

MAR-15-2000 09:13 SMC COUNTY COUNSEL P.02

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March 16, 2000

April Vargas
MidCoast Community Council
P.O. Box 64
Moss Beach, CA 94038-0064

Dear Ms. Vargas:

Thank you for your e-mail and I am happy to provide information on the bylaws by March 20 for your March 22 meeting. The following is a list of items in the current bylaws that require amendment due to their conflict with existing law. As we also discussed, there are other further items that the Council may wish to address and I am happy to consult with you on those as well, and provide language should you so desire.

1. On pages 5-6, selection of a replacement in the event of a vacancy on the Council is governed by state law and this provision should be omitted.
2. With reference to section 1.02(3), the purposes include preservation of the rural small-town character of the area. The purposes of the Council must be within the state law permitting the Council and the Board's resolution. Section 1.02 should be examined in general in this regard, but I want to note that section 1.02(3) in particular states a specific substantive position on a submit matter that goes beyond the resolution. In fact, I would presume that the Council could, at least theoretically, change its position on this issue, and the bylaws shouldn't limit the Council in its ability to take positions on substantive issues.
3. Section 2.01(b) & (c) deal with campaign conduct and financing and is a matter governed by state election code and is not appropriate for the bylaws.
4. As we discussed in our meeting, the references in section 1.04 concerning consensus is confusing and leaves unclear what its purpose is. An elected body acts by majority vote and any implication that the Council cannot act unless there

is a consensus leaves open what the authority of Council is. An examination should be taken as to the purpose of the language of this entire section, and if a council member (or anyone) cannot determine what should happen as a result of the language, it definitely needs to be clarified or omitted.

5. The Brown Act governs the public notice of the Council's business. This language is broader than the Brown Act and mandates inspection of even otherwise protected documents, such as attorney client documents. The Board resolution states the Brown Act applies. I would recommend your deleting this provision and leave the Brown Act provisions as the applicable law.
6. The provisions on vacancies should be deleted since this matter is governed by the Board's resolution and state law.
7. The term limitation in section 2.06 should be omitted, since the Board's resolution specifies that Council elections are governed by state election law.
8. Section 3.01(a) which refers to meetings outside the area should be deleted, since the Brown Act does not permit meetings outside the area.

I look forward to working with you further.

Very truly yours,

THOMAS F. CASEY III, COUNTY COUNSEL

By _____
Christine E. Motley, Chief Deputy

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