

City of Capitola Agenda

Mayor: Michael Termini
Vice Mayor: Stephanie Harlan
Council Members: Kirby Nicol
Dennis Norton
Sam Storey
Treasurer Jacques Bertrand



CAPITOLA CITY COUNCIL REGULAR MEETING OCTOBER 11, 2012 - 7:00 PM

CLOSED SESSION – 6:00 PM CITY MANAGER’S OFFICE

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant Exposure to litigation pursuant to subdivision (b) of Govt. Code §549569.9

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch pipe failure);
2. Santa Cruz County regarding the Noble Gulch pipe failure;
3. Pacific Cove Mobile Home Park closure.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR Govt. Code § 54956.8

Property: City of Capitola Gym, 250 Washburn Avenue, Capitola; APN 036-101-37; (City of Capitola, Owner)
City Negotiator: City Manager
Negotiating Parties: City of Capitola and the Soquel Union Elementary School District
Under Negotiation: Real Property Lease/Sale

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Govt. Code §54956.9)**

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba; The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 173642];
6. American Alternative Insurance Corporation; Central Fire Protection District of Santa Cruz County vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173926];
7. California Capital Insurance Company [Superior Court of the State of California for the County of Santa Cruz, Case #CV173552].

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL – 7:00 PM

1. **ROLL CALL AND PLEDGE OF ALLEGIANCE**
Council Members Stephanie Harlan, Dennis Norton, Kirby Nicol, Sam Storey, and Mayor Michael Termini
2. **PRESENTATIONS**
 - A. Proclamation celebrating the Community Foundation Santa Cruz County 30th anniversary
3. **REPORT ON CLOSED SESSION**
4. **ADDITIONS AND DELETIONS TO AGENDA**

5. PUBLIC COMMENTS

Oral Communications allows time for members of the Public to address the City Council on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.

6. COUNCIL/STAFF ANNOUNCEMENTS**7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS**

ALL MATTERS LISTED ON THE REGULAR MEETING OF THE CAPITOLA CITY COUNCIL AGENDA SHALL BE CONSIDERED AS PUBLIC HEARINGS.

8. CONSENT CALENDAR

All items listed in the "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government.

Note that all Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and further reading waived.

- A. Consideration of approving the City Council Minutes of the Regular Meeting of July 12, 2012.
RECOMMENDED ACTION:
 Approve Minutes.
- B. Approve a request from the Capitola Soquel Chamber of Commerce to offer free village parking and to increase the parking limit from 2 hours to 3 hours in Capitola Village from November 22, 2012 through December 25, 2012.
RECOMMENDED ACTION:
 Approve request.
- C. Declare all City owned mobilehome coaches in the former Pacific Cove Mobile Home Park as surplus property; allow for the disposal of the coaches; and authorize the City Manager to sell or dispose of the coaches in conformance with the City's Surplus Property Administrative Policy.
RECOMMENDED ACTION:
 Declare the coaches as surplus property and authorize the City Manager to sell or dispose.

- D. Receive Planning Commission Action Minutes for the Regular Meeting of October 4, 2012.

RECOMMENDED ACTION:

Receive Minutes.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

General Government items are intended to provide an opportunity for public discussion of each item listed. The following procedure is followed for each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.

- A. Conceptual review to amend Section 16.68 of the Capitola Municipal Code pertaining to Condominium and Community Apartment Conversions.

RECOMMENDED ACTION:

Discuss and provide direction.

- B. Consideration of approving a sole source contract with Bowman & Williams Consulting Civil Engineers for consulting services related to the Pacific Cove parking lot design in the amount not to exceed \$62,468.30, and authorize the City Manager to execute the agreement.

RECOMMENDED ACTION:

Approve contract.

- C. Consideration of a Resolution rescinding Resolution No. 3726 and adopting a revised Conflict of Interest Code for the City of Capitola to become effective January 1, 2013.

RECOMMENDED ACTION:

Adopt Resolution.

10. COUNCIL/STAFF COMMUNICATIONS

- A. Staff Comments

- B. City Council/Treasurer Comments/Committee Reports

City Council Members /City Treasurer may comment on matters of a general nature or identify issues for staff response or future council consideration. Council Members/Committee Representatives may present oral updates from standing committees at this time.

11. ADDITIONAL MATERIALS

Additional Information submitted to the City Council after distribution of the agenda packet.

12. ADJOURNMENT

Adjourn to the next Public Forum of the City Council on Thursday, October 25, 2012 at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Note: Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes “final.” Please be advised that in most instances the decision become “final” upon the City Council’s announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

Notice regarding City Council: The Capitola City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The City Council Agenda and the complete agenda packet are available on the Internet at the City’s website: www.ci.capitola.ca.us. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola.

Agenda Document Review: The complete agenda packet is available at City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the City Clerk’s office at 831-475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk’s office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: City Council meetings are cablecast “Live” on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed “Live” on the City’s website at www.ci.capitola.ca.us by clicking on the Home Page link “**View Capitola Meeting Live On-Line.**” Archived meetings can be viewed from the website at anytime.

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City of Capitola Mayor's Proclamation

Community Foundation Santa Cruz County 30th Anniversary

WHEREAS, in winter 1982 Santa Cruz County experienced devastating storms leaving much devastation and need in the community to recover from the results of the storm; and

WHEREAS, a group of community leaders committed to the future well-being of the County's residents came together to create a nonprofit organization which would collect and disburse funds to help during natural disasters and provide resources to the needy not only during times of natural disasters but also to making Santa Cruz County a better place to live; and

WHEREAS, the mission of Community Foundation Santa Cruz County is to promote philanthropy in order to make all of Santa Cruz County a better place to live now and in the future; and

WHEREAS, the founding board of directors was counseled that a county the size of Santa Cruz County could never support the level of local giving necessary to grow a community foundation; and

WHEREAS, through the generosity of local residents the Community Foundation has grown its assets to \$50 million managing over 300 donor funds; and

WHEREAS, from 1982 through 2011 the Community Foundation distributed \$56.7 million in grants, scholarships and fund holder awards to nonprofits, including community groups within the City's jurisdiction; and

WHEREAS, The Community Foundation is led by a local board of directors, whose membership represents, knows and cares about the City of Capitola; and

WHEREAS, The Community Foundation continues to provides local residents with charitable giving options to help them support the causes they care about; and

WHEREAS, 2012 marks the 30th Anniversary of the founding of Community Foundation Santa Cruz County and is deserving of public recognition;

NOW, THEREFORE, BE IT RESOLVED by the members of the CITY COUNCIL OF THE CITY OF CAPITOLA that Community Foundation Santa Cruz County is commended and applauded for its 30 years of service to the people of the City of Capitola and all of Santa Cruz County and conveys sincere thanks and unqualified support for its continued growth and success.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Capitola this 11th day of October, in two thousand twelve.

Michael Termini, Mayor
Signed and sealed this 11th day of October 2012

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CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 11, 2012

FROM: OFFICE OF THE CITY CLERK

SUBJECT: APPROVAL OF THE CITY COUNCIL MEETING MINUTES OF JULY 12, 2012

RECOMMENDED ACTION: Approve the subject minutes as submitted.

DISCUSSION: Attached for City Council review and approval are the minutes to the subject meeting.

ATTACHMENTS

1. July 12, 2012 Regular City Council Minutes

Report Prepared By: Susan Sneddon, CMC
City Clerk

**Reviewed and Forwarded
By City Manager:**

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NOT OFFICIAL UNTIL APPROVED BY COUNCIL

**CITY OF CAPITOLA
CITY COUNCIL**

July 12, 2012
Capitola, California

**MINUTES OF A REGULAR MEETING
5:30 P.M. – CLOSED SESSION – CITY MANAGER’S OFFICE**

CALL TO ORDER

Mayor Termini called the meeting to order at 5:30 p.m. Council Members present: Council Member Harlan, Council Member Nicol, Council Member Norton, Council Member Storey, and Mayor Termini. Mayor Termini made an announcement regarding the items to be discussed in Closed Session, as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of GC §54956.9: Five cases:

1. California State Department of Finance regarding Redevelopment Agency.
2. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
3. Pacific Cove Mobile Home Park Pipe Failure and Closure;
4. Consideration of lawsuit against the Department of Finance – Disputed Recognized Obligations of the Successor Agency;
5. Threatened Litigation. Save the Plastic Bag Coalition v. City of Capitola.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9)

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba; The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 173642];
6. American Alternative Insurance Corporation; Central Fire Protection District of Santa Cruz County vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173926].

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

1. Negotiator: Jamie Goldstein, City Manager
2. Employee Organizations: Capitola Police Officers Association.

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Brad and Cathy Sutton
Agency claimed against: City of Capitola

Mayor Termini noted that there was no one in the audience; therefore, the City Council recessed at 5:30 p.m. to the Closed Session in the City Manager’s Office.

7:00 P.M. – OPEN SESSION

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL

CALL TO ORDER

Mayor Termini called the Regular Meeting of the Capitola City Council to order at 7:00 p.m. on Thursday, July 12, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

1. **ROLL CALL AND PLEDGE OF ALLEGIANCE:**

PRESENT: Council Members Stephanie Harlan, Council Member Dennis Norton, Kirby Nicol, Sam Storey, and Mayor Michael Termini

ABSENT: None

OTHERS: City Treasurer Jacques Bertrand

STAFF: City Manager Jamie Goldstein, City Attorney John Barisone, Public Works Director Steve Jesberg, Finance Director Tori Hannah, General Plan Coordinator Susan Westman, Police Chief Escalante, and City Clerk Susan Sneddon

2. **PRESENTATIONS:**

Clay Kempf, Executive Director of Seniors Council of Santa Cruz & San Benito Counties, presenting top findings from the recent Senior Needs Assessment Report.

3. **REPORT ON CLOSED SESSION [520-25]**

City Attorney Barisone stated that items the City Council discussed in Closed Session are the items listed on the July 12, 2012, Closed Session Agenda. He stated that there were five anticipated litigation items. City Manager Goldstein provided a report regarding the California State Department of Finance about the City's Redevelopment Agency and its obligations; there was no reportable action in closed session. City Manager Goldstein provided a report on the Capitola insurance coverage claim against Lexington Insurance; that case has been removed by Lexington Insurance from the Santa Cruz County Superior Court to the Federal District Court in San Jose. The City is expecting an answer in the near term. **City Attorney Barisone** stated that City Manager Goldstein, City Attorney Barisone, and Special Counsel Vince Hurley provided a status report regarding the City's anticipated litigation issues surrounding the Pacific Cove pipe failure. Council received an update from the City Attorney and the City Manager regarding a threat of litigation from the Save the Plastic Bag Coalition versus the City of Capitola, in connection with the proposed Ordinance on tonight's City Council agenda. The Council discussed with Special Counsel Vince Hurley all the existing litigation between the City and various property owners relative to property damage sustained in the March 2011 pipe failure.

CAPITOLA CITY COUNCIL – JULY 12, 2012

3. REPORT ON CLOSED SESSION (Continued)

In connection to litigation, the Council heard about the tort claim of Brad and Cathy Sutton; no action was taken in closed session. Council received a report from Administrative Service Director Murphy and City Manager Goldstein regarding ongoing labor negotiations with the Capitola Police Officers Association; Council provided direction regarding the ongoing negotiations.

4. ADDITIONS AND DELETIONS TO AGENDA

Mayor Termini requested that Item 9.E. be discussed after Item 9.A.

Public Works Director Jesberg requested that Item No. 8.H. be continued at the July 26, 2012, City Council meeting.

ACTION: Motion by Council Member Norton, seconded by Council Member Storey, to continue Item No. 8.H. regarding the approval of a list of contractors for removal of coaches from the Pacific Cove Mobile Home Park. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

5. PUBLIC COMMENTS

Anna Marie Gotti, Capitola resident, requested that the City Council support her efforts to bring women's self defense classes to the City.

Carin Hanna, Capitola Traffic & Parking Commission, provided input regarding the proposed Pacific Cove parking area, specifically the meter revenue charge.

Sandy Erickson, Capitola resident, provided comments suggesting signage for the proposed Pacific Cove parking lot, increased signage regarding the leash requirement for dogs on the beach, and increased no smoking signage in the village.

Marilyn Garrett spoke against wireless technologies.

Jim Astrosky stated that PG&E is violating customer trust regarding SmartMeter installation.

Marge Hanson, River Terrace Neighbor, stated concerns regarding dogs off leash in her neighborhood.

Ed Bottorff, Capitola Traffic & Parking Commission, reported the Commission's input regarding the proposed Pacific Cove parking area.

5. PUBLIC COMMENTS (continued)

Nels Westman, 507 Riverview Drive, provided input regarding the proposed Pacific Cove parking area.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Harlan, stated that the Capitola Mall Farmer's Market hours are every Thursday from 3:30 p.m. to 7:00 p.m.

Council Member Storey stated concerns regarding a skateboard notice stuck to a street sign on East Cliff Drive. He requested that Police Chief Escalante report to the City Council at a future meeting on the number of citations given out violating the Skateboard Ordinance.

Council Member Nicol stated that there continues to be a problem with graffiti not being removed from the Rispin property.

7. COMMITTEE APPOINTMENTS (None provided)

8. CONSENT CALENDAR

Council Member Norton requested that Item No. 8.E. and Item No. 8.G be pulled for further discussion.

- A. Approval of the City Council Minutes of the May 23, 2012, Special Joint Study Session of the Capitola City Council and the Successor Agency to the former Redevelopment Agency.
- B. Approval of denying the liability claim of Brad and Cathy Sutton in the amount of \$59,000 and forwarding it to the City's liability insurance carrier. [Claims Binder]
- C. Receiving of Planning Commission Action Minutes for the Regular Meeting of July 5, 2012. [740-50]
- D. Approval of the Biennial review of the City of Capitola Conflict of Interest Code. [570-20]
- E. Consideration of approving an agreement with Susan Westman for the position of General Plan Coordinator; authorize the City Manager to execute the agreement. [500-10 A/C: Westman, Susan]
- F. Approval of the second amendment to the Agreement for City Attorney Services with Atchison, Barisone, Condotti & Kovacevich in the amount of \$133,560; authorize the City Manager to execute the agreement. [570-05/500-10 A/C: Atchison, Barisone, Condotti & Kovacevich]

8. CONSENT CALENDAR (Continued)

- G. Consideration of approving a contract with Carolyn Flynn for professional services related to Community Development Block Grant (CDBG) Program administration for an amount not to exceed \$24,050; authorize the City Manager to execute the contract; and implementation of the City's Community Development Grants and assistance with the General Plan Update. [500-10 A/C: Flynn, Carolyn]
- H. Consideration of approving the list of contractors for removal of coaches from the Pacific Cove Mobile Home Park *(to be continued at the July 26, 2012, City Council meeting)*.

ACTION: Motion by Council Member Harlan, seconded by Council Member Nicol, to approve the following items on the Consent Calendar: 8(A), 8(B), 8(C), 8(D), and 8(F). The motion carried unanimously on the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Consideration of an amendment to Section 17.57.040(D) of the Capitola Municipal Code pertaining to prohibited signs [1st reading]. [740-30/720-50/570-10]

General Plan Coordinator Westman provided a brief history of this item. She stated that the Capitola Village and Wharf Business Improvement Area completed a proposed sign design, and the Planning Commission recommended that the Ordinance not be amended to allow sandwich boards at their June 7, 2012, meeting. She reviewed the major changes to the draft Sidewalk Sign Ordinance since February 2012. She stated that staff recommends upholding the Planning Commission recommendation to not amend the Zoning Ordinance at this time but have this discussion take place as part of the General Plan Update and the development of a new Zoning Ordinance, and to encourage the use of projecting signs which are currently allowed.

Mayor Termini opened this item for public comment.

The following provided support for the proposed Sign Ordinance:

Carl Hyman, local business owner

Ed Bottorff, Capitola Traffic & Parking Commissioner

Gary Wetsel, Capitola Village and Wharf Business Improvement Area member

Lavigne Michael, Capitola Real Estate Broker

Carin Hanna, local business owner

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

The following stated opposition to the proposed Sign Ordinance:

Mary Healy, 2192 Francesco Circle
Sandy Erickson, 117 Cabrillo Street
Christine Gomez, business owner

Mayor Termini closed this item for public comment.

Council Member Nicol provided support for the proposed Ordinance, which would allow sandwich board signs for a one-year trial period.

Council Member Storey recommended allowing sandwich board signs for a one-year trial period. He does not support the A-frame signs.

Council Member Harlan stated that she is not in favor of the proposed Ordinance because it adds more clutter in the village.

ACTION: Motion by Council Member Norton, seconded by Council Member Nicol, to approve the introduction of an Ordinance amendment to Section 17.57.040(D) of the Capitola Municipal Code pertaining to prohibited signs. The sidewalk signs shall be spaced a minimum of 30 linear feet from all other permitted sidewalk signs; individual signs may advertise more than one business; and permits for sidewalk signs can be issued by the Community Development Director. The motion carried on the following vote: AYES: Council Members Norton, Nicol, and Storey. NOES: Council Member Harlan and Mayor Termini. ABSENT: None. ABSTAIN: None.

General Plan Coordinator Westman requested direction from the City Council regarding the illegal existing A-frame signs in the village.

There was City Council consensus to enforce the current Sign Ordinance.

Mayor Termini requested that when staff prepares the final Ordinance for the Coastal Commission to include when the confiscation of A-frame signs goes into effect. (**General Plan Coordinator Westman** agreed).

As requested by **Mayor Termini**, **Item 9.E.** is to be discussed next.

- E. Consideration of an Ordinance adding Section 8.07 (Single-use Plastic and Paper Carryout Bag Reduction) of the Capitola Municipal Code pertaining to the reduction of single-use plastic and paper carryout bags [1st reading]. [930-30]**

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Administrative Services Director Murphy provided an up-to-date summary of local jurisdiction actions regarding the reduction of single-use plastic and paper carryout bags.

Mayor Termini opened this item for public comment.

Richard Wieckowicz, Aptos resident, provided a handout to Council and stated that banning plastic bags would cause more environmental damage.

Mayor Termini closed this item for public comment.

Council Member Harlan suggested that this item be continued until a negative declaration on the subject is completed.

Council Member Storey stated the City should encourage the public to use reusable products. He suggested that staff find out if the proposed Ordinance is exempt from CEQA requirements and if it is subject to a negative declaration.

ACTION: Motion by Council Member Storey, seconded by Council Member Harlan, to complete a negative declaration and to continue this item to a future City Council meeting. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

B. Consideration of an “Argument in Favor” of a Permanent Quarter Cent Sales Tax Measure to be printed in the ballot for the November 6, 2012 Election. [560-10]

Mayor Termini introduced this item.

Council Member Nicol states that he does not agree with a sentence in the following proposed Argument in Favor of the Permanent Quarter Cent Sales Tax Measure: “During the last 5 years the City of Capitola has experienced a severe fiscal decline due to loss of revenues.” He stated that over the past 10 years the City’s revenues have gone up 17%, but the City’s payroll expenses have gone up 36%. He suggested modifications to the statement so that the public is not given the idea that the City’s fiscal discomfort is a function of the cost of living; it is really a function of the City’s payroll expense that has increased.

There was Council consensus to remove a sentence from the proposed Argument stating that the City experienced severe fiscal decline due to loss of revenue; and to remove the reference to Public Works, administrative and police staffing being reduced.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

There was Council consensus to add a sentence to the proposed Argument stating that the March 2011 floods depleted the City's emergency reserves to a dangerous level; during the last 5 years the City has experienced unprecedented fiscal challenges.

Mayor Termini opened this item for public comment.

Sandy Erickson, Capitola resident, stated why the Permanent Quarter-Cent Sales Tax Measure should not be on the November 2012 ballot.

Mayor Termini closed this item for public comment.

ACTION: Motion by Council Member Nicol, seconded by Mayor Termini, to approve Argument in Favor of a Permanent Quarter-Cent Sales Tax Measure to be printed in the ballot for the November 6, 2012, Election. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

C. Consideration of a Resolution re-designating the Santa Cruz County Regional Transportation Commission (RTC) as the Congestion Management Agency (CMA) for Santa Cruz County. [770-05]

Public Works Director Jesberg introduced this item. Staff recommendation is to draft a Resolution re-designating the Santa Cruz County Regional Transportation Commission as the Congestion Management Agency (CMA) for Santa Cruz County pursuant to California Government Code.

George Dondero, Santa Cruz County Regional Transportation Commission, stated that these funds would provide a stable source of funds to local agencies that would be dedicated to maintain roadways and improve safety for pedestrians and school children.

Mayor Termini opened this item to the public.

No public comments.

Mayor Termini closed this item to the public.

ACTION: Motion by Council Member Nicol, seconded by Council Member Storey, to adopt Resolution No. 3925 re-designating the Santa Cruz County Regional Transportation Commission (RTC) as the Congestion Management Agency (CMA) for Santa Cruz County. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

- D. **Consideration of a Resolution electing to become subject to the Uniform Construction Cost Accounting Act Procedures (alternative bidding procedures), and introducing an Ordinance amending Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing contracts [1st reading]. [100-10]**

Finance Director Hannah introduced this item. She stated that staff is recommending that Council adopt alternative bidding procedures that would allow the City to increase the purchasing thresholds with staff requesting City Council to approve items exceeding \$25,000, and the City Manager would be authorized to approve items up to \$25,000. The proposed changes to the purchasing system would involve Council earlier in the formal bid process for items above \$25,000. The request for proposal or bid documents would be provided to Council in advance so that the documents could be viewed prior to the City entering into a contract or obtaining proposals; the City Manager would be authorized to award the bid. Staff would also like Council to consider providing the City Manager with the authority to enter into contracts for single, capital equipment purchases between \$25,001 and \$50,000 to allow for expedient processing of equipment that would typically contain standard bid specifications. These items would be clearly identified in future budget documents for transparency purposes and controlled at the line item level. If there were any changes to the item description or the budgeted amount, Council approval would be required.

Mayor Termini opened this item for public comment.

No public comment

Mayor Termini closed this item for public comment.

ACTION: Motion by Council Member Nicol, seconded by Council Member Harlan, to adopt Resolution No. 3926 electing to become subject to the Uniform Construction Cost Accounting Act Procedures (alternative bidding procedures, and approval of the first reading of an Ordinance amending Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing contracts. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

CITY COUNCIL TOOK SEPARATE ACTION ON CONSENT CALENDAR ITEM NO. 8.E. AND ITEM NO. 8.G.

- E. Consideration of approving an agreement with Susan Westman for the position of General Plan Coordinator; authorize the City Manager to execute the agreement. [500-10 A/C: Westman, Susan]

City Manager Goldstein introduced this item.

Council Member Norton suggested changing the work priorities for Susan Westman and Carolyn Flynn to focus more time on updating the City's zoning Ordinance.

General Plan Coordinator Westman responded that both the zoning ordinance revision and the City's General Plan update need to be completed in tandem because they are on parallel tracks; the estimated completion is Fall of 2013.

Council Member Nicol asked for clarification about the status of the interim Community Development Director position.

General Plan Coordinator Westman responded that only her title has changed, and her work will remain the same. She stated that under the new Cal PERS law she can only hold an interim position one-time per year.

City Manager Goldstein stated that staff is searching for funding for Carolyn Flynn's continued work for the City.

ACTION: Motion by Council Member Norton, seconded by Council Member Harlan, to approve an agreement with Susan Westman for the position of General Plan Coordinator; authorize the City Manager to execute the agreement. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- G. Consideration of approving a contract with Carolyn Flynn for professional services related to Community Development Block Grant (CDBG) Program administration for an amount not to exceed \$24,050; authorize the City Manager to execute the contract; and implement the City's Community Development Grants and assistance with the General Plan Update. [500-10 A/C: Flynn, Carolyn]

CITY COUNCIL TOOK SEPARATE ACTION ON CONSENT CALENDAR ITEM NO. 8.E.
AND ITEM NO. 8.G. (Continued)

ACTION: Motion by Council Member Norton, seconded by Council Member Harlan, to approve a contract with Carolyn Flynn for professional services related to Community Development Block Grant (CDBG) Program administration for an amount not to exceed \$24,050; authorize the City Manager to execute the contract; and implement the City's Community Development Grants and assistance with the General Plan Update. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

10. COUNCIL/STAFF COMMUNICATIONS

Police Chief Escalante reported on Police citations issued in 2011 and to-date in 2012.

Council Member Norton requested that City Attorney Barisone and the General Plan Coordinator review the current Inclusionary Housing Ordinance regarding its legality, specifically single-family residences and the required fees.

Mayor Termini requested that the Pacific Cove contractors eliminate all work done on Saturdays.

11. ADJOURNMENT

Mayor Termini adjourned at 10:50 p.m. to the next Regular Meeting of the City Council to be held on Thursday, July 26, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 11, 2012

FROM: POLICE DEPARTMENT

SUBJECT: REQUEST FROM THE CAPITOLA SOQUEL CHAMBER OF COMMERCE TO OFFER FREE VILLAGE PARKING AND TO INCREASE THE PARKING LIMIT FROM TWO HOURS TO THREE HOURS IN CAPITOLA VILLAGE FROM NOVEMBER 22, 2012 THROUGH DECEMBER 25, 2012.

RECOMMENDED ACTION: Approve request from the Capitola Soquel Chamber of Commerce to offer free village parking and to increase the parking limit from two hours to three hours in Capitola Village from November 22, 2012 through December 25, 2012.

BACKGROUND: The Capitola Soquel Chamber of Commerce has submitted their annual request to the City Council to offer free parking in the Village and to increase the parking time limit from two to three hours during the holiday season. The City Council has been authorizing this program since 2001, with the exception of 2003.

DISCUSSION: The purpose of the parking meters has always been to encourage parking rotation for the Village business community. Although the late fall through early winter is not as filled with tourists as the early spring through early fall season, the need for the parking meters still prevails.

The Capitola Soquel Chamber of Commerce has submitted a letter requesting that the Council authorize suspending parking meter and pay station operation to allow free parking in the Village from Thursday, November 22, 2012 through Tuesday, December 25, 2012, in order to encourage holiday shopping. The Chamber is also requesting that the two-hour parking limit be increased to three hours.

FISCAL IMPACT: It is estimated that last year's suspension of the parking meters and pay stations cost the City \$10,000. The FY12/13 takes into account suspending parking meter and pay station enforcement. Therefore, there is no budget impact.

ATTACHMENTS:

1. Letter dated September 20, 2012 from the Capitola Soquel Chamber of Commerce
2. Letter dated October 3, 2012 for the Capitola Soquel Chamber of Commerce

Report Prepared By: Denice Pearson
Administrative/Records Analyst

Reviewed and Forwarded
By City Manager: 

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capitola soquel
CHAMBER of COMMERCE

716-G Capitola Avenue
Capitola, CA 95010
Phone: (831) 475-6522
Fax: (831) 475-6530

September 20, 2012

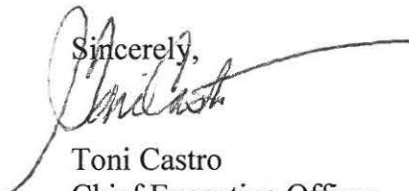
Capitola Police Dept.
Captain Tom Held
422 Capitola Avenue
Capitola, Ca. 95010

Dear Tom:

The Capitola Soquel Chamber of Commerce would like to request that free parking be offered to the Public in the Village for the Christmas Holiday Season. The dates would be November 22, 2012 thru December 25th, 2012.

Free Parking during the Holiday Season encourages Christmas Shopping in the Village.

Thank you for considering our request.

Sincerely,

Toni Castro
Chief Executive Officer

RECEIVED

SEP 24 2012

CAPITOLA POLICE DEPARTMENT

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capitola soquel
CHAMBER of COMMERCE

716-G Capitola Avenue
Capitola, CA 95010
Phone: (831) 475-6522
Fax: (831) 475-6530

October 3, 2012

Capitola Police Dept.
Captain Tom Held
422 Capitola Avenue
Capitola, Ca. 95010

Captain Held:

Last week I sent a request to you regarding free parking for the Village from Thanksgiving to Christmas. I would like to request that the free parking be extended to 3 hours from 2 hours.

Please call me if you have any questions.

Thank you,

Toni Castro
CEO

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CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 11, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: DECLARE ALL CITY OWNED MOBILE HOME COACHES IN THE FORMER
PACIFIC COVE MOBILE HOME PARK AS SURPLUS

RECOMMENDED ACTION: Declare all City owned coaches in the former Pacific Cove Mobile Home Park as surplus property and authorize the City Manager to sell or dispose of in conformance with the City's Surplus Property Administrative Policy.

BACKGROUND: On July 26, 2012 the City Council authorized the City Manager to enter into contracts with mobile home transit companies to remove coaches from the former Pacific Cove Mobile Home Park. Subsequent to this approval, City staff determined that there may be some value in some of the coaches and has listed them for sale.

DISCUSSION: In conformance with the City's Administrative Policy it is recommended that the City Council declare the City owned coaches as surplus property, including any that may be acquired by the City at a later date. Furthermore, it is recommended the City Manager be authorized to dispose of the coaches as prescribed in the administrative policy (Attachment 1). Coaches which are not sold will be disposed of pursuant to the original disposal plan.

FISCAL IMPACT: There is no estimate of the revenue that may be generated from the sale of the coaches. All proceeds will be deposited in the Pacific Cove Bond Fund to offset the costs of the park closure.

ATTACHMENTS

1. Surplus Property Administrative Policy

Report Prepared By: Steven Jesberg
Public Works Director

Reviewed and Forwarded
By City Manager: 

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ADMINISTRATIVE POLICY

Number: III-8
Issued: April 13, 2006
Jurisdiction: City Council

SURPLUS PROPERTY

I. PURPOSE

To provide a uniform procedure for the declaration and disposal of surplus property including automobiles, office equipment, and construction materials owned by the City of Capitola which are no longer needed or used by the City.

II. POLICY

No department shall dispose of surplus property without prior notification to the City Manager and approval and authorization from the City Council on items which have an original purchase price of \$1,000 or greater. Items with an original purchase price of less than \$1,000 may be disposed of at the discretion of the Department Head.

Department Heads will coordinate surplus sales with the City Manager or his/her designee at any time with notice and approval as mentioned above.

An outside vendor, selected using the City Purchasing Administrative Procedure, will be used to dispose of all surplus property. All proceeds from the sale of surplus property will be submitted to the Finance Department with a complete list of disposed items and deposited in the Equipment Acquisition & Replacement Fund or other fund that may be deemed appropriate by the Director of Finance.

III. DEFINITIONS

As used in this Chapter, the following words have the meanings given below:

"Property" means tangible property, with the exception of real property owned by the City, including equipment and materials, which is no longer needed by the City. Examples include office furniture, computers, specialized equipment, motor vehicles and items that are obsolete or overstocked.

"Surplus" when applied to property means property, that is serviceable and valuable for uses other than scrap or salvage but which is deemed to be either unfit or uneconomical for City use.

"Salvage" or "Scrap" means materials of scrap metal, wood, paper or other materials, which are neither used nor useful for the purpose for which they were originally designed or used.

IV. PROCEDURE

- A. Determination that Property is Surplus: Whenever a Department Head or employee designated by a Department Head of the City of Capitola determines that any property under their jurisdiction is surplus and that there is no present or prospective reasonable use to which his/her department may put said property, he/she shall prepare a report to the City Manager. The report shall contain a description of the property, its condition, the quality of such items available, shall state the location where it may be viewed and recommended disposition of the property.
- B. Reallocation when Feasible: The City Manager or his/her designee shall evaluate the report or the surplus property for possible current or future use within the City. If the City Manager or designee finds no reasonable use for the property, then he/she will notify the department head who shall inform all of the other Department Heads that the property is available. Each Department Head shall notify the Department Head who has the surplus property if he/she can use the property in his/her department.
- C. Disposal Recommendation: If there is no known reasonable use of the property for City purposes reported to the surplus Department Head within two weeks from the time the Department Heads were notified of the surplus property, then Department Head in charge of the surplus property shall prepare a staff report to the City Council of their intent to dispose of the property in a manner authorized by this policy for declaration of surplus and authorize disposal. The staff report shall contain the disposal recommendations, and list all property to be disposed. At the discretion of the City Manager, the surplus property list may be coordinated among all departments at one time during the fiscal year.
- D. Manner of Sale: Surplus property with an original purchase price of \$1,000 or greater shall be sold at public auction or by sealed bid except in those cases where the City Manager determines that such property is needed for public use by another public agency or is valuable for trading in. In those cases, the property may be sold or transferred (donated) to the public agency or traded in at an amount determined by the Department Head to be equal to what would be obtained through a sealed bid or public auction sale. In the event of public auction or sealed bid sale, all sales shall be in cash.

All proceeds received from the sale shall be delivered to the Finance Director for deposit in the Equipment Acquisition and Replacement Fund or other fund as may be determined by the Finance Director.

- E. Sale as Scrap or Salvage, Donation or Destruction: The authorization for sale of surplus property pursuant to Section IV. D above shall not preclude disposal of surplus property as scrap or salvage or donated when such property has an original purchase value of less than \$1,000. Items of surplus property may be sold as scrap or salvage or

Administrative Policy III-8
Surplus Property
Page 3 of 3

donated when the property cannot be sold through the preceding procedures. Property, which cannot be sold as scrap or salvage or donated, shall be destroyed or disposed of upon approval of the City Manager.

- F. Immediate Disposal: Compliance shall not be required in the case of property which might result in the injury to the health or safety of the public. The City Manager shall dispose of such property in whatever manner he/she deems appropriate in his/her discretion and notify the City Council at the next regularly scheduled meeting.

This policy is approved and authorized by:



Richard Hill
City Manager

RH/lgm

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**CAPITOLA PLANNING COMMISSION
REGULAR MEETING ACTION SUMMARY
OCTOBER 4, 2012 - 7:00 PM**

ROLL CALL AND PLEDGE OF ALLEGIANCE

ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda**
Consent Calendar Item #4C and #5.D to be continued indefinitely.
Public Hearing Item #5.B to be continued to the November 1, 2012 meeting.
- B. Public Comments - None**
- C. Commission Comments - None**
- D. Staff Comments - None**

APPROVAL OF MINUTES

- A. September 6, 2012 Regular Planning Commission Meeting**

ACTION **Approved with changes.**
Page 4: "Chairperson Grave suggested modified construction hours: Monday – Friday 6:30 a.m. – 6:00 p.m.
Commissioner Ortiz suggested modified construction hours: Monday – Friday 6:30 a.m. – 7:00 p.m."
Passed 4 - 0

CONSENT CALENDAR

- A. 809 BAY AVENUE #12-105 APN: 035-021-43**

ACTION **Approved with conditions and findings.**
Passed 4 - 0

- B. 816 BAY AVENUE #D #12-106 APN: 036-051-29**

ACTION **Approved with amended conditions and findings.**
#5. Amplified music shall be prohibited in the pool area.
Passed 4 - 0

- C. 1066 41st AVENUE #12-091 APN: 034-711-01**

ACTION **Continued indefinitely.**

PUBLIC HEARINGS

- A. Local Hazard Mitigation Plan (LHMP)**
Received report and forwarded comments to the City Council.

- B. 500 PINE STREET #12-075 APN: 036-022-26**

ACTION **Continued to the November 1, 2012 meeting.**

- C. 411 CAPITOLA AVENUE #12-101 APN: 035-131-34**

ACTION **Approved with amended conditions and findings.**
#5. The steel sign shall be sealed prior to installation on the building.
Passed 3 – 0. Commissioner Newman recused.

Item #: 8.D. Minutes.pdf

CAPITOLA CITY PLANNING COMMISSION ACTION SUMMARY – October 4, 2012

D. 2178 41st AVENUE #12-080 APN: 034-221-02
ACTION Continued indefinitely.

DIRECTOR'S REPORT

COMMISSION COMMUNICATIONS

ADJOURNMENT

CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 11, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: CONCEPTUAL REVIEW TO AMEND SECTION 16.68 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO CONDOMINIUM AND COMMUNITY APARTMENT CONVERSIONS

RECOMMENDED ACTION: No action is required, but staff recommends the City Council discuss the item and provide direction to the applicant.

BACKGROUND: Section 16.68 of the Municipal Code was adopted in 1979 to establish requirements and procedures for the control and approval of the conversion of existing multifamily rental housing into residential condominiums and community apartment projects. The purpose of the code was to ensure there is a reasonable balance of rental and ownership housing within the City, to provide a variety of individual choices of tenure, type, price, and location of housing, and to maintain the supply of rental housing for low and moderate income persons and families.

Since the adoption of the Condo Conversion Ordinance, staff is not aware of any conversions that have been approved under the ordinance. Several condo conversions of four or less units have been approved in the last few years. But they were not required to be processed under the condo conversion ordinance as the ordinance applies to projects containing five or more units.

DISCUSSION: This conceptual review application was submitted by Charlie Eadie of Hamilton Swift & Associates, representing Doug Dodds, owner of the Antigua Apartments, and Papken der Torossian, owner of the Crest Apartments. The applicants are proposing an amendment to Municipal Code Section 16.68 pertaining to condominium and community apartment conversions. The purpose of the conceptual review application is to provide the applicant with early feed-back and direction on complex projects or policy issues. Feedback may include whether or not the Council would support an amendment to the Municipal Code, and if so, what aspects of the proposal are feasible. Depending upon the feedback, the applicant can follow up the conceptual review process with a formal application to amend the Municipal Code.

For this particular application, the applicant is proposing specific revisions to the condo conversion ordinance. These changes include:

16.68.030 Definitions.

C. "Community apartment or stock cooperative" shall have the definitions given to those terms in California Civil Code Section 1351 is an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon. All references to a "condominium" in this chapter shall be deemed to refer to a condominium, community apartment, and stock cooperative, except where specifically noted.

K-1. A "Tenant-in-Common Ownership Arrangement" exists where: (i) a multi-unit property is owned by two or more owners, and such owners have executed a written agreement under which the exclusive right to use each dwelling unit on the property has been permanently assigned to a particular owner or owners; or (ii) the California Department of Real Estate has issued a Final Subdivision Public Report for a project offering which, once sold, would satisfy the requirements of the preceding clause. Tenant-in-Common Ownership Arrangements shall not

Item #: 9.A. Staff Report.pdf

OCTOBER 11, 2012 AGENDA STAFF REPORT

SUBJECT: CONCEPTUAL REVIEW TO AMEND SECTION 16.68 OF THE CAPITOLA MUNICIPAL CODE
PERTAINING TO CONDOMINIUM AND COMMUNITY APARTMENT CONVERSIONS

include those where each owner has the right to use all of the dwelling units, or where an exclusive right to occupy a particular dwelling appears in any document recorded in the Santa Cruz County Records.

16.69.040 Conditional Use Permit and subdivision map required.

A. *No conversion to a project shall be permitted in any district unless a conditional use permit and subsequent final map have been applied for and granted pursuant to this chapter and other applicable state and local ordinances regulating use permit and subdivision approvals.*

B. *In no case shall a unit be converted that was built (final inspections) prior to January 1, 1970, unless the unit is located in a property of 10 or more units owned pursuant to a "Tenant-in-Common Ownership Arrangement."*

C. *No building for which a building permit was issued after the effective date of the ordinance codified in this chapter may thereafter be converted to a condominium unless, prior to the issuance of the building permit, the project was one for which there was an approved tentative condominium subdivision map. (Ord. 460 § 3.1, 1979)*

These changes would recognize the existence of Tenant-in-Common (TIC) ownership arrangements involving owner-occupancy rights, and to allow certain arrangements of this type to apply for condominium conversion. TIC ownership arrangements involving owner-occupancy rights are arrangements where two or more individuals each own an undivided percentage of property. These arrangements first appeared in significant numbers in the early 1980s in communities that restricted new construction and/or condominium conversion. In a series of decisions beginning in 1986, California appellate courts repeatedly held that these arrangements are not community apartment projects as long as the exclusive occupancy rights do not appear in any document recorded with the County Recorder and that, provided there is no recording, TICs are outside of the California Subdivision Map Act and cannot be prohibited or regulated by local governments.

Since TICs cannot be regulated by local governments, it is difficult to determine how many exist in Capitola today. The two obvious TICs, as they are the applicants proposing these ordinance changes, are:

- 101 Grand Avenue/Crest Apartments – 19-unit multi-family apartment building
- 106 Grove Lane/Antigua Apartments – 15-unit multi-family apartment building

Two other TICs that staff is aware of are:

- 212 Monterey Avenue – 4-unit multi-family apartment building
- 5005 Cliff Drive – 6-unit multi-family apartment building

The proposed ordinance would not apply to 212 Monterey Ave, as it has less than 5 units, and 5005 Cliff Dr. would not qualify as it was built after the adoption of the condo conversion ordinance.

Based on 2010 Census information, the City of Capitola currently has 46.5% (2,152) owner-occupied housing units, and 53.5% (2,474) renter-occupied housing units. So the balance of rental and ownership housing is fairly balanced within the City at this time. Conversion of the Crest and Antigua apartments would have little effect on the overall housing balance. However, with the ordinance amendment as currently proposed, other TICs can form and there is no limit on the number of apartment units that can be converted to condominiums. Staff would recommend some type of threshold to control the number of conversions, such as:

- Limiting the number of conversions to a specific number of units each year; or
- Increasing the in-lieu fee for conversions to mitigate the loss of affordable housing

The current ordinance limits conversions to buildings built between January 1, 1970 and the adoption of the ordinance in 1979. However, there does not appear to be much rational at this point in time to support the time frame proposed by the applicant, which would only allow TICs built

OCTOBER 11, 2012 AGENDA STAFF REPORT

SUBJECT: CONCEPTUAL REVIEW TO AMEND SECTION 16.68 OF THE CAPITOLA MUNICIPAL CODE
PERTAINING TO CONDOMINIUM AND COMMUNITY APARTMENT CONVERSIONS

prior to 1970 to convert. Should the Council support moving forward with the ordinance amendment, staff recommends the pre-1970 threshold be removed and the original year of ordinance adoption (1979) be considered.

Affordable Housing

Section 18.02 Affordable (Inclusionary) Housing requires that:

“Housing development projects creating seven or more for-sale housing units, residential parcels, mobile home parcels, or **converted condominium units** shall be required to reserve and restrict fifteen percent of the housing units, residential parcels or converted condominium units for sale to moderate, low or very low income households in accordance with the requirements of Section 18.02.040.”

With the elimination of the Housing/Redevelopment Planner staff position, there are limited resources to administer the City’s inclusionary units. If the proposed Condo Conversion Ordinance amendment was to be supported by Council, staff recommends the Inclusionary Ordinance also be amended to require condo conversion applicants to pay in-lieu fees in place of providing affordable units on site. The current in-lieu fee for condo conversions is \$10/square foot. Using the current \$10/square foot fee, the fee for Crest Apartments would be approximately \$200,000, and the fee for Antigua Apartments would be approximately \$120,000. An increased in-lieu fee could be considered in conjunction with the potential ordinance amendment. An increased fee may be more appropriate with higher valued properties such as the Crest and Antigua Apartments, and would likely discourage lower value properties from conversion, maintaining the City’s affordable housing stock.

Conclusion

While the proposed changes to the ordinance may not have a significant effect on the balance of rental and ownership housing, the timing of the proposal is somewhat awkward. The City is currently in the middle of a General Plan update that will include an overhaul of the Zoning Ordinance and applicable Municipal Code sections. Since the proposed amendment would involve an amendment to the General Plan, specifically the Housing Element, and the Local Coastal Plan (LCP), which would have to be reviewed and approved by both the State Department of Housing and Development and the Coastal Commission; it may be prudent to fold the amendment into the City’s General Plan update process.

FISCAL IMPACT: The exact fiscal impact is unknown. But potential economic benefits to the City could include higher property taxes resulting from increased property values, and benefits for affordable housing through the payment of in-lieu fees as part of the requirement of the City’s inclusionary ordinance.

ATTACHMENT:

1. Municipal Code Section 16.68 Condominium and Community Apartment Conversions
2. Letter from the applicant, Charlie Eadie, dated July 27, 2012
3. Project Summary from the applicant

Report Prepared By: Ryan Bane
Senior Planner

**Reviewed and Forwarded
by City Manager:** 

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Capitola Municipal Code

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[Title 16 SUBDIVISIONS](#)

Chapter 16.68 CONDOMINIUM AND COMMUNITY APARTMENT CONVERSIONS

16.68.010 Purpose.

A. This chapter is enacted to establish requirements and procedures for the control and approval of conversion of existing multifamily rental housing and nonresidential structures to residential condominium and community apartment projects. By their unique character and requirements, conversions differ specifically from other subdivisions and apartments. The unique status of such projects tends to magnify the effects associated with higher urban densities to a point where public health, safety, welfare, and economic prosperity of the city of Capitola are significantly affected. Such projects may conflict with the policy of the city as set forth in the general plan to provide a reasonable balance of rental and ownership housing within the city, to provide a variety of individual choices of tenure, type, price, and location of housing and to maintain the supply of rental housing for low and moderate income persons and families.

B. To insure that such problems are avoided in both the short and long term, it is the express intent of the city to treat such projects differently from multiple-family dwellings or other projects which are not residential condominium or community apartment projects and to establish rules and standards thereto regulating the conversion to residential condominium or community apartment projects in the city.

C. This chapter is enacted to insure that proposed conversions are approved consistent with policies and objectives of the city, particularly as follows:

1. To make adequate provisions for the housing needs of all economic segments of the community;
2. To facilitate inhabitant ownership of residential units while recognizing the need for maintaining adequate rental housing inventories;
3. To provide a reasonable balance of rental and ownership housing;
4. To inform prospective conversion purchasers regarding the physical conditions of the structure offered for purchase. (Ord. 460 (part), 1979)

16.68.020 Compliance with Government Code.

A. The city shall comply with Government Code Section 66427.1 in its present form and as hereafter amended.

B. The city shall comply with Government Code Section 66427.2 in its present form and as hereafter amended. This section provides in abbreviated form that without general or specific plan provision containing definite objectives, the city may not reject condominium conversions for failure to comply with the general plan or on the basis of one of the Government Code Section 66474 findings, justifying disapproval. Reference should be made to the full statute for particulars. (Ord. 460 §§ 1.1 and 1.2, 1979)

16.68.030 Definitions.

For the purpose of this section, certain words and phrases are defined and certain provisions shall be construed as set forth in this section unless it is apparent from their context that a different meaning is intended.

A. "Association" is the organization of persons who own a condominium unit or right of exclusive occupancy in a community apartment.

B. "Common area" is an entire project excepting all units therein.

C. "Community apartment or stock cooperative" is an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon. All references to a "condominium" in this chapter shall be deemed to refer to a condominium, community apartment, and stock cooperative, except where specifically noted.

D. "Condominium" is an estate in real property consisting of an undivided interest in common in a portion of a parcel or real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of such real property.

E. "Conversion" is a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined for a condominium project regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structures.

F. "Developer" is the owner or subdivider with a controlling proprietary interest in the proposed project.

G. "Low and moderate income" means those income levels as defined by AMBAG in the Housing Opportunity Plan dated January, 1978, and as updated to reflect current income levels.

H. "Organizational documents" are the declaration of covenants, conditions and restrictions, articles of incorporation, bylaws, and any contracts for the maintenance, management, or operation of all or part of the project.

I. "Project" is a residential condominium project or a community apartment project.

J. "Recreational open space" is an open space on the project (exclusive of the required front setback area) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their visitors) of units on the project and to which such occupants (and their visitors) shall have the right of use and enjoyment. Accessory structures such as swimming pools, recreational buildings, and landscaped areas may be included as open space.

K. A "residential condominium project" is the conversion of an existing structure to a condominium containing five or more condominiums for residential purposes.

L. "Unit" is the element of a residential condominium project which is not owned in common with the owners of other condominiums in project or is an apartment in a community apartment project to which an owner of an undivided interest in common or community apartment project has a right of exclusive occupancy. (Ord. 460 §§ 2.1—2.13, 1979)

16.68.040 Conditional use permit and subdivision map required.

A. No conversion to a project shall be permitted in any district unless a conditional use permit and subsequent final map have been applied for and granted pursuant to this chapter and other applicable state and local ordinances regulating use permit and subdivision approvals.

B. In no case shall a unit be converted that was built (final inspections) prior to January 1, 1970.

C. No building for which a building permit was issued after the effective date of the ordinance codified in this chapter may thereafter be converted to a condominium unless, prior to the issuance of the building permit, the project was one for which there was an approved tentative condominium subdivision map. (Ord. 460 § 3.1, 1979)

16.68.050 Contents of application for conditional use permit for conversion of condominium or community apartments.

The application for a conditional use permit for conversion shall include the following information:

- A. A detailed description of the project proposal to include applicant's provisions for meeting the standards set forth in Sections 16.68.100 through 16.68.190;
- B. A preliminary site plan showing all existing proposed improvements (to include designated open-space areas);
- C. A detailed analysis establishing the criteria set forth in the housing element of the city's general plan, and Section 16.68.290;
- D. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;
- E. All rental history detailing the size in square footage, the current or last rental rate, the monthly rental rate for the preceding two years, and the monthly vacancy over the preceding two years of each rental unit proposed to be converted;
- F. The planning commission may required that the applicant shall distribute to all tenants a questionnaire to be returned to the city directly. The questionnaire shall contain any or all questions deemed necessary by the planning commission in order to fully determine the physical condition of the units and/or rental history for each unit. (Ord. 460 § 3.2, 1979)

16.68.060 Contents of application for tentative map for conversion of condominium and community apartments.

The application for a tentative map for conversion shall include the following information:

- A. A boundary map showing the location of all existing easements, structures and trees to be removed, and other improvements upon the property;
- B. A property report describing the condition and estimating the remaining useful life of each of the following elements of each structure situated within the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electric systems, plumbing systems. Such report shall be prepared by an appropriately licensed contractor or licensed engineer;
- C. A structural pest control report. Such report shall be prepared by a licensed structural pest control operator pursuant to Section 8516 of the Business and Professions Code;
- D. A building history report including the following:
 - 1. The date of construction of all elements of the project,
 - 2. A statement of the major uses of the project since construction,
 - 3. The date and description of each major repair and/or renovation of any element since the date of construction. For the purposes of this subsection, a "major repair" and/or renovation shall mean any repair for which an expenditure of more than five hundred dollars was made,
 - 4. Statement regarding current project ownership;
- E. A true copy of each application to the Department of Real Estate of the state for issuance of a final public report for the project proposed for conversion including all attachments and exhibits thereto required by the Department pursuant to Section 11011 of the Business and Professions Code; a true copy of the statement of compliance (Form 643 as amended) pursuant to Title 10, California Administration Code, Section 2792.9, or its successor, relating to operating and maintenance funds during start-up; a statement of the amount and type of capital contributions to be provided by the developer to the association for deferred maintenance of the common

areas, and the sum and date on which the association will receive said sum. All contributions shall be made prior to recordation of a final map;

F. A true copy of the Supplemental Questionnaire for Apartments Converted to Condominium Projects submitted to the Department of Real Estate of the state for the project proposed for conversion; this shall include all attachments and exhibits thereto;

G. The proposed annual operating budget containing a sinking fund to accumulate reserve funds to pay for major anticipated maintenance, repair, or replacement expenses, with the developer providing a proportional payment relative to the number of units held at each anniversary date;

H. A copy of warranty to be made against defects to provide a minimum coverage of two years from sale of unit. (Ord. 460 § 3.3, 1979)

16.68.070 Waiver from application content requirements.

An applicant may apply to the planning commission for permission to omit any of the information required by Section 16.68.050 or 16.68.060. That application shall only be granted if the planning commission concludes that the items which the applicant seeks to exclude from his or her application would be of little or no value to the commission in its deliberations. (Ord. 460 § 3.4, 1979)

16.68.080 Covenants, conditions and restrictions.

Unless specifically waived by the city council upon application by the applicant to the city council, the covenants, conditions and restrictions for any conversion to five or more units shall contain the following provisions;

A. The specific assignment of parking spaces;

B. Provisions for management and maintenance of common areas and facilities within the project;

C. Provisions making the city a party in title to enforce maintenance requirements contained in the covenants, conditions and restrictions and to compensate the city for reasonable attorney's fees and costs in so enforcing;

D. Provisions that, in the event of default in payment of annual assessments, members of the association shall be subjected to penalties for late payment and reasonable attorney's fees and costs incurred in collection of the assessments;

E. Provisions allowing the association to terminate the contract of any person or organization engaged by the developer;

F. See Section 16.68.140;

G. Restrict RV's or provide separate screened area. (Ord. 460 § 3.5, 1979)

16.68.090 Draft versions.

In lieu of providing the information required by the subsections E and F of Section 16.68.060, the applicant may submit drafts of the various required items in the event the various items have not actually been submitted to or been approved by the state agencies. In the event the applicant changes the contents of any of the documents above-mentioned from the contents of those documents submitted to the city, he or she shall immediately notify the city. Unless the city attorney determines that the changes are quite unlikely to have a bearing upon the city's interests in these matters, as described in Section 16.68.010, the changes in the contents of the items submitted to the city along with the application(s) shall render null and void any previous city

approvals of the application(s). (Ord. 460 § 3.6, 1979)

16.68.100 Residential condominium and community apartment conversion development standards—Generally.

Subject to the provisions of Section 16.68.020B, to achieve the purposes of this chapter, all conversion projects shall conform to the development standards set out in Sections 16.68.110 through 16.68.190. (Ord. 460 § 4.1 (part), 1979)

16.68.110 Off-street parking.

The off-street parking requirements for a project shall be at least one assigned and covered space for each unit. There shall be an additional one space, per unit and at least one space per four units which shall be unassigned (for guests). (Ord. 460 § 4.1(a), 1979)

16.68.120 Meters and control valves.

The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture. Each unit shall have access to its own meter(s) and heater(s) which shall not require entry through another unit. (Ord. 460 § 4.1(b), 1979)

16.68.130 Overcurrent protection.

Each unit shall have its own panel board for all electrical circuits which serve the unit. (Ord. 460 § 4.1(c), 1979)

16.68.140 Impact sound insulation.

Wall and floor-ceiling assemblies shall conform to Title 25, California Administrative Code, Section 1092, or its successor, or permanent mechanical equipment, including domestic appliances, which is determined by the director of building and zoning to be a potential source of vibration or noise, shall be shock-mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the director of building and zoning to lessen the transmission of vibration and noise. Floor covering may only be replaced by another floor covering that provides the same or greater insulation. (Ord. 460 § 4.1(d), 1979)

16.68.150 Compliance with building and housing codes.

All projects shall meet the requirements of the city building and fire codes as they existed at the time of construction of the project, and the housing code as it exists at the time of application approval and also provisions of:

A. **Smoke Detectors.** Each living unit shall be provided with approved detectors of products of combustion other than heat conforming to the latest Uniform Building Code Standards, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.

B. **Maintenance of Fire Protection Systems.** All on-site fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protective appliances shall be retained in operable condition at all times maintained by the homeowner's association and delineated in the covenants, conditions, and restrictions. (Ord. 460 § 4.1(e),

1979)

16.68.160 Storage facilities.

Separate storage facilities shall be provided for each unit in such manner, size, and location to be determined by the planning commission at the time of use permit approval with the minimum area to be two hundred cubic feet. (Ord. 460 § 4.1(f), 1979)

16.68.170 Open spaces.

Provisions for open spaces shall be the same as that required for multiple-family units in the zoning ordinance. (Ord. 460 § 4.1(g), 1979)

16.68.180 Condition of equipment and appliances.

The applicant shall supply written certification to the buyer of each unit on the initial sale after conversion that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, and air conditioners that are provided are in working condition as of the close of escrow. At such time as the homeowner's association takes over management of the development, the applicant shall provide written certification to the association that any pool and pool equipment and any appliances and mechanical equipment to be owned in common by the association is in working condition. (Ord. 460 § 4.1(h), 1979)

16.68.190 Waiver of requirements.

The provisions of Sections 16.68.110 through 16.68.180 may be waived by the planning commission if the existing circumstances warrant waiver and the proposed conversion substantially conforms to the intent of this section. (Ord. 460 § 4.1(i), 1979)

16.68.200 Property and structural pest control reports.

After reviewing the property and structural pest control reports required to be submitted pursuant to Section 16.68.040, and inspecting the structures situate within the project when he or she deems such inspection necessary, the building official shall identify all items evidenced by such reports and/or inspection to be hazardous to the life, health, or safety of the occupants of such structure within the project or of the general public. No final map shall be approved for recordation until the building official has certified that the requirements of this paragraph and Sections 16.68.100 through 16.68.190 have been met, or that sufficient bonding has been provided to cover the total cost of completing required modifications. (Ord. 460 § 5.1, 1979)

16.68.210 Information to purchasers.

The city may condition approval of the applications upon the developer agreeing to provide any or all of the documents listed in Sections 16.68.040 through 16.68.090 to each prospective purchaser or unit. Failure of the developer or his or her successors to comply with the provisions of this section shall constitute a misdemeanor. (Ord. 460 § 5.2, 1979)

16.68.220 Notice of intent to convert.

A notice of intent to convert shall be delivered to each tenant. Evidence of receipt shall be submitted with the tentative map. The form of the notice shall be as approved by the planning department and shall contain not less

than the following:

- A. Name and address of current owner;
- B. Name and address of proposed subdivider;
- C. Approximate date on which the tentative map is proposed to be filed;
- D. Approximate date on which the final map or parcel map is to be filed;
- E. Approximate date on which the unit is to be vacated by nonpurchasing tenants;
- F. Tenant's right to purchase;
- G. Tenant's right of notification to vacate;
- H. Tenant's right of termination of lease;
- I. Statement of no rent increase;
- J. Provision for special cases; and
- K. Provision of moving expenses.

Other information may be required as deemed necessary. (Ord. 460 § 6.1, 1979)

16.68.230 Tenant's right to purchase.

As provided in Government Code Section 66427.1(b), any present tenant or tenants of any unit shall be given a nontransferable right of first refusal to purchase the unit occupied at a price no greater than the price offered to the general public. The right of first refusal shall extend for at least sixty days from the date of issuance of the subdivision public report or commencement of sales, whichever date is later. (Ord. 460 § 6.2, 1979)

16.68.240 Vacation of units.

Each nonpurchasing tenant, not in default under the obligations of the rental agreement or lease under which he or she occupies his or her unit, shall have not less than one hundred twenty days from the date of receipt of notification from the subdivider of his or her intent to convert, or from the filing date of the final subdivision map or parcel map, whichever date is later, to find substitute housing and to relocate. (Ord. 460 § 6.3, 1979)

16.68.250 No increase in rents.

A tenant's rent shall not be increased unless first approved by the planning commission from the time of filing of the tentative map until relocation takes place or until the subdivision is denied or withdrawn. Any requests for rent increases must be accompanied with sufficient supporting data to satisfy the planning commission as to the necessity of it. (Ord. 460 § 6.4, 1979)

16.68.260 Special cases.

Any nonpurchasing tenant aged sixty-two or older or handicapped or with minor children in school shall be given an additional six months in which to find suitable replacement housing. (Ord. 460 § 6.5, 1979)

16.68.270 Moving expenses.

The subdivider shall provide moving expenses of one and one-half times the monthly rent to any tenant who relocates from the building to be converted after receipt of notification from the subdivider of his or her intent to

convert, except when the tenant has given notice of his or her intent to move prior to receipt of notification from the subdivider of his or her intent to convert. (Ord. 460 § 6.6, 1979)

16.68.280 Notice to new tenants.

After submittal of the tentative map, any prospective tenants shall be notified in writing of the intent to convert prior to leasing. (Ord. 460 § 6.7, 1979)

16.68.290 Effect of proposed conversion on city's low and moderate income housing supply.

In reviewing requests for conversions of existing apartments to condominiums, the planning commission shall consider the following:

A. Whether or not the amount and impact of the displacement of tenants if the conversion is approved would be detrimental to the health, safety, or general welfare of, the community;

B. The role that the apartment structure plays in the existing housing rental market. Particular emphasis will be placed on the evaluation of rental structures to determine if the existing apartment complex is serving low and moderate income, and low and moderate income rents used by the federal and state governments will be used in the evaluation. Along with other factors, the city will consider the following:

1. The probable income range of tenants living in existing apartments based on the assumption that households should pay between one-fourth and one-third of their income for housing. The income range will be used to determine whether potential displaced tenants can be categorized as low and moderate income,

2. The applicant shall show provisions for insuring that a minimum of fifteen percent of the units will be available for low-income households (defined as eighty percent of median income) and that an additional twenty percent will be available to low and moderate income households (defined as one hundred twenty percent of median income). The provisions should include private and public financing programs, projected selling prices and other proposed considerations. Any variance to these minimum requirements must be approved by the city council. In requesting a variance, the applicant must provide sufficient evidence to clearly establish that the provisions of this section are not applicable to the proposed project due to its housing type location, etc.;

C. The need and demand for lower cost home ownership opportunities which are increased by the conversion of apartments to condominiums;

D. If the planning commission determines that vacancies in the project have been increased for the purpose of preparing the project for conversion, the tentative map may be disapproved. In evaluation of the current vacancy level under this subsection the increase in rental rates for each unit and the average monthly vacancy rate for the project over the preceding two years shall be considered. (Ord. 460 § 6.8, 1979)



RECEIVED

JUL 27 2012

CITY OF CAPITOLA

July 27, 2012

Susan Westman, Planning Director
 City of Capitola
 420 Capitola Ave.
 Capitola, CA 95010

RE: Preliminary Review of Minor Amendment to Condominium Conversion Ordinance

Dear Susan:

Pursuant to our discussions, here is an application for Preliminary Review of a minor amendment to Chapter 16.68 of the Capitola Zoning Ordinance. This proposal involves a change in the ordinance to recognize the reality of Tenant-In-Common ownership of multi-family housing properties, and to allow, under limited circumstances, some TIC properties to apply to become condominium ownership units. This change would not approve any conversions per se, it simply allows the possibility of filing an application to do so, which the current ordinance precludes.

The specific change would allow existing TIC multi-family properties of 10 or more units that were built prior to 1970 to file an application for condominium conversion. Currently the ordinance does not account for TIC ownership, and prohibits any units build prior to 1970 from applying for conversion.

Since the adoption of the Capitola condominium conversion ordinance more than 20 years ago, TICs have come into existence as a form of ownership, not subject to local regulation. With this change, there would be potential benefits both to the owners and the City. For owners, the conversion to condominium would improve the ease of obtaining financing. For the City, benefits would include:

- Bringing the ordinance into compliance with State law;
- Creating the potential of upgrading TIC ownership units to meet City condominium standards
- Supporting low income housing programs and opportunities through the payment of in-lieu fees and other affordable housing provisions as applicable with any approved conversion.

Because this change is minor in nature, we are requesting that it be considered at this time, rather than waiting up to several years for the overhaul of the Zoning Ordinance to be completed.

Attached are an application form, and a draft project summary with suggested specific code language. Please contact me if you have any questions or need more information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles Eadie', written over a horizontal line.

Charles Eadie
 Principal Associate

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Project Summary

Proposed Minor Zoning Code Amendment to Capitola Condominium Conversion Ordinance Chapter 16.68

What: This would be a change of language to recognize the existence of Tenant-in-Common ownership arrangements involving owner-occupancy rights, and to allow certain arrangements of this type to apply for condominium conversion.

Why: Tenant-in-Common ownership arrangements involving owner-occupancy rights (“TICs”) are arrangements where two or more individuals each own an undivided percentage of a multi-unit property and sign a written agreement under which each has the exclusive right to occupy a particular unit. These arrangements first appeared in significant numbers in the early 1980s in communities that restricted new construction and/or condominium conversion. In a series of decisions beginning in 1986, California appellate courts repeatedly held that these arrangements are not community apartment projects so long as the exclusive occupancy rights do not appear in any document recorded with the County Recorder and that, provided there is no recording, TICs are outside of the California Subdivision Map Act and cannot be prohibited or regulated by local governments.

The goal of the Capitola Condominium Conversion Ordinance was to regulate conversion of rental apartments to owner-occupied apartments. However, the emergence of TICs in Capitola is diminishing the effectiveness of the Ordinance by enabling rental units to convert to ownership status without becoming subject to this regulatory scheme. The purpose of this amendment is to allow a limited subset of existing TIC properties to apply to convert to condominiums in order to bring them within the purview of the Ordinance.

How: The specific change could be to amend 16.68.040 with the following inserted language:

“16.68.030 Definitions.

C. “Community apartment or stock cooperative” shall have the definitions given to those terms in California Civil Code Section 1351 ~~is an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.~~ All references to a “condominium” in this chapter shall be deemed to refer to a condominium, community apartment, and stock cooperative, except where specifically noted.

K-1. A “Tenant-in-Common Ownership Arrangement” exists where: (i) a multi-unit property is owned by two or more owners, and such owners have executed a written agreement under which the exclusive right to use each dwelling unit on the property has been permanently assigned to a particular owner or owners; or (ii) the California Department of Real Estate has issues a Final Subdivision Public Report for a project offering which, once sold, would satisfy the requirements of the preceding clause.

Tenant-in-Common Ownership Arrangements shall not include those where each owner has the right to use all of the dwelling units, or where an exclusive right to occupy a particular dwelling appears in any document recorded in the Santa Cruz County Records.

B. In no case shall a unit be converted that was built (final inspections) prior to January 1, 1970, unless the unit is located in a property of 10 or more units owned pursuant to a Tenant-in-Common Ownership Arrangement.”

Outcomes:

- Because condominiums are more valuable and easier to finance than TIC interests, TIC owners have powerful incentives to convert to condominiums if it is legally possible to do so. By enabling these conversions, this change would allow TIC owners in some circumstances to apply for conversion, thereby enabling the City to apply its conversion regulations to existing TIC properties.
- This change would not limit the authority that the City has in terms of the discretionary review and approval of condominium conversions, including conversions of TICs to condominiums. The City would retain its discretion to disapprove conversions, and its right to apply all existing and new planning and development standards.
- This change would bring the Ordinance into compliance with current California law relating to the legal distinction between community apartments and tenant-in-common ownership arrangements.
- The effect of this change is likely to be limited because very few pre-1970 apartment complexes have sufficient qualities to be sold as TICs.
- For those few pre-1970 apartments that become TICs, allowing conversion supports greater choice within the Capitola housing market, and would bring a marginal improvement to the tenure ratio in Capitola, which currently is skewed toward rental as compared to homeownership.
- No change would be needed to the General Plan:
 - Consistent with Goal 2 “Maintain Existing Affordable Housing Inventories” and Policy 2.4 “Continue to implement the Condominium Conversion Ordinance, which preserves and protects the city’s apartment housing stock.” (This amendment would not affect lower priced rental stock because it is not desirable for owner-occupancy, and would increase affordable ownership housing stock because existing higher-priced pre-1970 apartments are still less expensive than more recently constructed apartments).
 - Consistent with Goal 3 “Encourage New Affordable Housing Opportunities through Construction of New Units”. (While these would not be new units, in many instances they would be renovated or refurbished in the in that conversion process, i.e., made more like new).
- There would be economic benefits to City to the extent that higher property taxes result from new investment and sales of condominium units.

- There would be economic benefits for affordable housing to the extent that any conversion approval would be subject to payment of any applicable in-lieu fees and other housing provisions.

Process: Because of the minor nature of this amendment and the fact that it does not involve a change of the General Plan, it is appropriate to process now. The first step would be to apply for a conceptual review by the Planning Commission and City Council. We would minimize staff costs by providing any and all information and background for staff reports.

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CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 11, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: LOWER PACIFIC COVE PARKING LOT DESIGN AWARD A SOLE
SOURCE CONTRACT TO BOWMAN & WILLIAMS

RECOMMENDED ACTION: Award a sole source contract to Bowman & Williams Consulting Civil Engineers in the amount not to exceed \$62,468.30 for professional design services for the Pacific Cove Parking Lot improvements and authorize the City Manager to execute it on behalf of the city.

BACKGROUND: On August 9, 2012 the City Council took the following actions related to uses for the lower Pacific Cove property:

1. Approved the preliminary project description for the Lower Pacific Cove Parking Lot Project including improvements to the Upper Pacific Cove Parking Lot;
2. Authorized the release of a request for proposals for engineering and design services;
3. Authorized staff to initiate environmental review of the proposed project;
4. Approved a Resolution authorizing the advance of funds to pay \$75,000 in preliminary project costs prior to receiving debt funding.
5. Authorized submission of a preliminary application to the State I-Bank.

In reviewing engineering firms staff determined that Bowman & Williams Engineers, who designed the upper parking lot at Pacific Cove, has extensive survey data of the entire Pacific Cove site. Based on the project description approved by the City Council, staff worked with Bowman & Williams staff to develop the proposal included as Attachment 1.

DISCUSSION: Staff is recommending that the City Council award a sole source contract as allowed in the City's purchasing policy. The sole source determination documentation is included as Attachment 2. Bowman & Williams Consulting Civil Engineers is a local firm that has done an extensive amount of work for the City of Capitola for decades. They have assembled a team of sub-consultants that are all located within Santa Cruz County for various tasks. The scope of work includes all of the elements included in the Request for Proposals, including geotechnical engineering, arborists reports, lighting design, and drainage improvements required under current storm water pollution prevention regulations.

The work also includes design of two pedestrian improvements for the upper parking lot. The first improvement will be a sidewalk to Monterey Avenue. The second is a sidewalk along the driveway from Capitola Avenue. A survey and preliminary layout of a pedestrian pathway from the upper lot to Capitola Avenue by the museum is included to determine the best route for this pathway.

Item #: 9.B. Staff Report.pdf

OCTOBER 11, 2012 AGENDA STAFF REPORT

SUBJECT: LOWER PACIFIC COVE PARKING LOT DESIGN AWARD A SOLE SOURCE
CONTRACT TO BOWMAN & WILLIAMS

In order to keep on track with the proposed project schedule outlined in August, a purchase order for the survey work outlined in the proposal has already been authorized under a purchase order issued by the City Manager. This survey work, in conjunction with the extensive survey files already possessed by Bowman & Williams, will provide the background data necessary for any project on the property. With approval of this contract, the original purchase order will be cancelled and the survey work paid through this contract.

FISCAL IMPACT: The \$62,648.30 cost will be paid from the \$75,000 funding allocation made for engineering and permitting for this project.

ATTACHMENTS:

1. Proposal from Bowman & Williams dated September 18, 2012
2. Sole Source Purchase Determination

**Report Prepared By: Steven Jesberg
Public Works Director**

**Reviewed and Forwarded
By City Manager:** 



BOWMAN & WILLIAMS

CONSULTING CIVIL ENGINEERS
ESTABLISHED IN 1908, A CALIFORNIA CORPORATION SINCE 1974

1011 CEDAR • PO BOX 1621 • SANTA CRUZ, CA 95061-1621

PHONE (831) 426-3560 FAX (8321) 426-9182

www.bowmanandwilliams.com

September 19, 2012

Steve Jesberg, Public Works Director
City of Capitola Department of Public Works
420 Capitola Avenue
Capitola, CA 95010

Subject: Proposal for Professional Engineering Services, Pacific Cove Lower Parking Lot and Upper Parking Lot Pedestrian Access Upgrades, Our Project No. 23888-5

Dear Steve,

We are pleased to have this opportunity to provide you with this Proposal for Professional Engineering Services related to the Pacific Cove Lower Parking Lot and Upper Parking Lot Pedestrian Access Upgrades.

We understand that the City would like a proposal from Bowman & Williams to provide the necessary Engineering Design and Surveying Services to prepare plans, specifications and estimates (PS&Es) for the development of a temporary parking lot in the former Pacific Cove Mobile Home Park, and various pedestrian access improvements to the upper Pacific Cove Parking lot, including design development for an access ramp from the south east corner of the upper lot to Capitola Avenue. There is a restroom building to be upgraded as part of the overall project, but that is not included in this proposal.

This will involve topographic surveying, geotechnical engineering, grading, storm water analysis, storm water pollution prevention plans, arborist consultation, landscape architecture, electrical engineering, and preparation of the design development and construction documentation for the construction of the project. We are assuming that the City would be providing Project Construction Management. We are including as sub consultants four local firms. Pacific Crest Engineering, Inc. for Geotechnical Engineering, James P. Allen & Associates for arborist consulting, Gregory Lewis, Landscape Architecture for Landscape design, and Prime Design Group, Inc. for design of the lighting systems. Their respective proposals are attached.

We propose to following specific scope of services:

1. Topographic Survey. We propose to utilize the various topographic surveys prepared by this office, Ifland Engineers and the County of Santa Cruz to prepare a base map for the project. The survey shall include the terrain, structures, trees larger than 6" DBH, surface utilities, fences, decks, patios and pavement of the area between the walls and base of the slopes in the park, the intersection of Bay and Monterey Avenues, the driveway entrance with Capitola Avenue, the south side of the driveway into the upper lot from Monterey Avenue, and the slope between the City Hall parking lot and the railroad track embankment. Boundary surveying would not be included. We estimate that our fee to provide the topographic base map to be \$10,100.00. We would need for the City to obtain from Ifland Engineers their field survey control file.
2. Sub-consultants.
 - a. Geotechnical Engineering. We propose to engage Pacific Crest Engineering, Inc. as a sub consultant to provide the Geotechnical Investigation Report describing recommendations for design of the temporary pavement for the parking lot. Their specific Scope of Services is attached. We estimate that our fee to provide the geotechnical engineering to be \$3,335.00.
 - b. Arborist Consulting. We propose to engage James P. Allen & Associates as a sub consulting arborist to provide an inventory and map of the trees greater than 6" diameter within the park (not

- on the slopes) including species, trunk diameter and protected status. We estimate that our fee to provide the consulting arborist to be \$1,736.50.
- c. Landscape Architecture. We propose to engage Gregory Lewis, Landscape Architect, as a sub consultant to provide a preliminary and final planting plan, final irrigation plan, planting and irrigation details and specifications, attend two coordination meetings with City staff and consultants, one architectural and site review meeting and one public hearing. We estimate that our fee to provide the landscape architecture to be \$5,071.50.
 - d. Electrical Engineering for Lighting. We propose to engage Prime Design Group, Inc. as sub consultant for electrical engineering for the lighting of the lower parking lot and enhancing the lighting for the upper level parking lot including lighting fixture specifications, layout, site plan with circuitry, trench details, pull boxes, Title 24 and site photometric plan. We estimate that our fee to provide the electrical engineering to be \$5,750.00.
3. Design Development. Based on the conceptual plan provided by the City we propose to prepare a Design Development level (30%) plan for review and comment by the City, the County's Storm Water section of the Department of Public Works, and coordination by the design team. The plan will include the parking lot, the pedestrian access upgrades and the access from the southeast corner of the upper level parking lot to Capitola Avenue. The Design Development Plans shall show site demolition, site improvements, grading, and drainage layout and profiles. We estimate that our fee to provide Design Development Level (30%) Plan to be \$10,080.00.
 4. Storm Water Management Report. As required by The County of Santa Cruz' Zone 5 Drainage District we propose to prepare a Storm Water Management Report. The report shall discuss the site's storm water characteristics and the proposed project's mitigation and methods to provide post construction Low Impact Development (LID) Best Management Practices (BMPs) as conforming to the County's Storm Water Management Plan. We estimate that our fee to provide the Storm Water Management Report to be \$6,840.00. This estimate could be affected by the results of review of the preliminary plans. If we find that we are going to exceed this estimate we shall notify you prior to proceeding with Additional Services.
 5. Preliminary Construction Documents (PS&Es). Based on review of the design development plans, the storm water management report and coordination with the design team, we propose to prepare 90% level or Preliminary, PS&Es for the project for final review by the City and the County's Storm Water section of the Department of Public Works. With the exclusion of the access from the southeast corner of the upper level parking lot to Capitola Avenue, we propose to provide construction details, typical sections and specifications for the items shown in the design development plans, revised per the review and coordination comments received. The PS&Es for the access from the southeast corner of the upper level parking lot to Capitola Avenue will be prepared separately. We estimate that our fee to provide the Preliminary PS&Es to be \$11,520.00.
 6. Final Construction Documents (PS&Es). Based on review and comment of the 90% level PS&Es we propose to finalize the plans for permitting, bidding and construction purposes. We estimate that our fee to provide the Final PS&Es to be \$2,5250.00.
 7. Design review contingencies and meetings. We have included a 10% allowance for design review contingencies and meeting time. This will allow us a certain amount of time to prepare revisions to the plans and attend meetings with team members, City staff, Architectural and Site Review Committee and Planning Commission. 10% of the fees described above is \$5,695.30.

8. Additional Services. We initially budget a particular amount of Engineer and Staff time for each of the tasks outlined. Time for revision to the plans is anticipated, but is finite. Time for meetings and field visits are also included but are limited. Unforeseen tasks may arise during the work that may cause us to exceed those estimates. That budget will be reviewed for adequacy at each design phase, and the City will be kept apprised of the design budget status. Services not included in the above described scope of work, including work that we normally do such as retaining wall design and construction phase services, are Additional Services.

We perform our services on a time basis. For your budgeting and comparison purposes we estimate that to provide the above described work our fee will not exceed \$62,648.30. We trust that this satisfactorily reflects your desires as to the scope of the work. We thank you for this opportunity to participate with you in this project. Please give us a call if you have any questions or comments.

Very truly yours,
Bowman & Williams



Joel F. Ricca, R.C.E. 53588
Principal Engineer

attachments



BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS
 ESTABLISHED IN 1908, A CALIFORNIA CORPORATION SINCE 1974
 1011 CEDAR • PO BOX 1621 • SANTA CRUZ, CA 95061-1621
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 www.bowmanandwilliams.com

EXHIBIT C
HOURLY CHARGE RATES
 Effective July 26, 2012 – July 25, 2013

OFFICE AND PROFESSIONAL

Court Appearance and Preparation	\$325.00
Principal Engineer (licensed)	\$180.00
Associate Engineer (licensed)	\$165.00
Assistant Engineer	\$150.00
Engineering Assistant	\$120.00
Licensed Surveyor	\$180.00
Surveyor LSIT	\$145.00
Survey Coordinator LSIT 2	\$155.00
Pavement Management Technician	\$125.00
Technical Drafter	\$105.00
Drafter	\$88.00
Administrative Assistant	\$85.00

FIELD SURVEY CREW: Construction Surveys, (4) hour minimum

(One Man) Robotic Instrument and Operator	\$240.00
(One Man) GPS and Operator	\$240.00
Survey Crew (Prevailing wage rates)	\$240.00
Three-Man Survey Crew	\$285.00

25% Surcharge is Applied to Hourly Rates for Overtime to Meet Clients Schedule or for Saturday Work.
 33% Surcharge is applied to Hourly Rates for Sunday and Holiday Work.
 Field Inspections of Jobs Sites Required Retainer Fee \$500.00 for non established Clients.

EXPENSES

Sub-Consultant Charges X 1.15
 Fees Advanced on Behalf of Client Actual Fee X 1.25
 Survey Equipment, Vehicle, Stakes and Mileage (within 50 miles) are included in Hourly Rate
 Mileage and Transportation over 50 Miles at \$0.50 per mile

COUNTER CHARGE

Record Maps and Deed Research	\$5.00 each doc.
Research Assessors Parcel Number	\$5.00 each
Assessor's Map Pages	\$2.00 each

MISCELLANEOUS

Vellum or Bond CADD Plot	\$5.00 /plot
Mylar CADD Plot	\$12.00/ plot
Color Photo Plot	\$50.00/plot
File Conversion to ACAD 2000 DXF	\$100.00/plot
E-Mail CADD File	\$50.00/plot
Research Archive Files	\$50.00 Each + Plot Cost
Blueprints	\$5.00 per sheet minimum or \$0.20 /SF
Errors and Omission Insurance Coverage in Excess of \$25,000	5% Surcharge on Amount Billed \$500.00 Minimum Charge

* After July 25, 2013 rates shown will increase by consumer price index for the prior 12 months unless adjusted otherwise.

**DESIGN BUDGET FOR PROFESSIONAL ENGINEERING SERVICES
PACIFIC COVE LOWER PARKING LOT & UPPER LOT LIGHT & ACCESS IMPROVEMENTS**

Bowman & Williams
1011 Cedar Street
Santa Cruz, CA 95060

BOWMAN & WILLIAMS JOB NO. 23888-5

18-Sep-12

	Personnel	Principal Engineer	Associate Engineer	Union Survey Crew	Technical Draftsman	Licensed Land Surveyor	Sub Consultant	Total
DESCRIPTION OF WORK:	Hourly Rate	180.00	165.00	220.00	105.00	180.00	* x 1.15	
1 Topographic survey No Boundary	hours:	-	-	32.00	24.00	3.00		
	cost:	-	-	7,040.00	2,520.00	540.00		10,100.00
2 a. Geotechnical Engineering Pacific Crest Engineering, Inc.	hours:	-	-	-	-	-	3,335.00	3,335.00
	cost:	-	-	-	-	-		
b. Arborist Tree Inventory James P. Allen	hours:	-	-	-	-	-	1,736.50	1,736.50
	cost:	-	-	-	-	-		
c. Landscape Architect Greg Lewis	hours:	-	-	-	-	-	5,071.50	5,071.50
	cost:	-	-	-	-	-		
d. Electrical Engineering Prime Design Group	hours:	-	-	-	-	-	5,750.00	5,750.00
	cost:	-	-	-	-	-		
3 Design Development Plan (30%) Including Ramp by City Hall	hours:	20.00	24.00	-	24.00	-	-	
	cost:	3,600.00	3,960.00	-	2,520.00	-	-	10,080.00
4 Storm Water Management Report	hours:	16.00	24.00	-	-	-	-	
	cost:	2,880.00	3,960.00	-	-	-	-	6,840.00
5 Construction Documents (90%) Plans, Specificaitons and Estimate	hours:	16.00	32.00	-	32.00	-	-	
	cost:	2,880.00	5,280.00	-	3,360.00	-	-	11,520.00
6 Final Construction Documents (100%) Plans, Specificaitons and Estimate	hours:	2.00	8.00	-	8.00	-	-	
	cost:	360.00	1,320.00	-	840.00	-	-	2,520.00
7 10% Contingency, meetings, etc								5,695.30
ESTIMATE OF FEES FOR PROFESSIONAL ENGINEERING SERVICES								\$ 62,648.30

23888-5PRO.XLS

444 Airport Blvd, Suite 106
Watsonville, CA 95076
Phone: 831-722-9446
Fax: 831-722-9158

September 18, 2012

Proposal No. PR127A

Bowman and Williams
1011 Cedar Street
Santa Cruz, CA 95060

Attention: Mr. Joel Ricca, P.E.

Subject: *Revised* Proposal for a Geotechnical Investigation
New Parking Lot and Restroom Project
426 Capitola Avenue, Capitola, California

Dear Mr. Ricca:

Pacific Crest Engineering Inc. (PCEI) is pleased to present our proposed scope of work and fee to prepare a Geotechnical Investigation for the above referenced project located in Capitola, California.

INTRODUCTION

The proposed project will consist of a new parking lot within the existing Pacific Cove Mobile Home Park. **A new restroom structure may also be planned but is specifically excluded from our scope of work and fee. Therefore, no geotechnical recommendations will be provided for the restroom structure.**

The purpose of the geotechnical investigation will be to investigate the surface and subsurface soil and groundwater conditions and provide geotechnical design recommendations for the parking lot.

SCOPE OF WORK

Our scope of work for the Geotechnical Investigation will be limited to the following:

1. We will mark proposed test boring locations in white paint, and contact Underground Service Alert (USA) at least 48 hours prior to drilling our test borings or excavating our test pits.
2. Review of available geologic and geotechnical information pertaining to the site. This will include a review of any prior geotechnical studies prepared for the project site and provided by the City of Capitola.

Bowman and Williams
September 18, 2012

Page 2
Proposal No. PR127A

3. Exploration, sampling, and classification of surface and subsurface soils by hand augering three to four (3 to 4) test borings or test pits within the park area. These test borings or test pits will range in depth from 5 to 10 feet. Soil samples will be obtained at selected depths within the test borings. The test borings or test pits will be backfilled with the soil cuttings upon completion of drilling.
4. Laboratory testing of selected soil samples to determine their relevant engineering properties. This will be limited to moisture tests of selected soil samples and three (3) R-value tests of the near-surface soils.
5. Compilation and analysis of collected field and laboratory data.
6. Preparation of a written report presenting our findings and conclusions, and providing geotechnical recommendations for: site preparation, grading and compaction; backfill requirements for utility trenches (if any); asphaltic concrete pavement sections; and general surface drainage control. This report will include boring logs indicating the soil profile encountered and a site plan showing the test boring locations. *The report will be prepared and signed by a Registered Geotechnical Engineer with 28 years of experience within the local area.*

FEE FOR SERVICES

We propose to perform the scope of work outlined herein on a fixed price basis according to the terms and conditions of our Professional Services Agreement, attached herewith. Our fee to perform the geotechnical services described in Tasks 1 through 6, inclusive will be Two Thousand, Nine Hundred Dollars (\$2,900.00).

This offer is valid for a period of thirty (30) days.

SCHEDULE

We estimate the work proposed herein can be completed within 4 to 5 weeks after receiving a signed agreement, site access, scheduling of exploration equipment and laboratory analysis permitting. Preliminary information will be available to you and other design team members during the course of our investigation.

AUTHORIZATION

To authorize our firm to provide these services, please sign and return the enclosed Professional Services Agreement as soon as possible.

Pacific Crest Engineering Inc. appreciates the opportunity to provide our services, and would be pleased to answer any questions you may have about our proposed scope of work and fee.

Bowman and Williams
September 18, 2012

Page 3
Proposal No. PR127A

We can be reached at (831) 722-9446.

Sincerely,

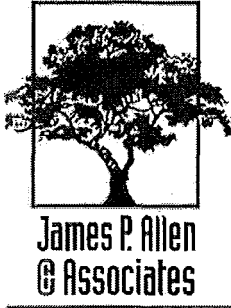
PACIFIC CREST ENGINEERING INC.

A handwritten signature in black ink, appearing to read "Michael D. Kleames", with a long horizontal flourish extending to the right.

Michael D. Kleames, GE
President/Principal Geotechnical Engineer
GE 2204
Expires 3/31/14

Enclosure (Professional Services Agreement)

Copies: 1 to Client

Dedicated to the Preservation of Trees

Proposal to Provide Consulting Services

Prepared for: Bowman and Williams
Attention: Joel Ricca

Prepared by: James P. Allen and Associates, Consulting
Arborists

611 Mission Street
Santa Cruz, CA 95060

Date: August 8, 2012

The City of Capitola is in process of converting the former Pacific Cove Mobile Home Park to a temporary parking lot. The proposed construction areas are populated with mature native tree species many of which meet "protected" criteria. In order to create a design that insures tree health/stability, the safe use of the parking lot, and protects tree resources on this site during construction, Joel Ricca of Bowman and Williams, the Project Engineer has requested a proposal for consulting services. The scope of services, timing and associated costs are defined as follows

Scope of Services

- Locate, catalog and map trees greater than six inches in diameter growing within the level section of the project within retaining wall boundaries. **Trees on sloping areas at the perimeter of project boundaries will not be included in this survey.**
- Identify each tree as to species and trunk diameter at a point 4.5 feet above grade
- Create a brief summary table with map attachment that documents trees that meet "protected" criteria that need to be removed to meet project objectives.

FEES

The above-described services will be billed at the following rates:

Principal consultant	\$180.00 per hour
Field technician	\$ 85.00 per hour
AutoCAD technician	\$ 85.00 per hour
Clerical	\$ 45.00 per hour

Tree Resource Evaluation Fees

6 Hours (Principal Consultant)	= \$1080
2 Hours (Field Technician)	= \$170
2 Hours (AutoCAD)	= \$170
2 Hours (Clerical)	= \$90

Cost to complete the requested services will not exceed **\$ 1510.00**

Consulting Arborists

611 Mission Street
Santa Cruz, CA 95060
831.426.6603 office
831.460.1464 fax
jpallen@eruzio.com

PERFORMANCE CONDITIONS

Prior to beginning work on this project the following items are to be provided/guaranteed

- **James P. Allen and Associates is to be provided a Map file compatible with AutoCAD 2006.**
- **Unrestricted site access is guaranteed.**
- **Receipt of a signed proposal and Arborist Disclosure Statement.**

CONTRACT EXCLUSIONS

The scope of the services provided in this proposal is limited to the items listed above.

TIME FRAME

The will be completed within 10 working days of receiving an signed Acceptance of Proposal

APPROVALS

I hereby agree to the above terms and conditions. I have read, signed and agree to the attached Arborist Disclaimer Statement.

Signature

Date

GREGORY LEWIS LANDSCAPE ARCHITECT #2176

736 Park Way. Santa Cruz, CA 95065

Telephone: (831)425-4747

lewislandscape@sbcglobal.net

Owner/Client:

Joel Ricca

Bowman and Williams Civil Engineers

1011 Cedar St.

Santa Cruz, CA 95060

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement entered into on the **18th** day of September in the Year Two Thousand and Twelve between Bowman and Williams Civil Engineers (hereinafter called the '**Client**') and Gregory Lewis Landscape Architect (hereinafter called the '**Landscape Architect**').

Project Name & Description:

Pacific Cove Parking Lot - Capitola

SECTION 1

SCOPE OF BASIC SERVICES

The Landscape Architect's Basic Services consist of those services performed by the Landscape Architect, the Landscape Architect's employees and/or consultants.

Services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other professional Landscape Architect's under similar circumstances. No other representations to the Client, expressed or implied, and no warranty or guarantee is included or intended in this agreement, or in any drawing, specification, report, opinion, document, or otherwise.

1.1 Design Development Phase Services (Phase 1):

- X Review site conditions and topo. plans
- X 2 coordination meetings with city staff and consultants
- X Preliminary Planting Plan
- X Attend Arch. and Site Review meeting to answer questions
- X Attend Public Hearing
- NIC Identify Existing Trees & Tree Inventory (measure trunk size & canopy).
- NIC Biotic Report.
- NIC Arborist Report

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
September 18, 2012

Page 2 of 8

1.1 Design Development Phase Services (Phase 1): (Cont'd)

- NIC Preliminary cost estimate for Planting and Irrigation
- NIC Color renderings
- NIC 3-D Renderings

TOTAL FEE FOR PHASE 1: 20 hrs. @ \$105/hr = \$2100.00

1.2 Construction Document Phase Services (Phase 2):

- Planting Plan (Locates plants, provides plant names, size and details.)
- Irrigation Plan (Locates irrigation valves, heads, lines, circuits and other features.)
- Planting & Irrigation Details
- Planting & Irrigation Specifications
- NIC Construction Details (such as paving, benches, walls, curbs, swimming pools, & fences.
Included details are _____)
- Monthly Landscape Water Use Estimates & Schedules
- NIC Lighting Plan (locates fixtures and transformers for 12 Volt landscape lighting).
- NIC Soil Fertility Tests.
- Coordination with the Civil Engineer and city
- Revisions

TOTAL FEE FOR PHASE 2: 14 to 22 hours @ \$105/hr = \$1470.00 to \$2310.00 Printing, shipping, plotting are extra at cost plus 10%.

1.3 Construction Phase Services (Phase 3):

- NIC Certification of completed landscape construction.
- NIC Water Audits of completed landscape construction.
- NIC **Landscape Construction Observation**

At the Client's request, the Landscape Architect may provide construction reviews or observations of all contractors hired by the Client to execute the plans. These services may be negotiated at the hourly rate in **SECTION 4.1**. If during the progress of the development of the plans, or during construction, the Client finds it desirable or necessary to cause the Landscape Architect to perform additional services other than those defined in **SECTION 1**, the payment of such additional services shall be billed at the hourly rate plus any reimbursables.

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
September 18, 2012

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1.3 Construction Phase Services (Phase 3): (Cont')

-- Definitions

Site Inspections and/or Observations

Inspection or observation means visual observation of materials, equipment, or construction work on an intermittent basis to determine that the work is in substantial conformance with the contract documents and the design intent. Such inspection or observation does not constitute acceptance of the work nor shall it be construed to relieve the contractor in any way from his responsibility for the means and methods of construction or for safety on the construction site.

-- Site Observation

- a. Review product submittals of Landscape Contractor.
- b. Answer questions over the telephone or e-mail as necessary.
- c. The Landscape Architect will observe planting and irrigation construction, and answer or clarify any questions the contractor or subcontractors may have during the installation. The Landscape Architect will visit the site at intervals appropriate to the stage of construction or as otherwise agreed upon in writing by the Client and Landscape Architect. The Client and/or Contractor will provide 4-days notice prior to site visit and will provide the Landscape Architect with construction progress reports. One longer visit at the end will be made to do a punch list of items that need to be corrected or haven't been done. Any additional time required will be billed at the Landscape Architect's hourly rate specified in **SECTION 5.1**. The Landscape Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work.

-- Additional Time Requirements

Additional time may be required for the following reasons:

- a. Design changes made during construction.
- b. The Contractor doesn't appear to be following the drawings and specifications closely at the first couple of visits; or
- c. The landscape construction schedule is stretched out due to coordination with the other building trades.

SERVICES WILL BE PROVIDED ON HOURLY BASIS OF \$105.00/HR.

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
September 18, 2012
Page 4 of 8

SECTION 2
OPTIONAL ADDITIONAL SERVICES NOT INCLUDED IN THIS AGREEMENT

The services described in **SECTION 2 are not included** in the Basic Services of this Agreement unless so identified in **SECTION 9**. These services may however be added in the future for an additional charge by either a written addendum to the existing agreement, or by the initiation of a new written agreement.

2.1 Special Services

- Special services are usually provided by other professionals that contract directly with the Client:
 - a. Civil, Structural, Electrical, Geotechnical and Mechanical Engineering.
 - b. Surveying/topographic mapping.

SECTION 3
CLIENT'S RESPONSIBILITIES

3.1 Program Requirements

The Client shall provide full information regarding requirements for the Project, including a Program, which will identify the Client's objectives, schedule, constraints and criteria.

3.2 Preliminary Plans

The Client shall furnish to the Landscape Architect at the Client's expense, all necessary engineering improvement plans, site plans, house plans, and topographic maps and/or site surveys, applicable to the designated area to be improved.

3.3 Permits

Any permits required are the responsibility of and to be paid by the Client.

SECTION 4
SUMMARY OF COMPENSATION

- 4.1 Design Development Phase Services (Phase 1):** \$2100.00
- 4.2 Construction Document Phase Services (Phase 2):** \$1470.00 to \$2310.00 Printing, shipping, and plotting are extra at cost plus 10%.
- 4.3 Construction Phase Services (Phase 3):** NIC

ESTIMATED BUDGET FOR SERVICES NOT INCLUDING REIMBURSABLE EXPENSES:
\$3570.00 to \$4410.00

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
 Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
 September 18, 2012
 Page 5 of 8

SECTION 5
SCHEDULE OF BILLING RATES

5.1 Hourly Rates:

Landscape Architect \$ 105.00

5.2 Reimbursable Expenses:

Reproduction of Plans & Specifications

The Client shall, at their expense, have blueprint copies and/or reproducible copies of all original drawings made. Blueprinting and photocopy reproduction work will be billed at cost or charged on Client's account. Plans and specifications are instruments of service and remain the property of the Landscape Architect.

Printing/Copying (in house)

-- Copies made in my office	\$3.00 plus 10% per sheet – 24x36 size
***	\$4.20 plus 10% per sheet – 30x42 size
-- Copies done by others	At cost

Shipping/Delivery Charges:

-- Est. Overnight delivery: at cost plus 10%

SECTION 5
SCHEDULE OF BILLING RATES

5.3 Terms & Conditions

Invoices for services rendered will be mailed monthly and shall be for actual work performed during the previous calendar month, or shall be in proportion to services performed within each phase of the project. Payments on account are due immediately upon receipt. Prompt payment is very much appreciated. Invoices will be considered delinquent if payment has not been received within 30-days after the date of invoice. Client agrees to pay a late charge of 1.5 percent per month on any delinquent balance. The Landscape Architect reserves the right to stop work for non-payment.

5.4 Initial Payment (Retainer)

No initial payment is required

SECTION 6
MISCELLANEOUS PROVISIONS

6.1 Amendments

This Agreement may be amended only by written instruction signed by both the Client and the Landscape Architect.

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
September 18, 2012
Page 6 of 8

SECTION 6
MISCELLANEOUS PROVISIONS (Cont'd)

6.2 Construction Costs

It is recognized that neither the Landscape Architect nor the Owner has control over the cost of labor, materials or equipment, nor over the contractor's methods of pricing, or over competitive bidding, market or negotiating conditions. Accordingly, the Landscape Architect makes no warranty, expressed or implied, as to the accuracy of any such opinions of probable construction costs as compared to bid or actual costs. No fixed limit of construction cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project Budget.

6.3 Drawings, Specifications & Other Documents

All sketches, drawings, specifications, field data, notes and other documents, including all documents on electronic media, prepared by the Landscape Architect as instruments of service shall remain the property of the Landscape Architect. The data set forth on the drawings may not be altered, reproduced, or used without the consent of the Landscape Architect. The proper electronic transfer of data shall be the user's responsibility without liability to the Landscape Architect. Unauthorized use is prohibited. The Client shall be permitted to retain printed copies, including reproducible copies if requested, of the final documents. The Landscape Architect is willing to share electronic copies of CAD drawings with the Project Consultants for reference only. They shall use them at their own risk.

6.4 Promotional & Professional Materials

The Landscape Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and/or interior where applicable, among the Landscape Architect's promotional and professional materials. The Landscape Architect's materials shall not include the Client's confidential or proprietary information if the Client has previously advised the Landscape Architect in writing of the specific information considered by the Client to be confidential or proprietary.

6.5 Limitation of Liability

In recognition of the relative risks and benefits of the project to both the Client and the Landscape Architect, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Landscape Architect, and his employees, consultants, sub-consultants to the Client and to all construction contractors and sub-contractors on the project for any and all claims, losses, costs, damage of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of the Landscape Architect and his sub consultants to all those named shall not exceed the Landscape Architect's total fee for services rendered on the project. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract or warranty.

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
September 18, 2012
Page 7 of 8

SECTION 7 TERMINATION

7.1 Termination

This Agreement may be terminated by either party upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

Failure of the Client to make payments to the Landscape Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

If the Client fails to make payment when due the Landscape Architect for services and expenses, the Landscape Architect may, upon seven days' written notice to the Client, suspend performance of services under this Agreement. Unless payment in full is received by the Landscape Architect within seven days' of the date of the notice the suspension shall take effect without further notice. In the event of a suspension of services, the Landscape Architect shall have no liability to the Client for delay or damage caused the Client because of such suspension of service.

In the event of termination, not the fault of the Landscape Architect, the Landscape Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses due, and all Termination Expenses directly attributable to termination of the Agreement.

SECTION 8 MEDIATION

In an effort to resolve any conflicts that arise during the design or construction of the Project, or following completion of the project, the Client and the Landscape Architect agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Client and the Landscape Architect further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub consultants, suppliers, or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to these agreements.

NIC = 'Not In Contract'

GREGORY LEWIS LANDSCAPE ARCHITECT #2176
Agreement For Professional Services – Pacific Cove Parking Lot, Capitola
September 18, 2012

Page 8 of 8

SECTION 9
OTHER CONDITIONS OR SERVICES

If for some reason during Preliminary Design the Site Plan changes significantly after I have finished my Preliminary Planting Plan there may be a few hours extra of revision time required that is not included in my estimate.

This Agreement entered into as of the day and the year first written above.

Client:

Landscape Architect:

(Signature)

(Signature)

(Printed Name & Title)

Gregory Lewis, Landscape Architect #2176

Date: _____

Date: 9/18/12

Landscape Architects are licensed by the State of California.



PrimeDesignGroup

Electrical Engineering Since 1990

September 14, 2012

Bowman & Williams
1011 Cedar Street
Santa Cruz, CA 95060

Attn: **Joel Ricca**
Re: **Pacific Cove Parking Lot**
Electrical Fee Proposal
PDG Job #12154.00

Dear Joel,

We are pleased to submit the following fee proposal outlining our understanding of our involvement and scope of work for the referenced project. We will expend time to design the necessary engineered working drawings and specifications to insure competitive bidding and installation of the electrical portions of the project. Our services will include:

1. The performance of an on-site investigation to determine existing conditions including electrical service provisions.
2. The preparation of engineered electrical plans and specifications for permit approval and construction of the new lower parking lot and lighting upgrades for the existing upper parking lot. Our scope will include the following:
 - a. New parking lot lighting plans with fixture layout, specifications and installation details.
 - b. Lighting circuitry, time-clock/photocell controls and trenching details.
 - c. Photometric site lighting plan.
 - d. Exterior Lighting Title 24.
3. Construction Administration to include submittal review, responses to contractor's requests for information and one final inspection and punch list.

Prime Design Group, Inc.

849 Almar Ave., Suite C-299, Santa Cruz, CA 95060 Phone 831.430.3600 Fax 831.430.9490 www.prmtdsgn.com

September 14, 2012

Joel Ricca
Pacific Cove Parking Lot
Electrical Fee Proposal
Page 2

Exclusions:

1. "As-Built" drawings.
2. New electrical service to serve the proposed parking lot lighting. For the purpose of this proposal it is assumed that there is an existing electrical power source capable of serving the new loads.
3. Reproduction and delivery services other than in-house check prints.

Any additions to the scope of work or changes to the drawings after substantial completion of the electrical design will require negotiation for additional fees.

Our fixed fee for the above services will be as follows:

Construction Documents	\$ 5,000.00
Construction Administration	\$ 1,000.00

We will bill monthly for the percentage of work completed during the previous billing period. Our terms are net 30 days from invoice date. We will await the return of this original with your signature. Please feel free to call if you have any questions or concerns.

Very Truly Yours,

approved by:

David A. Auble
President

for: **Bowman & Williams**
date: _____

**Sole Source Purchases Determination
Bowman & Williams, \$62,648.30, September 27, 2012**

BACKGROUND: The City of Capitola Purchasing and Procurement policy (Administrative Policy III-4), Section II B and C requires telephone quotes for purchases between \$2,000 - \$10,000, and requires a formal RFP bid procedure for purchases over \$10,000. The policy conditions for Sole Source (Section II B1 and B2), which are purchases exempt from the competitive process.

DISCUSSION: The contract with **Bowman & Williams**, in the amount of **\$62,648.30**, dated **September 27, 2012** is a qualified sole source purchase within the City Administrative Policy III-4 Section B2 (**check one of the following**)

Policy Section B1: Materials, Supplies & Equipment:

_____ (a.) Definition. Sole source purchases are used where no secondary source is reasonably available precluding the use of a competitive process.

Policy Section B2: Consultant or General Services:

 X (a.) In the case where a consulting firm has satisfactorily performed the previous stage of a project (e.g. a pre-design), or has acquired extensive background and working knowledge, the firm may be selected for follow-up work without solicitations from other firm upon written justification and recommendation of the department head and approval by the City Manager or designee.

_____ (b.) If a firm is a highly recognized authority in a field or specialty, or has unique specific knowledge regarding the project, then the firm may be selected without other solicitations for contracts and upon written justification and recommendation of the department head and approval by the City Manager or designee.

_____ (c.) Upon those infrequent occasions when confidence in the consultant and quality of service are important.

This contract is for engineering design services for the development of a parking lot on the lower portion of the Pacific Cove property and also to pedestrian and lighting improvements to the parking lot on the upper portion of the Pacific Cove property. Bowman & Williams was the engineering design firm for the original upper parking lot improvements and has extensive survey and design records which of the entire site which justifies their sole source selection for this work.

 Dept Head

Date

City Manager

Date

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CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 11, 2012

FROM: CITY CLERK'S OFFICE

SUBJECT: ADOPTING A REVISED CONFLICT OF INTEREST CODE FOR THE CITY OF CAPITOLA TO BECOME EFFECTIVE JANUARY 1, 2013

RECOMMENDED ACTION: Adopt the proposed Resolution rescinding Resolution No. 3839 and adopting a revised Conflict of Interest Code (Code) for the City of Capitola.

BACKGROUND/ DISCUSSION: The Political Reform Act requires every local government agency to review its Code biennially to determine if it must be amended. Pursuant to Council direction staff has reviewed the Code and determined that amendments are necessary in order to comply with Government Code § 87306.

On July 17, 2012 the attached Notice of Intention (Attachment 1) was provided to those affected by the proposed amendments resulting in no responses by the September 4, 2012 deadline.

Staff has prepared the draft Resolution (Attachment 2) indicating the recommended amendments to the Code. Following are the changes that apply to Appendix A, List of Designated Position; the categories to be deleted are ~~strike-outs~~; and additions are in underscored/bold below and on the attached draft Resolution.

Addition	<u>Administrative Services Director</u>
Addition	<u>Oversight Board for the Capitola Successor Agency</u>
Addition	<u>Maintenance Superintendent</u>
Addition	<u>Successor Agency</u> ¹
Deletion	Housing and Development Project Manager
Deletion	Redevelopment Agency Treasurer
Deletion	Zoning Administrator

All other language contained in the Resolution remains unchanged, with the exception of the Resolution number being repealed and the effective date, which will be January 1, 2013.

FISCAL IMPACT: None

ATTACHMENTS

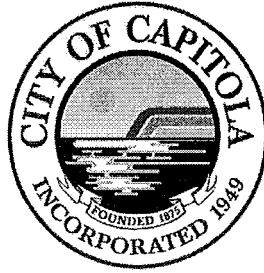
1. Notice of Intention
2. Draft Resolution

Report Prepared By: Susan Sneddon, City Clerk

Reviewed and Forwarded
By City Manager: 

¹ To the former Capitola Redevelopment Agency

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CITY OF CAPITOLA

**NOTICE OF INTENTION TO ADOPT OR AMEND A
CONFLICT-OF-INTEREST CODE**

NOTICE IS HEREBY GIVEN that the City of Capitola intends to amend a conflict-of-interest code pursuant to Government Code Section 87300 and 87306. Pursuant to Government Code Section 87302, the code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A written comment period has been established commencing on July 18, 2012 and terminating on September 4, 2012. Any interested person may present written comments concerning the proposed code no later than September 4, 2012 to the City of Capitola, 420 Capitola Avenue, Capitola, CA. No public hearing on this matter will be held unless any interested person or his or her representative requests a public hearing no later than 15 days prior to the close of the written comment period.

The City of Capitola has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

The Capitola City Council is scheduled to adopt the proposed amendment to the Conflict-of-Interest Code at the September 27, 2012 City Council meeting.

Copies of the proposed code and all of the information upon which it is based may be obtained from the City of Capitola, 420 Capitola Avenue, Capitola, CA. Any inquiries concerning the proposed code should be directed to City Clerk Susan Sneddon, 831-475-7300, or email at ssneddon@ci.capitola.ca.us.

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RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
RESCINDING RESOLUTION NO. 3839 AND ADOPTING A REVISED
CONFLICT OF INTEREST CODE FOR THE CITY OF CAPITOLA**

WHEREAS, the Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code; and

WHEREAS, said standard conflict of interest code can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act

NOW, THEREFORE, the City Council of the City of Capitola resolves as follows:

1. Effective January 1, 2013, Resolution No. 3839 is rescinded, and this resolution shall become effective.
2. This resolution does not pertain to the following offices because these offices are already regulated by and subject to Government Code Section 87200: Council Members, Planning Commissioners, City Manager, City Attorney, and City Treasurer.
3. The terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix in which members and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the City of Capitola.
4. Upon receipt of the statements of the Council Members, Planning Commission Members, City Manager, City Attorney, and City Treasurer, the City Clerk shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Designated employees shall file statements of economic interests with the City Clerk who will make the statements available for public inspection and reproduction (Government Code Section 81008). The City Clerk will retain statements for all designated employees.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 11th day of October, 2012, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Termini, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

RESOLUTION NO.

APPENDIX "A"

LIST OF DESIGNATED POSITIONS

<u>TITLE</u>	<u>DISCLOSURE CATEGORIES</u>
Administrative Services Director	C, D
Architectural & Site Review Committee Public Members (Architect, Landscape Architect, and Historian)	A
Art & Cultural Commission Members	A
Assistant to the City Manager	C, D
Associate Planner	C, D
Building Official	C, D
Chief of Police	A
City Clerk	C
Community Development Director	C, D
Deputy City Attorney	A
Housing and Redevelopment Project Manager	C, D
Information Systems Specialist	A
Finance Director	C
Maintenance Superintendent	C
Oversight Board for the Capitola Successor Agency	A
Police Captain	A
Public Works Director	C, D
Redevelopment Agency Treasurer	A
Senior Planner	C, D
Successor Agency¹	A
Zoning Administrator	C, D
Consultants *	A

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

¹ To the former Capitola Redevelopment Agency

RESOLUTION NO.

APPENDIX "B"

DISCLOSURE CATEGORIES

The Disclosure Categories for the City of Capitola are listed below.

- CATEGORY A.** All sources of income, interests in real property, and investments and business positions in business entities.
- CATEGORY B.** Investments and positions in business entities, and sources of income, which provide services, supplies, materials, machinery, or equipment of the type utilized by the City of Capitola.
- CATEGORY C.** Investments and positions in business entities, and sources of income, which provide services, supplies, materials, machinery or equipment of the type utilized by the designated employee's department or division.
- CATEGORY D.** Investments and positions in business entities, and sources of income, which engage in land development, construction or the acquisition or sale of real property, and all interests in real property.

General Provisions

When a designated employee is required to disclose investments and sources of income, he need only disclose investments in business entities and sources of income, which do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction. When a designated employee is required to disclose interests in real property, he need only disclose real property, which is located in whole or in part within, or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

Designated employees shall disclose their financial interests pursuant to the appropriate disclosure category as indicated in Appendix "A".

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