

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Maureen Benson, City Clerk *mb*

DATE: November 3, 2014 (CC Meeting of 12/17/2014)

SUBJECT: Consider Resolution Authorizing the Destruction of City Records for Legal/Legislative and Election Newspaper Advertising on File in the Administrative Services Department

BACKGROUND

Staff is requesting authorization to destroy certain legal/legislative newspaper advertising for the years 1984 through 2008 and election advertising for the years 1989 through 2009, on file in the Administrative Services Department.

The City previously considered a retention period for legal/legislative advertising, but not for election advertising. 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 therefore 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. Finally, the City will consider recommendations made by the California Secretary of State's Local Government Records Management Guidelines.

The California Secretary of State's Local Government Records Management Guidelines recommend retaining legal/legislative advertising from current year plus four (4) years; and references the following citations as the retention requirement for the records proposed for destruction in Exhibit A: Code of Civil Procedures Sections 343, and 349 et seq; Government Code Sections 911.2 and 34090.

The California Secretary of State's Local Government Records Management Guidelines recommend retaining election advertising including notices and publications from election plus two (2) years; and references the following citation as the retention requirement for the records proposed for destruction in Exhibit A: Government Code Section 34090.

The approved City of Moorpark Records Retention Schedule recommends retaining affidavits of postings and/or mailing, proof of publications for five (5) years. In recommending that retention period, staff considered the following laws: California Code of Civil Procedure Sections 343, 349 et seq., 1094.5 and 1094.6; Government Code Sections 911.2, 911.4, 34090, and 65009; and Public Resources Code Section 21167.

The approved City of Moorpark Records Retention Schedule does not make a recommendation related to election advertising including notices and publications. For that reason, staff recommends following the California Secretary of State's Local Government Records Management Guidelines, which sets retention for those records at election plus two (2) years.

DISCUSSION

The records proposed for destruction are listed on Exhibit A to the attached resolution, all such records meet or exceed required retention periods, and the applicable retention periods are included for reference. The records recommended for destruction are Legal/Legislative Newspaper Advertising including: 1) Certain listed Affidavits of Posting and/or Mailing, Proof of Publications, Public Notices, and Copies of Newspaper Notices; and 2) Election Newspaper Advertising with affidavit of posting including: Appointment of Precinct Offices and Polling Places, Ballot Arguments and Amended Notices of Ballot Arguments, Election and Central Counting Place, Intent to Circulate Petition, Nominees for Public Office, Notices of Polling Places and Precinct Board Members, Notices for Special Election and Central Counting Place, and Notice of Resolutions Calling for Special Election. Destruction of the records listed in Exhibit A has been approved and consented to by the City Attorney, Deputy City Manager, and City Clerk.

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. 2014- ____.

Attachment: Draft Resolution

RESOLUTION NO. 2014-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF CERTAIN RECORDS (LEGAL/LEGISLATIVE ADVERTISING FOR THE YEARS 1984 THROUGH 2008 AND ELECTION ADVERTISING FOR THE YEARS 1989 THROUGH 2009) 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 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 California Local Government Records Management Guidelines recommend retaining the legal/legislative advertising from current year plus four (4) years and references the following citations as the retention requirement for the records proposed for destruction in Exhibit A: Code of Civil Procedures Sections 343 and 349 et seq; and Government Code Sections 911.2 and 34090; and

WHEREAS, the California Local Government Records Management Guidelines recommend retaining election advertising including notices and publications from the date of the election plus two (2) years and references the following citations as the retention requirement for the records proposed for destruction in Exhibit A: Government Code Section 34090; and

WHEREAS, the approved City of Moorpark Records Retention Schedule recommends retaining proof of publication of public notices for five (5) years; and

WHEREAS, the approved City of Moorpark Records Retention Schedule does not make a recommendation on the retention of election advertising including notices and publications; and

WHEREAS, federal laws does not 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 periods required by State law

(Government Code Section 34090), are older than the applicable retention period recommended by the California Local Government Records Management Guidelines,; and are not currently subject to a legal hold. Further, the City Council finds that the proof of publication of public notice records are older than the retention period recommended by the City of Moorpark Records Retention Schedule; and that the election advertising records are not listed on the approved City of Moorpark Records Retention Schedule.

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; and 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 the 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, Deputy City Manager, 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 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 December, 2014.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Attachment: Exhibit "A"

EXHIBIT "A"
CONSENT FOR RECORDS DESTRUCTION

Code of Federal Regulations: (None applicable)

California Code of Civil Procedure 337 et seq., 343, 349, 349.4 et seq., 1094.5 and 1094.6; California Government Code Section 911.2, 911.4, 34090, and 65009; and Public Resources Code Section 21167

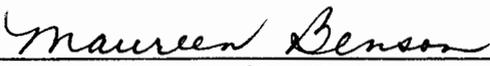
California Local Government Records Management Guidelines (CLGRMG)

City of Moorpark Records Retention Schedule (MRRS)

DESCRIPTION	DATE OF RECORDS TO BE DESTROYED	RETENTION REQUIREMENT (YEARS)	CITATION (For longest retention period)
<p>LEGAL/LEGISLATIVE ADVERTISING including:</p> <p>1) Newspaper Ads with Affidavit of Posting and/or Affidavit of Mailing- Public Notices for: Adoption of Housing Replacement Plan Announcements for Public Inspection of Flood Insurance Rate Maps Availability for Review of Draft EIR Award of Contracts Canceled Meeting City Council Committee/Commission Recruitments Intent to Adopt Mitigated Declarations/Negative Declarations Invitation for Bids/Sealed Bids/Bid Auctions/Combined Bid Projects and Addendums Legal Description of Right-of Way Relinquishments Public Hearings/Continued Public Hearings/Meetings/ Special Meetings/Town Hall Meetings/ Workshops Public Meetings (PAC in both English and Spanish) Review Period for Negative Declarations</p> <p>2) Newspaper Ads with Affidavit of Posting for Annual Report of Financial Transactions</p> <p>3) Newspaper Ads with Affidavit of Posting for Consolidated Statement of Assets, Liabilities and Fund Balances/Working Capital</p>	<p>March 01, 1984</p> <p>through</p> <p>December 31,2008</p>	<p>5 Years</p>	<p>MRRS</p>

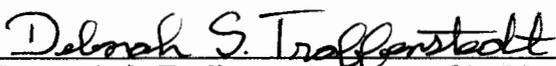
DESCRIPTION	DATES OF RECORDS TO BE DESTROYED	RETENTION REQUIREMENT (YEARS)	CITATION (For longest retention period)
<p>LEGAL/LEGISLATIVE ADVERTISING including (continued)</p> <p>5) Newspaper Ads with Affidavit of Posting for Housing Rehabilitation Loan Program Notice of Contractor Solicitation</p> <p>6) Newspaper Ads with Affidavit of Posting for Proposals Seeking Auditing Services</p> <p>7) Newspaper Ads with Affidavit of Posting for Requests for General Contractor Pre-Qualifications</p> <p>8) Newspaper Ads with Affidavit of Posting for Requests for Proposal</p> <p>9) Newspaper Ads with Affidavit of Posting for Requests for Qualifications</p>	<p>March 29, 1984</p> <p>through</p> <p>December 31, 2008</p>	<p>5 Years</p>	<p>MRRS</p>
DESCRIPTION	DATES OF RECORDS TO BE DESTROYED	RETENTION REQUIREMENT (YEARS)	CITATION (For longest retention period)
<p>ELECTION ADVERTISING including:</p> <p>1) Newspaper Ads with Affidavit of Posting for: Appointment of Precinct Offices and Polling Places Ballot Arguments and Amended Notices of Ballot Arguments Election and Central Counting Place Intent to Circulate Petition Nominees for Public Office Polling Places and Precinct Board Members (No. Park in both English and Spanish) Special Election and Central Counting Place (No. Park in both English and Spanish) Resolutions Calling for Special Election</p>	<p>October 1, 1989</p> <p>through</p> <p>December 31, 2009</p>	<p>Election + 2 years</p>	<p>CLGRMG; GC 34090</p>

Consent to Destruction:



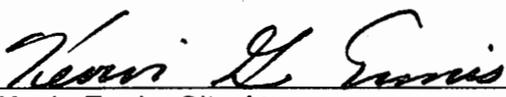
Maureen Benson, City Clerk

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.



Deborah S. Traffenstedt, 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.



Kevin Ennis, City Attorney