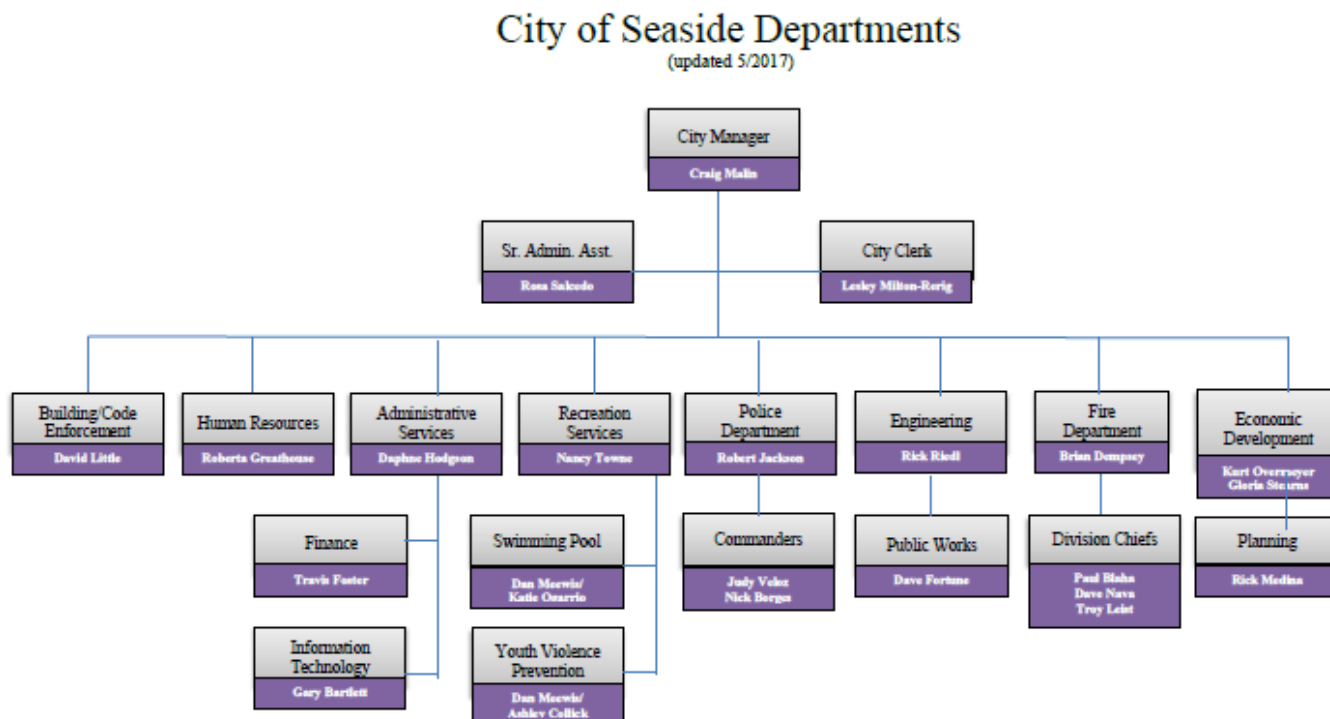
The City has two fundamental functions, the provision of local governance, with decision making to address the issues before the City, and the provision of services to our residents and businesses. Both of these functions, in order to be effective, must have adequate resources devoted to them; conversely, often City officials desire to do more in certain areas, but are limited by what the City can afford.

If you, as a Board or Commission member, have questions about the City's goals/objectives, or about the City's budget, please ask your staff liaison for further explanation.

The City Budgets are all available on our City website:
<http://www.ci.seaside.ca.us/609/Strategic-Plan>



CITY DEPARTMENTS



City Manager

The City Manager acts as the liaison between the City Council and staff. The City Council sets priorities and provides direction and the City Manager works to implement their direction. City operations are broken down into city departments, which are responsible for providing a variety of services to the community and each of which serves an invaluable and significantly different function.

City Attorney

The City Attorney is also appointed by the Council to represent and guide the City as it relates to the city, state and federal laws as well as keep the Council informed of the legal implications of policy decisions.

City Clerk

The City Clerk is the local official who administers the democratic processes such as access to City meetings, records, elections and all legislative actions and ensures transparency to the public by enforcing Federal, State and local statutes including the Political Reform Act, The Brown Act, and the Public Records Act. This department is responsible for the City Clerk is responsible for Coordinating City Council meetings including the preparation and publishing of Agendas and Minutes for public meetings, Maintaining the records management plan for the



entire city, maintenance of the Seaside Municipal Code, responding to requests for public information and conducting City Elections.

Human Resources Division

The Human Resources Division administers a centralized, merit based personnel system, including recruitment, testing, selection, and placement of employees. They manage the classification of positions and employee relations which includes, negotiations, grievances, discipline and complaints; employee development and training; and employee benefits administration.

Fire Department

The Fire Department provides the community with professional services to protect the lives, environment and property in the City of Seaside as well as in the City of Del Rey Oaks from fire, disaster and health emergencies. Fire Department personnel are involved in numerous committees, commissions, organizations and outreaches in the community. They are also responsible for disaster preparedness and the Emergency Operations Center (EOC). The EOC is the coordination and communication hub in the event of large-scale disasters. The Fire Department remains focused on their mission to serve as an "all hazards" response force to various types of emergencies; at the same time fulfilling the ever expanding role in providing emergency medical response to our community.

Police Department

The Police Department provides quality law enforcement and proactive services and works in partnership with the community to enhance and maintain a safe environment. The Police department encourages community involvement in keeping our community safe. The Police Department participates in a variety of programs throughout the county to prevent crime, protect citizens and ensure the safety of our community.

Police Officers can respond if a crime is committed, but it takes a community working together to make everyone accountable. If you witness a crime, call 911. If it is not an emergency, call the non-emergency line at 394-6811.

Recreation

The Recreation Division provides a wide range of recreation and leisure programs for City Residents. The Division is also responsible for the management of four major recreation facilities and the provision of the recreation programs for families, youth and senior citizens.



Engineering & Public Works

The Public Works Department is responsible for the design, construction and physical repairs to the City's infrastructure including streets, water systems, sewer system, storm drain system, park facilities, City buildings and transportation/traffic systems. They are also responsible for the design, implementation and administration of the annual Capital Improvement Program.

Administrative Services

The Administrative Services Department provides a wide variety of administrative services to the residents of Seaside and to all departments within the City. The Department includes four divisions: Finance, Personnel, Management Information Systems and Risk Management. The Administrative Services Department goal is to continue to seek to improve the efficiency and effectiveness in all areas of Administrative Services in an effort to provide better services at a lower cost.

Finance Division

The Finance Division has several areas of responsibility including General Accounting, Cash Management, Accounts Receivable, Accounts Payable, Payroll, Budget, Grants and Debt Services. This Division provides accurate accounting of all revenues and expenditures, including preparation of financial reports, annual budgets, other financial reports, and supports the preparation of the annual audited financial statements.

Information Systems Division

The Management Information Systems Division is responsible for the administration of the City's computer and telephone network, infrastructure and all related information technology projects.

Risk Management Division

The Risk Management Division provides risk management services for injured employees and citizens and for property damage. Its purpose is to foster and maintain a safe and healthy work environment for employees and a safe City for the residents of Seaside.

Additional services of the Administrative Services Department include the negotiation and administration of the City's franchise agreements, oversight of the purchasing and contracting functions, and mail and copier services.

Community Development

The Community Development Department provides a wide variety of services to the residents and businesses and to all departments within the City. The Department is composed of the following divisions:



- Community & Economic Development
- Building & Code Enforcement Division
- Planning

Community and Economic Development

The Community and Economic Development Division is responsible for the administration of the City's planning, economic development and the Community Development Block Grant activities. Planning includes advanced and current planning and environmental review. Economic Development coordinates and implements priority projects. CDBG administers the Commercial Façade, housing rehabilitation and public service grant.

Building & Code Enforcement

The Building Department mission is to enforce and maintain public safety, health, and welfare. Through the use of building permits, the Building Department can ensure that structures are built to safe building code standards. The Building Department also enforces the City's Municipal Code. Before starting any type of building project or major repairs, it is recommended that the owner contact the Building Department to verify whether or not a permit is required for the scope of work that is being proposed.



ANNUAL WORK PLAN TEMPLATE AND INSTRUCTIONS

This is a standard template for use by Boards and Commissions in completing their annual Work Plans. Work Plans are based on a fiscal year rather than a calendar year. Work Plans are to be completed by each Board and Commission and approved at a regular Board or Commission meeting no later than April 1 of each year. The Office of the Clerk will then transmit the Work Plans to the City Council for approval in May.

Please use the following instructions when completing the Work Plan:

Cover Sheet (Page 1): This area should include the name of the Board or Commission, the timeframe covered by the Work Plan (i.e. Fiscal Year 2016, July 1, 2015 – June 30, 2016), members' names, Chairperson's name, and vacancies as of April 1. Do not list Commissioner addresses or phone numbers on the Work Plan. This page will need to be updated each year.

Mission Statement (Page 2): This area of the Work Plan should clearly state the mission of the Board or Commission. The mission may be extracted from the enabling legislation (i.e. Ordinance, Board action, Resolution) that formed the Board or Commission or may be a purpose statement approved by the Board or Commission and derived from the enabling legislation. This section may also contain the roles and responsibilities of the Board or Commission. This page may not need to be updated each year.

Historical Background (Page 2): This area should provide the reader with some historical information about the Board or Commission (i.e. when it was formed, issues of focus in years' past, significant outcomes of work by the Board or Commission). NOTE: Accomplishments from the previous year should not be discussed here – there is another area on the Work Plan where this is done. This page may not need to be updated each year.

Fiscal Year Work Plan (Page 3): This area should provide the goals/objectives (no more than five) of the Work Plan, the activities planned to accomplish the goals, the priority ranking of each goal and the timeline anticipated to accomplish the goal. This page will need to be updated each year.

Prior Year Accomplishments (Page 4): This area should address the prior year Work Plan accomplishments including each goal/objective, activities that supported the successful completion of the goal and the status of the goal. The status column should inform the reader whether the goal was a) completed, b) not started and why, c) in process and expected completion date, or d) eliminated and why. This page will need to be updated each year.

Ongoing Projects: (Page 5) This area provides the Board or Commission with an opportunity to inform the reader of ongoing projects that the Board or Commission is continuing to work on. This page may not need to be updated each year.