



CITY OF MORRO BAY CITY COUNCIL AGENDA

The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

NOTICE OF SPECIAL MEETING

**Tuesday, June 23, 2020 – 3:00 P.M.
Held Via Teleconference**

ESTABLISH QUORUM AND CALL TO ORDER

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this Meeting will be conducted telephonically through Zoom and broadcast live on Cable Channel 20 and streamed on the City website (click [here](#) to view). Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Veterans' Hall will not be open for the meeting.

Public Participation:

In order to prevent and mitigate the effects of the COVID-19 pandemic, and limit potential spread within the City of Morro Bay, in accordance with Executive Order N-29-20, the City will not make available a physical location from which members of the public may observe the meeting and offer public comment. Remote public participation is allowed in the following ways:

- Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Clerk's office at cityclerk@morrobayca.gov prior to the meeting and will be published on the City website with a final update one hour prior to the meeting start time. Agenda correspondence received less than an hour before the meeting start time may not be posted until after the meeting.
- Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).
- Alternatively, members of the public may watch the meeting and speak on a specific agenda item by logging in to the Zoom webinar at the **beginning** of the meeting using the information provided below. Please use the **"raise hand"** feature to indicate your desire to provide public comment. Each speaker will be allowed three minutes to provide input.

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHIRtk9xaTlmWVNWRFWFUQT09>
Password: 135692

- Or Telephone Attendee: (408) 638-0968 or (669) 900 6833 or (346) 248 7799;
Webinar ID: 827 2274 7698; Password: 135692; Press * 9 to **"Raise Hand"** for Public Comment

SPECIAL MEETING AGENDA ITEM:

- I. RACISM AS A PUBLIC HEALTH CRISIS; RECEIVE AND DISCUSS REPORT FROM MBPD CHIEF COX ON POLICE REFORM; CONSIDER RESOLUTION NO. 64-20 AFFIRMING THAT RACISM IS A PUBLIC HEALTH CRISIS AND URGING PUBLIC HEALTH OFFICIALS DECLARE RACISM A PUBLIC HEALTH EMERGENCY; CONSIDER PROVIDING FURTHER DIRECTION TO STAFF; (CITY MANAGER)

RECOMMENDATION: Staff recommends the City Council receive this report and provide direction as appropriate, and consider adoption of a resolution declaring racism is a public health crisis and recommending public health officials declare racism a public health emergency.

ADJOURNMENT

DATED: June 19, 2020



John Headding, Mayor

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.



AGENDA NO: I

MEETING DATE: June 23, 2020

Staff Report

TO: Honorable Mayor and City Council

DATE: June 19, 2020

FROM: Scott Collins, City Manager

SUBJECT: Racism as a Public Health Crisis; Receive and Discuss Report from MBPD Chief Cox on Police Reform; Consider Resolution No. 64-20 Affirming that Racism is a Public Health Crisis and Urging Public Health Officials Declare Racism a Public Health Emergency; Consider Providing Further Direction to Staff

RECOMMENDATION

Staff recommends the City Council receive this report and provide direction as appropriate, and consider adoption of a resolution declaring racism is a public health crisis and recommending public health officials declare racism a public health emergency.

ALTERNATIVES

Provide further direction as Council deems appropriate.

BACKGROUND

The tragic and senseless death of Mr. George Floyd at the hands of Minneapolis Police Officer Derek Chauvin on May 25, 2020 shocked America. Mr. George Floyd, an African-American, was arrested for passing a counterfeit \$20 bill, and through the process of his arrest, Officer Chauvin pressed his knee to Mr. Floyd's neck for eight minutes and forty-six seconds, while Mr. Floyd begged for his life, and three police officers looked on and did not intervene. The interaction was videoed by an onlooker and soon after was broadcast across the country and world. The nonchalant attitude of Officer Chauvin, the casual non-response of his fellow officers, and the brutal nature of Mr. Floyd's death sparked massive outrage and massive protests in all 50 states.

The protests initially focused, and continue to focus, on police brutality against people of color and the need for police reform. The protests have further expanded out to encompass the very heart of racism and concerns over persistent inequality and disadvantage for people of color in our country. Protestors of all stripes have called for the need to focus on systemic change. The disparities between African-Americans/People of Color and Caucasians are

Prepared By: SC

Dept Review: _____

City Manager Review: SC

City Attorney Review: CFN

significant on every important metric of well-being, health, education, justice and economics. For example, on a per capita basis, communities of color face higher rates of incarceration, illiteracy, and infant mortality rates, and receive less pay for the same work, have less access to capital and housing, fresh food, clean water, and higher education. In addition, people of color are far more likely to be impacted by COVID-19, in terms of virus spread, health complications and death.

The work to address these real issues is multi-faceted and not limited to just inner cities or areas more commonly known for racist attitudes and police brutality. Community members and groups seeking this change in San Luis Obispo County have reached out to the City of Morro Bay to better understand what we have done and can do further on the issue of police reform and have called on the City to declare racism a public health crisis.

DISCUSSION

Public Health Crisis and Inclusivity

City Council can adopt the attached resolution, declaring racism to be a public health crisis and encouraging San Luis Obispo County to do the same. Certainly, a resolution alone will not upend inequality or right historic wrongs, but it does send a strong message that the work to create a more equal America is a necessary endeavor in which we all should engage. The resolution also contains a commitment by the City of Morro Bay to expand its efforts of inclusivity. The resolution would also authorize the Mayor to send a letter to the SLO County Board of Supervisors and Public Health Officer requesting that they declare a public health crisis.

City of Morro Bay Mayor, John Headding, issued a video statement in early June in the wake of Mr. George Floyd's death, touching upon these important issues. That video can be viewed here: <https://www.youtube.com/watch?v=eSFnsn3NOHA>.

Police Reform

The State of California, and by extension, City of Morro Bay, have made significant strides over the past decade to improve law enforcement policies, protocols, programs and trainings. As a result, our police officers are better trained and equipped to serve all of our community members equally. There is now greater accountability and transparency on the work of police as well.

Related to these important efforts, below is the response from Morro Bay Police Chief Cox to the #8cantwait campaign. This campaign has called on police departments to address eight specific concerns related to police use of force. The #8cantwait campaign has identified the following issues of concern and are asking departments to address these issues of concern:

- 1) Require de-escalation
- 2) Duty to intervene
- 3) Require warning before shooting

- 4) Exhaust all other means before shooting
- 5) Require comprehensive reporting
- 6) Ban chokeholds and strangleholds
- 7) Ban shooting at moving vehicles
- 8) Require use of force continuum

Our police department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests. The Morro Bay Police Department has a history of minimal use of force incidents and is consistent with well-established laws, policies, standards and community expectations. In the past two years, members of the department have been involved in only 6 minor uses of force, mostly related to intoxicated subjects who become assaultive or resistant to being taken into custody. Most of the uses of force involved only the use of hands to safely effect the arrest. Each use of force is investigated by a supervisor and a manager in the police department to ensure it is within policy.

Any use of deadly force would be investigated by a third party (the San Luis Obispo County Sheriff's Department) and ultimately reviewed by the San Luis Obispo County District Attorney's office. Any uses of force that are outside policy or are a violation of law will subject the officer(s) to discipline and/or criminal prosecution.

The MBPD currently relies on Lexipol, the leading platform for comprehensive public safety and local government agency policy development, to ensure our staff have the most up-to-date resources to carry out their duties and ensure public safety. The Lexipol group of expert attorneys develop evidence-based, legally defensible policies that are regularly updated based on changes in law and best practices.

Chief Cox has addressed the above listed 8 categories as reported below:

1. Require De-escalation

De-escalation is ingrained in members of the Morro Bay Police Department ("MBPD"). It begins with academy training and continues throughout each officer's career and is used daily when interacting with the public. The MBPD policy on de-escalation, in part, is as follows:

430.6 DE-ESCALATION (Morro Bay PD Policy Manual) Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis. Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.

- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

De-escalation techniques can be applied to non-mental health incidents as well.

2. Duty to Intervene

The Morro Bay Police Department's Duty to Intercede policy is as follows:

300.2.1 DUTY TO INTERCEDE (Morro Bay PD Policy Manual)

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

3. Require Warning Before Shooting

Providing warnings prior to the application of any use of force is commonplace as a policy employed by the Morro Bay Police Department.

4. Exhaust All Other Means Before Shooting

The request for a policy to "exhaust all other means before shooting" is already covered by the recent changes to California's use of force law, Penal Code section 835(a)(2), which reads:

As set forth below, it is the intent of the Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.

There is no need for our policies to restate all the California Penal Code as it relates to policing. This is state law and applies to all California police agencies.

5. Require comprehensive reporting

The documentation of uses of force are required by MBPD policy as stated below:

300.5 REPORTING THE USE OF FORCE (Morro Bay PD Policy Manual)

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law.

The same section further outlines the reporting requirements to supervisors and an internal review by the Critical Incident Review Board (CIRB) for critical incidents.

6. Ban chokeholds and Strangleholds

MBPD policies address these issues but not to the degree sought by some. Chokeholds and strangleholds have been banned from use for many years and it is important to note that the actions performed on Mr. George Floyd were none of these. In over 32 years of police training Chief Cox reports he has never been instructed to place his knee on a subject's neck for any reason. The MBPD authorizes the very limited use of a carotid control hold that differs vastly from 'chokeholds' and 'strangleholds' and is used only in extremely rare situations when other options have failed in an attempt to subdue a subject without having to resort to deadly force. In the past eight years Chief Cox has been with the MBPD, he reports he is not aware of the carotid control hold being used by any member of MBPD. *Note: Per Governor Newsom, the Commission on Peace Officer Standards and Training will be reviewing policy/training on the carotid control hold and it may be removed from POST training. MBPD will review and modify/update its policy accordingly.

300.3.4 CAROTID CONTROL HOLD (Morro Bay PD Policy Manual)

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 - 1. The subject is violent or physically resisting.
 - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.

(c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:

1. Females who are known to be pregnant
2. Elderly individuals
3. Obvious juveniles
4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries

(d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.

(e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.

(f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.

(g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

7. Ban Shooting at Moving Vehicles

While shooting at moving vehicles is clearly not usually the safest course of action, Chief Cox reports it is sometimes the only course of action to stop an imminent threat. Although the need to fire at a moving vehicle has not occurred in our agency that Chief Cox can recall, MBPD policy makes it clear that while we discourage this action, it may be necessary in extreme cases and is therefore curtailed by the following policy:

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES (Morro Bay PD Policy Manual)

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

8. Require use of force continuum

The use of force continuum is a concept adopted by law enforcement departments decades ago that has since given way to better informed, evidence-based use of force policies such as those adopted and outlined by the MBPD.

The goal of MBPD policies is to protect the officers while they protect the community and mitigate risk and liability for the City. Chief Cox is confident the policies adopted by the Morro Bay Police Department are consistent with law, best practices, and our community's best interests. Our officers deftly use policy, training, and most importantly their good judgement to deal with a never-ending barrage of situations where split-second decision making is necessary.

In addition to the aforementioned concerns, R.A.C.E. Matters SLO requested additional information on other aspects of police work in Morro Bay. Those are discussed below:

Ensure Protestor safety and Right to Peaceful Demonstration

Like the other law enforcement agencies in SLO County, Morro Bay Police Department personnel is committed to protestor and community safety to ensure individuals and groups can express their first amendment rights and rights to peaceful assembly in a manner that preserves the safety of demonstrators, observers and the general public. MBPD focuses efforts to protect protestors and the public by working with protest organizers in the planning, monitoring, and operational plans to aid participants and the public with avoiding the inherent risks associated with marching along and possibly in public roadways. MBPD's primary goal is to mitigate risk while limiting police contact with participants. MBPD seeks to work collaboratively with protest organizers and protestors for all future protests, rallies and public assemblies.

Maintain continual use of body cams/use of force only when needed

MBPD policy 423.5 states: This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- a. All enforcement and investigative contacts including stops and field interview (FI) situations.
- b. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- c. Self-initiated activity in which a member would normally notify Dispatch.
- d. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

Drop criminal charges against non-violent protestors arrested during Black Lives Matter protests

Pursuant to California Penal Code Section 836, peace officers are authorized to make an arrest on probable cause. As such, MBPD must believe there is sufficient evidence that the person to be arrested is guilty of a crime. Once forwarded to the District Attorney's Office, charging and prosecution are within the prosecutorial discretion of the District Attorney. If the DA evaluates a particular case and does not believe a charge can be proven beyond a reasonable doubt, the DA may choose not to prosecute the charges.

Civilian review board

National and local community organization have also requested that cities, like the City of Morro Bay, form a formal community oversight committee for the police department. These committees can take on a variety of forms, and must factor in a variety of legal, financial and community factors. The U.S. Department of Justice prepared a review of police department oversight systems in a publication entitled [Citizen Review of Police: Approaches and Implementation](#). City Council may direct staff to come back with an item about the various options.

Police Chief Cox formed a citizen advisory committee in 2019, consisting of a diverse representation of our community. The purpose of the committee is to review internal police policies and provide recommendations to the Chief. In addition, Chief Cox reinstated the Citizen Police Academy in 2019, to help inform the community about how modern policing works. Lastly, Chief Cox plans to launch the Neighborhood Cop program to promote citizens and officers working together to maintain a safe community while getting to know "your" neighborhood officers on a more one to one interaction. These interactions will bring a better understanding of who the officers are and how they work to keep our community safe.

Police Funding

Another area of concern and inquiry raised by national and local community organizations is the call to review and reallocate law enforcement funding. The general issue raised is that police should not be handling certain calls for service, such as mental health and homelessness. Police officers, in their view, are not experts in handling these calls, and trained professionals in those fields are better equipped to respond. Further, they believe funding should be reallocated to other areas of need like education and social services.

The City of Morro Bay per capita staff its police department near the average when considering the number of officers per a thousand residents. At present, the City has budgeted a total of 18 sworn police officers (including front line officers, sergeants, police commander and police chief), compared to nearly 23 in 2008. In response to COVID-19 and the related financial fallout, the City is holding one police officer position vacant. Any further

reduction in staffing will significantly challenge the department to maintain minimum staffing. The tragic events that transpired in Santa Cruz (killing of a Santa Cruz County Sheriff Deputy) and Paso Robles (4 officers wounded, one critically) in the past two weeks demonstrate the very dangerous work officers are engaged in and the need to be prepared for emergency response.

In the case of the City of Morro Bay (and true for most communities), the police are typically the only agency to respond to calls for service related to mental health, drug abuse and homeless issues. That is because the responsible and funding agencies at the Federal, State and County levels have not allocated sufficient funding to otherwise respond consistently to these social services related calls. Cities are not resourced for provision of such social services.

Should individuals feel strongly about the need for other agencies to respond to these calls, staff encourage them to contact their State and County representatives to demand greater levels of funding to address these issues. City Council could also make similar requests of the County and State. In the meantime, Morro Bay PD will continue to respond to these calls for service as there is an expectation from our community that these issues shall not be ignored.

ATTACHMENTS

- 1) Resolution No. 64-20
- 2) Morro Bay Police Policy Manual ([link](#))

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RESOLUTION NO. 64-20

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AFFIRMING THAT RACISM IS A PUBLIC HEALTH CRISIS AND URGING
PUBLIC HEALTH OFFICIALS DECLARE RACISM A PUBLIC HEALTH
EMERGENCY**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the Declaration of Independence defined the United States of America as founded on the unalienable rights of life, liberty and the pursuit of happiness, as well as having a government by the consent of the People; and, the 14th Amendment to the US Constitution provides for equal protection under the law; and

WHEREAS, from slavery to Jim Crow laws to the modern criminal justice system, African Americans have been brutalized and dehumanized for centuries; and

WHEREAS, the struggles of African Americans have been highlighted most recently by alarming findings that conclude African Americans are dying from COVID-19 at a much higher rate compared to White Americans due to the effects of systemic, structural racism; and

WHEREAS, in the 21st Century, African Americans continue to live in fear of losing their lives at the hands of abusive elements of law enforcement or members of White supremacist groups; and

WHEREAS, numerous acts of racism and resulting death continue to plague our country despite many pleas for change; and

WHEREAS, recent acts of racism have sparked advocacy, activism, and protests across the country with groups such as Black Lives Matter demanding action be taken to end the social, economic, political, health and educational disparities that have manifested in numerous acts of violence and homicide against African Americans and other members of underserved communities; and

WHEREAS, in alignment with the goal of creating a safe and welcoming community, we value human rights, peace, respect, inclusivity and equity, and recognize that we derive strength from our diversity.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California as follows:

SECTION 1. The City Council hereby affirms that racism is a public health crisis.

SECTION 2. The City Council is committed to making Morro Bay a welcoming, inclusive, and Safe community for everyone. While we promote free thought and speech, we condemn racism and brutality, hate speech, bigotry, violence, and prejudice in any form.

SECTION 3. The City Council is committed to standing in solidarity with the people of Morro Bay and the Black Lives Matter movement and is dedicated to creating a community where all people can safely, freely, and fully engage in our democracy.

SECTION 4. The City Council requests that Public Health Officials declare systemic racism and its public health manifestations to be a public health emergency.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay at a special meeting thereof held on the 23rd day of June 2020 by the following vote:

AYES:

NOES:

ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk