



From the Office of the Mayor

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2013 JUN 4 PM 11 44

May 22, 2013

Presiding Judge Barry T. LaBarbera
Superior Court of California
1050 Monterey Street
San Luis Obispo, California 93408

RECEIVED
SLO COUNTY GRAND JURY

A handwritten signature in cursive script, likely belonging to Shelly Higginbotham.

Re: Grand Jury Report entitled "Email Accessibility to City Government"

Dear Judge LaBarbera:

This letter constitutes the response of the City of Pismo Beach and the mayor of the City of Pismo Beach to the San Luis Obispo County Grand Jury report entitled "Email Accessibility to City Government" (hereinafter the "Report"). This response is submitted in compliance with Penal Code Section 933(c). A copy of this response is concurrently being transmitted to the Grand Jury.

The Report sets forth five findings, and two recommendations. The City of Pismo Beach has been required to respond to Finding 5 and Recommendation 2.

Finding

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

Response: Agree in part and disagree in part. The disclosures on these cities' websites are not specifically "Brown Act" disclosures despite the passing reference to the Brown Act in these disclosures. The Brown Act governs meetings of legislative bodies such as city councils, and that Act restricts the ability of members of legislative bodies to meet with each other outside duly noticed meetings and to discuss City business. The Brown Act does not prohibit individual contact between a council member and a member of the public. The disclosures on these websites appear more to inform members of the public that any emails sent to council members by members of the public may be deemed public records subject to disclosure under the Public Records Act. This is a correct statement of the law, and the disclosures dispel any implication that communications sent to Council members through the cities' websites can be kept confidential. Council members are required to comply with the Brown Act regardless of whether such a statement appears on a city website or not.

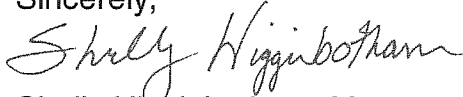
Recommendations:

The Grand Jury recommends that:

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

Response: This recommendation, to the extent it refers to the City of Pismo Beach, has been implemented, but only to the extent that it suggests disclosure of emails sent by members of the public to Council members may be required under the Public Records Act, as opposed to the Brown Act. The City of Pismo Beach cannot determine for the other cities whether they will implement the recommendation.

Sincerely,

A handwritten signature in cursive script, reading "Shelly Higginbotham".

Shelly Higginbotham, Mayor
City of Pismo Beach

cc: San Luis Obispo County Grand Jury
P.O. Box 4910
San Luis Obispo, California 93402