

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Maureen Benson, City Clerk *mb*  
Prepared by: Blanca Garza, Deputy City Clerk *BG*

**DATE:** March 25, 2013 (CC Meeting of 4/03/2013)

**SUBJECT:** Consider Resolution Authorizing the Destruction of Certain City Records on File in the Administrative Services Department

**BACKGROUND**

Staff is requesting authorization to destroy Calendars, Certificate and Proclamation Records and Related Correspondence, Monthly Reports to the City Manager, Management Meeting Agendas and Attachments, and Telephone Message Pads on file in the Administrative Services Department.

The approved City of Moorpark Records Retention Schedule (MRRS) notes Departmental Reports, and Telephone Message Pads and has their applicable retention period in accordance with Government Code Section 34090, but it does not specifically provide a retention period for Calendars, Certificate and Proclamation Records and Related Correspondence, and Management Meeting Agendas and Attachments. The *California Local Government Records Management Guidelines (CLGRMG)*, prepared by the California Secretary of State and dated February 2006, recommends a retention period of current plus 2 years for City Calendars; a retention period of superseded plus 2 years for Policy Proclamations; a retention period of 2 years for Policy, Procedure, and/or Organization Meeting Agendas; and a retention period of current plus 2 years for Departmental Reports. The *CLGRMG* does not specifically provide a retention period for Telephone Message Pads. Further, City Proclamations are not the sort of policy proclamations that are superseded by subsequent proclamations, thus staff has determined that the *CLGRMG* guidance on Policy Proclamations is inapplicable to City Proclamations and is recommending a retention period of current plus 2 years for Certificates of Recognition, Certificates of Commendation and Proclamation Records and Related Correspondence.

When determining a retention period for a record series that has not been previously scheduled for retention, the City considers a number of factors, including whether the records may be useful in certain types of litigation and will retain the records for the applicable statute of limitations period set forth in the California Code of Civil Procedure.

Additionally, the City will review federal law and regulations to determine whether those laws or regulations impact the length of time a record should be retained. In this case, neither the California Code of Civil Procedure nor the Code of Federal Regulations provide applicable guidance for retention of the proposed records.

Government Code Section 34090, et. seq., authorizes the head of a city department to destroy any city record, document instrument, book or paper, under his/her charge, without making a copy thereof, after the same is no longer required after the minimum retention period of two years has been met, with the approval of the legislative body by resolution and the written consent of the City Attorney unless the record falls into certain categories specified in Section 34090. In this case the records do not fall into those certain categories, as the records do not affect title to real property or liens thereon, are not court records or matters of pending or threatened litigation, are not minutes, ordinances or resolutions of the City Council or any board or commission of the City; and are not records required to be kept by statute. Additionally, these records are not agreement, development project and/or capital project files.

### **DISCUSSION**

All records proposed for destruction meet the proposed retention periods, and the applicable retention periods are included for reference. The Deputy City Manager, City Clerk, and City Attorney's written consent is included with the attached draft resolution. The destruction of the listed records is consistent with the California Government Code, the *CLGRMG*, and the approved MRRS. Neither the California Code of Civil Procedure nor the Code of Federal Regulations affect the record retention period for the listed records.

### **FISCAL IMPACT**

The destruction of the specified records noted in the attached draft resolution will not create an expense and will eliminate the cost to store records which have met their retention.

### **STAFF RECOMMENDATION**

Adopt Resolution No. 2013-\_\_\_\_.

Attachment: Draft Resolution

RESOLUTION NO. 2013-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF CERTAIN CITY RECORDS (CALENDARS, CERTIFICATE AND PROCLAMATION RECORDS AND RELATED CORRESPONDENCE, MANAGEMENT MEETING AGENDAS AND ATTACHMENTS, MONTHLY DEPARTMENTAL REPORTS TO CITY MANAGER, AND TELEPHONE MESSAGE PADS) ON FILE IN THE ADMINISTRATIVE SERVICES DEPARTMENT

WHEREAS, Government Code Section 34090 authorizes the head of a City department to destroy City records with the approval of the legislative body by resolution and the written consent of the city attorney after the records are no longer required, unless another law imposes a different process; and

WHEREAS, Government Code Section 34090 does not authorize the destruction of: (a) Records affecting the title to real property or liens thereon; (b) Court records; (c) Records required to be kept by statute; (d) Records less than two years old; (e) The minutes, ordinances, or resolutions of the legislative body or of a city board or commission; and

WHEREAS, the approved City of Moorpark Records Retention Schedule sets forth the applicable retention period in accordance with Government Code Section 34090 for Departmental Reports and Telephone Message Pads; and

WHEREAS, the approved City of Moorpark Records Retention Schedule does not specifically provide the retention period for the following record series: Calendars, Certificate and Proclamation Records and Related Correspondence, and Management Meeting Agendas; and

WHEREAS, the *California Local Government Records Management Guidelines* (CLGRMG) recommend certain retention periods for City Calendars; Policy, Procedure, and/or Organization Meeting Agendas; and Departmental Reports, and City staff is recommending retention periods consistent with CLGRMG guidance; and

WHEREAS, neither the California Code of Civil Procedure nor the Code of Federal Regulations affect the record retention period for the listed record series.

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

SECTION 1. The City Council finds that the records set forth in Exhibit "A", attached hereto, are older than the applicable retention period required by State law (Government Code Section 34090), older than the applicable retention period recommended by the *California Local Government Records Management Guidelines*, and to the extent included in the City of Moorpark's adopted Retention Schedule, are older than

the applicable retention period for their record series, and are not currently subject to a legal hold.

SECTION 2. "Legal Hold", as used herein, refers to the duty of the City to preserve and not destroy any records that are potentially relevant to any of the following in which the City may be involved: a reasonably anticipated claim or litigation; an ongoing claim or litigation; a pending employee grievance; a pending regulatory or governmental investigation; a pending subpoena; a pending Public Records Act request, a pending audit, or similar legal matter. Any records subject to a Legal Hold must be preserved in all forms in which the record exists, including both paper and electronic formats.

SECTION 3. The City Council further finds that records do not affect title to real property or liens thereon, are not court records, are not minutes, ordinances or resolutions of the City Council or any board or commission of the City; and are not records required to be kept by statute.

SECTION 4. The City Council also finds that the City Attorney and the City Clerk have given written consent to the destruction of said records, as shown on Exhibit "A".

SECTION 5. The City Council hereby approves the destruction of, and authorizes the City Clerk to destroy, the City Records listed in Exhibit "A".

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 3rd day of April, 2013.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk

Attachment: Exhibit "A"

**EXHIBIT "A"  
RECORDS DESTRUCTION CONSENT**

**Citations Sources:**

Code of Federal Regulations: None Applicable  
 California Code of Civil Procedure: None Applicable  
 California Government (GC) Code, Section 34090, et. seq.  
 California Local Government Records Management Guidelines (CLGRMG)  
 City of Moorpark Records Retention Schedule (MRRS)

DESCRIPTION	DATES OF RECORDS	RETENTION REQUIREMENT (YEARS)	CITATION (For longest retention period)
Calendars, Large Conference Room	2009 – 2010	Current + 2 Years	CLGRMG
Calendars, Small Conference Room	2009 – 2010	Current + 2 Years	CLGRMG
Correspondence Related to Certificates and Proclamations, paper and electronic files (Requested of City/Issued by City)	2009 – 2010	Current + 2 Years	GC § 34090
Electronic files for: Certificates of Recognition; Certificates of Commendation and Proclamations (Issued by City)	2009 – 2010	Current + 2 Years	GC § 34090
Management Meeting Agendas and Attachments	2008 – 2010	Current + 2 Years	CLGRMG
Reports to City Manager ( Monthly by Departments)	2008 – 2010	Current + 2 Years	CLGRMG
Telephone Message Pads, City Clerk's Division and City Manager	2009 – 2010	Current + 2 Years	MRRS

Consent to Destruction:

\_\_\_\_\_  
Maureen Benson, City Clerk

**Department Head Authorization:** I certify that the records on the above list are no longer required, are eligible for destruction, and do not have to be retained based upon any record retention requirements imposed by any statute or law, or pursuant to a grant received by the City or a bond issued by the City, and are not related to or potentially relevant to any of the following in which the City may be involved: a reasonably anticipated claim or litigation, an ongoing claim or litigation, a pending employee grievance, a pending regulatory or governmental investigation, a pending subpoena, a pending Public Records Act request, a pending audit, or similar legal matter. I recommend that said records be destroyed.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: Deborah S. Traffenstedt

Title: Deputy City Manager

City Attorney Authorization: I do hereby certify that I am the City Attorney for the City of Moorpark, I have reviewed the above list of records and based upon the representations made herein by the department head, agree that the above-mentioned records are not records required to be kept by statute or law, provided destruction thereof has been approved by the City Council. My review has been limited to the descriptions contained on the list and did not involve review of the actual records. Based on the foregoing, I consent to the destruction of the above-mentioned records.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: Kevin Ennis \_\_\_\_\_

Title: City Attorney \_\_\_\_\_