



AGENDA NO: Special Meeting Items

MEETING DATE: September 25, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: Jennifer Callaway
Sent: Monday, September 24, 2018 9:21 AM
To: Dana Swanson; Lori Kudzma
Subject: FW: special meeting sept. 25, 2 agenda items

FYI Dana and Lori ... for public comment

From: betty winholtz [REDACTED]
Sent: Saturday, September 22, 2018 3:19 AM
To: Jamie Irons <jirons@morrobayca.gov>; Marlys McPherson <mmcpherson@morrobayca.gov>; John Headding <jheadding@morrobayca.gov>; Matt Makowetski <mmakowetski@morrobayca.gov>; Robert Davis <rdavis@morrobayca.gov>
Cc: Jennifer Callaway <jcallaway@morrobayca.gov>; Scott Collins <scollins@morrobayca.gov>
Subject: special meeting sept. 25, 2 agenda items

Dear City Council:

Regarding agenda item II:

1. "Two consecutive quarters of declining revenues in the major revenues sources" as a definition of Economic downturn seems like too short of a time period. The downturn may be as much a factor of time of year as economy. The time period should be longer.
2. "Parameters for when the City Manager may need to respond immediately within the mitigation measures and when there is time for discussion with council regarding mitigation measures." This idea should be deleted. This is about finances, not a physical emergency. What possible situation would prevent a council majority from being immediately available? This is a city council responsibility, not a staff (city manager) decision.

Regarding agenda item I:

1. The boundaries between the different categories in the Internal Service Fund Reserve is confusing. Is the Internal Service Fund Reserve a line item within the general fund and each enterprise fund, or is there one Internal Service Fund Reserve and all funds are subsumed under it?
If the latter, this sentence is not clear whether excess money is grouped altogether, or if it must be used within its respective fund: "To the extent moneys in any of the above funds are above the target levels, the Council has the flexibility to direct staff to utilize those available funds to pay for other capital needs, other one-time expenditures, or pay down liabilities as long as the funds legally support that purpose."
2. Overall, since the Internal Service Fund Reserve (a)is not required by state law, (b)is an extra cost burden to individual departments, a cost which will be passed on to the public through user fees, and (c)is not widely nor consistently practiced by other cities, it should be deleted, not included, in the council policy.

Sincerely,

Betty Winholtz



Virus-free. www.avast.com



AGENDA NO: C-2

MEETING DATE: September 25, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: Renee Punzi <[REDACTED]>
Sent: Tuesday, September 25, 2018 5:55 AM
To: Council
Subject: I support Community Choice Energy

Morro Bay City Council,

I urge you to pursue the path of Community Choice Energy (CCE). Community choice would give the purchasing power to the city. If the city goes with community choice, the city would still use the existing power grid , but the city would decide what energy sources to buy. We strive to exemplify responsible decisions and sustainable lifestyles. Say yes to Community Choice Energy (CCE).

Thank you,

Renee Punzi
Morro Bay Resident

This Page Intentionally Left Blank



AGENDA NO: C-3

MEETING DATE: September 25, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

9/20/18

Agenda Correspondence for **Item C-3**, for MBCC Meeting dated 9/25/18:

Dear Council

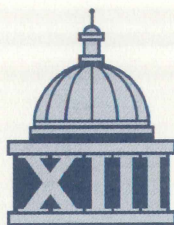
Applying for financing for a project not formally approved by the residents of Morro Bay is a waste of staff time and energy.

Until all Prop 218 votes submitted to the City at the Public Hearing held on 9/11/18 are counted and validated, no financial actions of any kind should be taken by the City on the proposed WRF project.

Regards

Jeff Heller

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

RECEIVED
City of Morro Bay

SEP 25 2018

City Clerk

September 24, 2018

Dana Swanson, Clerk of the Board
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
dswanson@morrobayca.gov

Via Email and Overnight Delivery

Re: Agenda Items C-3 and C-4, Resolutions 75-18, 76-18, 77-18, and Related Actions

Dear Clerk of the Board:

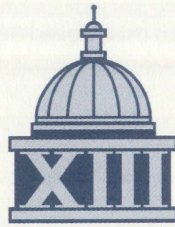
Please copy all City Council Members on the attached letter and incorporate the attached letter into the Minutes as public comment on Agenda Items C-3 and C-4 for tomorrow's meeting of September 25, 2018.

Thank you.

Kind regards,

Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

September 24, 2018

Contractors, Lenders, Bond Purchasers, and All Other Potential Creditors
Honorable Mayor of City of Morro Bay & City Council
595 Harbor Street
Morro Bay, CA 93442
council@morrobayca.gov

RECEIVED
City of Morro Bay

SEP 25 2018

City Clerk

Joseph W. Pannone, City Attorney
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com

Via email and overnight delivery

Re: Agenda Items C-3 and C-4, Resolutions 75-18, 76-18, 77-18, and Related Actions

Dear Contractors, Lenders, Bond Purchasers, All Other Potential Creditors, Honorable Mayor, City Council, and Mr. Pannone,

Please take notice of this letter. If you are a creditor or may become a creditor of the City of Morro Bay, it may affect your rights to collect a debt.

It has come to our attention that tomorrow, September 25, 2018, the City Council will consider Agenda Items C-3, C-4, and related actions. These items contemplate pledging funds to a Water Reclamation Facility Project. This WRF Project was the subject of Resolution 71-18 and the recent wastewater rate increase at a contentious public hearing on September 11, 2018.

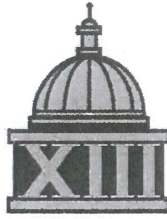
HJTA sent a Public Records Act request to the City Clerk earlier today via Priority Mail. A copy of that PRA request is attached for your reference. Also attached are copies of our previous letters regarding Resolution 44-18 adopted June 13, 2018.

HJTA has reason to believe that the rate increase by Resolution 71-18 is suspect and should not be relied upon. Thus, please note that any expenditures, loan applications, or other pledging of those funds should not be relied upon at this time.

Kind regards,

Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

September 24, 2018

RECEIVED
City of Morro Bay

SEP 25 2018

Office of the City Clerk
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com; dswanson@morrobayca.gov

City Clerk

Via Email and U.S. Priority Mail

Re: Public Records Act Request

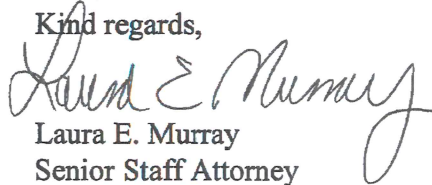
Dear City Clerk,

This is a request pursuant to the California Public Records Act, Government Code Section 6250, *et seq.* Copies of the following documents are requested:

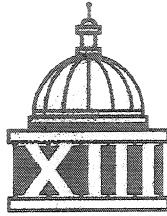
1. All writings received by the City of Morro Bay protesting or attempting to protest Resolution 71-18, the proposed Wastewater Reclamation Facility, or the proposed wastewater rate increase, regardless of the form of the writing, its timeliness, or validity.
2. All City tabulations and summations of the number of protests and attempted protests received regarding Resolution 71-18, the proposed Wastewater Reclamation Facility, or the proposed wastewater rate increase.
3. All writings *other than* protests or attempted protests, including emails and texts, that were sent or received by any City employee or elected official regarding the process, methodology or criteria for determining the validity of a protest or attempted protest.

Please let me know in advance if there is a charge for copying these documents. Pursuant to Government Code § 6256, your written response within ten days will be appreciated.

Kind regards,


Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

July 25, 2018

Joseph W. Pannone, City Attorney
Dana Swanson, Clerk of the Board
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com; dswanson@morrobayca.gov

Via Email and U.S. Priority Mail

Re: Notice to Preserve Evidence

Dear Mr. Pannone and Clerk of the Board:

Please take notice that, pursuant to Penal Code section 135, Rule 5-220 of the Rules of Professional Conduct, and case law recognizing a duty to preserve evidence, you are hereby requested to preserve all evidence related to:

- 1) the creation and implementation of Resolution 44-18 adopted June 13, 2018; and
- 2) the upcoming majority protest hearing on September 11, 2018, including but not limited to the mailing of notice, the custody of protests, the disqualification of protests, and the calculation of a majority,

including all evidence that could lead to the discovery of relevant evidence in the event of a public inquiry (including but not limited to a CPRA Request), public investigation, or civil case.

Such evidence includes, but is not limited to the following: all public records, website pages, correspondence, recordings, mail lists, and other evidence, whether tangible or electronic, relating to the proposed water reclamation facility, to the proposed water rate increase related thereto, to its hearing originally set for August 28, 2018, and continued to September 11, 2018, and to the process leading up to and surrounding the hearing. This includes all protest forms, counted and uncounted, opened and unopened. This also includes any procedures or policies of the Clerk for handling protests which are not already listed in Resolution 44-18.

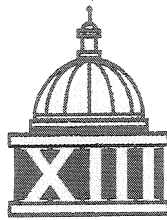
Please also take notice that concealing, discarding, destroying, or tampering with evidence is a crime. This notice applies to items and information that were created in the past as well as items and information that are created in the future. Thank you.

Kind regards,

A handwritten signature in cursive script that reads "Laura E. Murray". The signature is written in dark ink and is positioned above the printed name and title.

Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

June 12, 2018

Dana Swanson, Clerk of the Board
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
dswanson@morrobayca.gov

Via Email and Overnight Delivery

RE: Agenda Item III, June 13, 2018 Meeting Date

Dear Clerk of the Board:

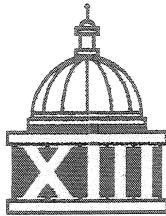
Please copy all City Council Members on the attached letter and incorporate the attached letter into the Minutes as public comment on Agenda Item III for tomorrow's meeting of June 13, 2018.

Thank you.

Kind regards,


Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax:(916) 444-9823
www.hjta.org

June 12, 2018

Honorable Mayor of the City of Morro Bay & City Council
595 Harbor Street
Morro Bay, CA 93442
council@morrobayca.gov

Joseph W. Pannone, City Attorney
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com

Via Email and Overnight Delivery

RE: Resolution 44-18 Proposition 218 Proposed Protest Process

Dear Honorable Mayor, City Council, and Mr. Pannone:

It has come to our attention that tomorrow, June 13, 2018, the City Council will be considering Resolution 44-18, a proposal for a detailed policy governing the majority protest process of California Constitution Article XIII D § 6(a)(2) and Government Code § 53755(b). Given some of the restrictive elements of the proposed policy which do not appear to be supported by these laws, HJTA is concerned that the City of Morro Bay could be exposing itself to the risk of litigation.

The City of Morro Bay is a general law city. Therefore, it has only the powers delegated to it by the Legislature in State statute. Following the Constitutional Article and Government Code section cited above, we submit the following questions about the policy proposed in Resolution 44-18:

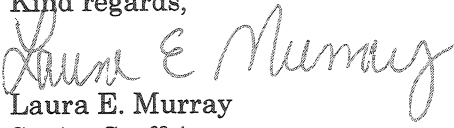
1. On what authority may it be required that protests be delivered individually and exclusively by each person who signed his or her protest, whether in person to the clerk's office, in person at the public hearing, or by mail as a single item in the envelope?
2. On what authority may it be prohibited that protestors deliver their protests through an agent of their choice?

3. On what authority may it be required that each protest be placed in a separate and sealed envelope? Would the Clerk reject an otherwise valid protest if not handed to him or her in a sealed envelope?
4. On what authority may it be required that protests be signed in the format of a declaration using penalty of perjury language? Are you modeling this language on any particular statute?
5. On what authority may it be required that signatures are compared against the county's voter registration records? What standards would be used to qualify or disqualify a signature on this basis?
6. On what authority may the City Clerk choose not to open all of the envelopes if it appears on a visual glance that there would not be enough protest votes to achieve a majority? How will the number of protest votes be tabulated in that situation? Will these unopened envelopes be kept for two years?
7. How will your sample protest form be made available to ratepayers?

The newly proposed requirements, separately and cumulatively, appear cumbersome, particularly the requirement of individual delivery of each protest. This could easily prove discouraging for ratepayers and for the Clerk at the public hearing. Ratepayers who cannot make it to the hearing, for example, may feel obligated to pay the great expense of overnight delivery to ensure that their protests do not arrive too late in the mail. They might go to that effort of securing and paying for overnight delivery, or take time off of work or parenting schedules to hand-deliver their protests waiting in a long line, or forego the opportunity to protest altogether. The Clerk might have to receive protests through a long, time-consuming line at the hearing. Even with a small population of 10,500 persons, a majority protest could require the Clerk to accept forms by hand from 5,251 or more individual persons. Even a protest of about 20% would create a line of 2,000 persons. This, and the other proposed requirements, could be considered deterrents to public participation.

Thank you for considering our questions concerning the proposed resolution.

Kind regards,


Laura E. Murray
Senior Staff Attorney



AGENDA NO: C-4

MEETING DATE: September 25, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

9/20/18

Agenda Correspondence for **Item C-4**, for MBCC Meeting dated 9/25/18:

Dear Council

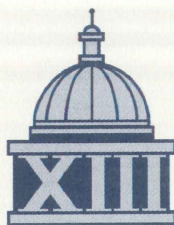
Expenditure of project funds for another study on the proposed WRF project is premature and a waste of taxpayer's money.

Until all Prop 218 votes submitted to the City at the Public Hearing held on 9/11/18 are counted and validated, no financial actions of any kind should be taken by the City on the proposed WRF project.

Regards

Jeff Heller

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

RECEIVED
City of Morro Bay

SEP 25 2018

City Clerk

September 24, 2018

Dana Swanson, Clerk of the Board
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
dswanson@morrobayca.gov

Via Email and Overnight Delivery

Re: Agenda Items C-3 and C-4, Resolutions 75-18, 76-18, 77-18, and Related Actions

Dear Clerk of the Board:

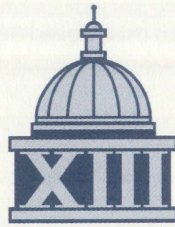
Please copy all City Council Members on the attached letter and incorporate the attached letter into the Minutes as public comment on Agenda Items C-3 and C-4 for tomorrow's meeting of September 25, 2018.

Thank you.

Kind regards,

Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

September 24, 2018

Contractors, Lenders, Bond Purchasers, and All Other Potential Creditors
Honorable Mayor of City of Morro Bay & City Council
595 Harbor Street
Morro Bay, CA 93442
council@morrobayca.gov

RECEIVED
City of Morro Bay

SEP 25 2018

City Clerk

Joseph W. Pannone, City Attorney
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com

Via email and overnight delivery

Re: Agenda Items C-3 and C-4, Resolutions 75-18, 76-18, 77-18, and Related Actions

Dear Contractors, Lenders, Bond Purchasers, All Other Potential Creditors, Honorable Mayor, City Council, and Mr. Pannone,

Please take notice of this letter. If you are a creditor or may become a creditor of the City of Morro Bay, it may affect your rights to collect a debt.

It has come to our attention that tomorrow, September 25, 2018, the City Council will consider Agenda Items C-3, C-4, and related actions. These items contemplate pledging funds to a Water Reclamation Facility Project. This WRF Project was the subject of Resolution 71-18 and the recent wastewater rate increase at a contentious public hearing on September 11, 2018.

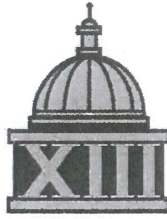
HJTA sent a Public Records Act request to the City Clerk earlier today via Priority Mail. A copy of that PRA request is attached for your reference. Also attached are copies of our previous letters regarding Resolution 44-18 adopted June 13, 2018.

HJTA has reason to believe that the rate increase by Resolution 71-18 is suspect and should not be relied upon. Thus, please note that any expenditures, loan applications, or other pledging of those funds should not be relied upon at this time.

Kind regards,

Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

September 24, 2018

RECEIVED
City of Morro Bay

SEP 25 2018

Office of the City Clerk
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com; dswanson@morrobayca.gov

City Clerk

Via Email and U.S. Priority Mail

Re: Public Records Act Request

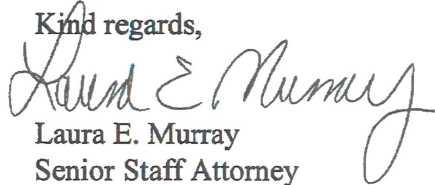
Dear City Clerk,

This is a request pursuant to the California Public Records Act, Government Code Section 6250, *et seq.* Copies of the following documents are requested:

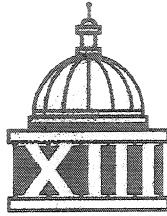
1. All writings received by the City of Morro Bay protesting or attempting to protest Resolution 71-18, the proposed Wastewater Reclamation Facility, or the proposed wastewater rate increase, regardless of the form of the writing, its timeliness, or validity.
2. All City tabulations and summations of the number of protests and attempted protests received regarding Resolution 71-18, the proposed Wastewater Reclamation Facility, or the proposed wastewater rate increase.
3. All writings *other than* protests or attempted protests, including emails and texts, that were sent or received by any City employee or elected official regarding the process, methodology or criteria for determining the validity of a protest or attempted protest.

Please let me know in advance if there is a charge for copying these documents. Pursuant to Government Code § 6256, your written response within ten days will be appreciated.

Kind regards,


Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

July 25, 2018

Joseph W. Pannone, City Attorney
Dana Swanson, Clerk of the Board
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com; dswanson@morrobayca.gov

Via Email and U.S. Priority Mail

Re: Notice to Preserve Evidence

Dear Mr. Pannone and Clerk of the Board:

Please take notice that, pursuant to Penal Code section 135, Rule 5-220 of the Rules of Professional Conduct, and case law recognizing a duty to preserve evidence, you are hereby requested to preserve all evidence related to:

- 1) the creation and implementation of Resolution 44-18 adopted June 13, 2018; and
- 2) the upcoming majority protest hearing on September 11, 2018, including but not limited to the mailing of notice, the custody of protests, the disqualification of protests, and the calculation of a majority,

including all evidence that could lead to the discovery of relevant evidence in the event of a public inquiry (including but not limited to a CPRA Request), public investigation, or civil case.

Such evidence includes, but is not limited to the following: all public records, website pages, correspondence, recordings, mail lists, and other evidence, whether tangible or electronic, relating to the proposed water reclamation facility, to the proposed water rate increase related thereto, to its hearing originally set for August 28, 2018, and continued to September 11, 2018, and to the process leading up to and surrounding the hearing. This includes all protest forms, counted and uncounted, opened and unopened. This also includes any procedures or policies of the Clerk for handling protests which are not already listed in Resolution 44-18.

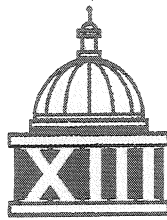
Please also take notice that concealing, discarding, destroying, or tampering with evidence is a crime. This notice applies to items and information that were created in the past as well as items and information that are created in the future. Thank you.

Kind regards,

A handwritten signature in cursive script that reads "Laura E. Murray". The signature is written in dark ink and is positioned above the printed name and title.

Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax: (916) 444-9823
www.hjta.org

June 12, 2018

Dana Swanson, Clerk of the Board
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
dswanson@morrobayca.gov

Via Email and Overnight Delivery

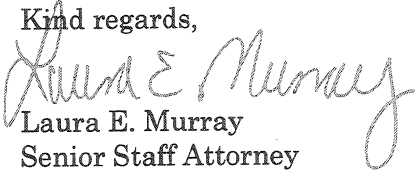
RE: Agenda Item III, June 13, 2018 Meeting Date

Dear Clerk of the Board:

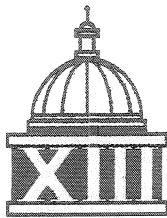
Please copy all City Council Members on the attached letter and incorporate the attached letter into the Minutes as public comment on Agenda Item III for tomorrow's meeting of June 13, 2018.

Thank you.

Kind regards,


Laura E. Murray
Senior Staff Attorney

HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs



HOWARD JARVIS
TAXPAYERS ASSOCIATION

SACRAMENTO OFFICE:
921 11th Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950, Fax:(916) 444-9823
www.hjta.org

June 12, 2018

Honorable Mayor of the City of Morro Bay & City Council
595 Harbor Street
Morro Bay, CA 93442
council@morrobayca.gov

Joseph W. Pannone, City Attorney
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
jpannone@awattorneys.com

Via Email and Overnight Delivery

RE: Resolution 44-18 Proposition 218 Proposed Protest Process

Dear Honorable Mayor, City Council, and Mr. Pannone:

It has come to our attention that tomorrow, June 13, 2018, the City Council will be considering Resolution 44-18, a proposal for a detailed policy governing the majority protest process of California Constitution Article XIII D § 6(a)(2) and Government Code § 53755(b). Given some of the restrictive elements of the proposed policy which do not appear to be supported by these laws, HJTA is concerned that the City of Morro Bay could be exposing itself to the risk of litigation.

The City of Morro Bay is a general law city. Therefore, it has only the powers delegated to it by the Legislature in State statute. Following the Constitutional Article and Government Code section cited above, we submit the following questions about the policy proposed in Resolution 44-18:

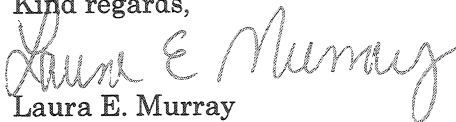
1. On what authority may it be required that protests be delivered individually and exclusively by each person who signed his or her protest, whether in person to the clerk's office, in person at the public hearing, or by mail as a single item in the envelope?
2. On what authority may it be prohibited that protestors deliver their protests through an agent of their choice?

3. On what authority may it be required that each protest be placed in a separate and sealed envelope? Would the Clerk reject an otherwise valid protest if not handed to him or her in a sealed envelope?
4. On what authority may it be required that protests be signed in the format of a declaration using penalty of perjury language? Are you modeling this language on any particular statute?
5. On what authority may it be required that signatures are compared against the county's voter registration records? What standards would be used to qualify or disqualify a signature on this basis?
6. On what authority may the City Clerk choose not to open all of the envelopes if it appears on a visual glance that there would not be enough protest votes to achieve a majority? How will the number of protest votes be tabulated in that situation? Will these unopened envelopes be kept for two years?
7. How will your sample protest form be made available to ratepayers?

The newly proposed requirements, separately and cumulatively, appear cumbersome, particularly the requirement of individual delivery of each protest. This could easily prove discouraging for ratepayers and for the Clerk at the public hearing. Ratepayers who cannot make it to the hearing, for example, may feel obligated to pay the great expense of overnight delivery to ensure that their protests do not arrive too late in the mail. They might go to that effort of securing and paying for overnight delivery, or take time off of work or parenting schedules to hand-deliver their protests waiting in a long line, or forego the opportunity to protest altogether. The Clerk might have to receive protests through a long, time-consuming line at the hearing. Even with a small population of 10,500 persons, a majority protest could require the Clerk to accept forms by hand from 5,251 or more individual persons. Even a protest of about 20% would create a line of 2,000 persons. This, and the other proposed requirements, could be considered deterrents to public participation.

Thank you for considering our questions concerning the proposed resolution.

Kind regards,



Laura E. Murray
Senior Staff Attorney