

**Town of Monterey
Policy Statement**

Policy Name: Contacting Town Counsel	Approval Authority:	Select Board
Adopted: 7/20/22	Applies to: Revised:	All Departments Reviewed: --

Whereas, the Town of Monterey through its Select Board directs and supervises the use of Town Counsel;

Whereas, the Select Board intends to identify appropriate use of Town Counsel’s time with an appropriate protocol;

The Select Board hereby adopts the following policy:

1. **Unauthorized contact of Town Counsel.** Town Counsel (hereinafter “Counsel”) will respond ONLY to the designated Liaison to Counsel, or those with prior authorization as established by the procedure outlined below.
2. **Counsel Liaison.** The Chair of the Select Board shall act as the Liaison to Counsel (hereinafter “Liaison”). In cases where the Chair is not the primary correspondent with Counsel, the Chair shall be copied on ALL written correspondence to and from Counsel.
3. **Alternate Counsel Liaison.** If the Chair of the Select Board must recuse themselves on a matter or fails to respond within 24 hours to a confidential or time sensitive request, the otherwise most senior member of the Select Board (the member whose term will expire earliest) shall act as Liaison for that matter. If the Liaison denies a confidential or time sensitive request, the requestor shall have the ability to make an appeal to the whole Select Board.
4. **Standard process for requests to contact Counsel.** Department heads and chairs of multimember bodies (boards, committees, commissions, councils, etc.) may request authorization to contact Counsel by completing the “Request to Use Legal Counsel” form. Unless a matter is time sensitive or confidential, a majority of a Town multimember body shall approve the question in open session prior to asking for permission to contact Counsel. Only department heads and chairs of multimember bodies may request to contact Counsel. The Select Board shall consider the completed form at its next regular meeting, unless the completed form indicates that the request is time sensitive or confidential.
5. **Time sensitive matters.** For time sensitive matters (when it would not be timely or practicable to convene the full multimember body), the chair of a multimember body may independently complete the “Request to Use Legal Counsel” form. Likewise, for time sensitive matters, the Liaison shall be authorized to approve access to Counsel. If the Liaison authorizes such action, they shall notify the Select Board of the same at its next meeting.
6. **Confidential matters.** For matters that would require the advice of Counsel to be requested and/or provided in confidence, the Liaison shall be authorized to approve access to Counsel. If the Liaison authorizes such action, they shall notify the Select Board at its next meeting. The Liaison shall maintain the confidentiality of confidential requests to contact Counsel. If the question was asked in confidence and would be subject to the attorney-client privilege, the Liaison shall simply inform the Board that a confidential request to contact Counsel was approved. Confidential legal advice sought or received by Town government bodies or officials should only be discussed in open session if absolutely necessary, understanding that such action will likely void the protections of the attorney-client privilege. Likewise, the Select Board or any government body authorized to seek advice from Town Counsel may only meet in executive session to discuss such matters as permitted by the Open Meeting Law and in strict compliance therewith.
7. **Additional contact beyond initial request.** To the extent that a Town government body or official requires additional contact with or advice of Counsel in connection with an approved matter or a matter incidental and related thereto, no further Select Board approval shall be required. Nevertheless, the Liaison shall be notified of any additional contact with Counsel and shall be copied on any written correspondence to or from Counsel.

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8. **Use of special counsel.** Only the Select Board may authorize use of special counsel.

REQUEST TO USE LEGAL COUNSEL – FORM

Prior to completing this form, please check this box to confirm that you are familiar with the Town’s policy for Contacting Town Counsel: <input type="checkbox"/>
Name:
Department/multimember group:
If multimember group, was this request approved by group at a meeting?
Date submitted:
Requesting contact with: <input type="checkbox"/> Town Counsel <input type="checkbox"/> Special Counsel
Form of questions: <input type="checkbox"/> Written questions via email <input type="checkbox"/> Phone conversation <input type="checkbox"/> Other:
Description of legal services needed/issue faced (attach written questions if applicable and/or explanatory documentation):
Is this matter time sensitive? If so, please explain:
Is this matter confidential/subject to attorney-client privilege? If so, please explain:

REQUEST: Approved Denied

_____ Date Select Board, Chair

_____ Date Select Board

_____ Date Select Board

For use by Select Board Chair (or alternate Counsel Liaison) if request is reviewed by less than a majority of the Select Board. I deem this matter to be: Time sensitive Confidential