

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 THURSDAY, FEBRUARY 9, 2012

CLOSED SESSION – 5:30 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 §54956.9:
Two cases: 1) Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park
2) Pacific Cove Mobile Home Park Flooding and Closure

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

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)
Negotiator: Jamie Goldstein, City Manager
Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group

LIABILITY CLAIMS (Govt. Code §54956.95)
Claimant: American Alternative Insurance Corporation, subrogee of Central Fire Protection District of Santa Cruz County
Claimant: Paula Bradley
Agency claimed against: City of Capitola

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to Cal. Govt. Code Section 54956.9(c): 1 potential case

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. Introduction of the new Finance Director, Tori Hannah.
- B. Presentation of Certificate of Appreciation to Debbie Hale for her service on the Capitola Art & Cultural Commission from March 2006 through December 2011.
- C. Mayor's Proclamation proclaiming the month of February as "Teen Dating Violence Awareness Month".
- D. Presentation by Rita Flores, Assistant Agency Director, of the Family Service Agency of the Central Coast.

3. REPORT ON CLOSED SESSION**4. ORAL COMMUNICATIONS**A. Additions and Deletions to AgendaB. 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.

C. Staff CommentsD. 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.

E. Committee AppointmentsF. Approval of Check Register Reports

- 1. Approval of City Check Register Reports dated January 20, and 27, 2012.
RECOMMENDED ACTION: Approve City Check Register.

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

5. 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. Deny liability claims and forward to the City's liability insurance carrier:
 1. American Alternative Insurance Corporation, subrogee of Central Fire Protection District of Santa Cruz County: \$184,982.40;
 2. Paula Bradley: Undetermined amount.

RECOMMENDED ACTION: Deny Liability Claims
- B. Consideration of approving the minutes of the Regular Joint Meeting of the City Council/Redevelopment Agency of January 12, 2012.
RECOMMENDED ACTION: Approve Minutes.
- C. Consideration of a adopting a Resolution approving the Final Map for the Pearson Court Subdivision.
RECOMMENDED ACTION: Adopt Resolution.
- D. Receive Planning Commission Action Minutes for the Regular Meeting of February 2, 2012.
RECOMMENDED ACTION: Receive Minutes.
- E. Consideration of approving the Special Event Permits Administrative Policy and the modifications to the Block Party Permit and Grant Program Administrative Policy.
RECOMMENDED ACTION: Approve Policy and Modification.

6. GENERAL GOVERNMENT

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) Close public comment; 5) Decision.

- A. Consideration of an amendment to the Capitola Municipal Code to allow sandwich board signs.
RECOMMENDED ACTION: Discuss and provide direction.
- B. Consideration of adopting an Urgency Ordinance banning the installation of the PG&E SmartMeters in the City.
RECOMMENDATION: Adopt Urgency Ordinance.
- C. Consideration of approving the Notice of Completion for the Rispin Property Abatement Project.
RECOMMENDATION ACTION: Approve the Notice of Completion.

- D. Review Community Grant Application process.
RECOMMENDED ACTION:
1. Determine if the City Council would like to consider revising the funding methodology for Community Grants in the future; and
 2. Determine whether or not to allow a new agency or organization to apply for the existing community grant program for FY12-13.
- E. Public Hearing regarding possible activities to be funded with 2012 Community Development Block Grant (CDBG) Funds.
RECOMMENDED ACTION:
1. Hold the required public hearing for the purpose of considering input and recommendations regarding uses and activities to be included in any 2012 CDBG applications submitted by the City; and
 2. Direct staff to return with an application for a housing rehabilitation program grant under the General CDBG Allocation.
- F. Consideration of adopting a Resolution approving a contract with Gumbiner & Eskridge LLP in an amount not to exceed \$20,000 for legal services, and authorizing the City Manager to execute a contract.
RECOMMENDED ACTION:
- 1) Authorize the City Manager to execute the Professional Services Agreement with Gumbiner & Eskridge, LLP in an amount not to exceed \$20,000 for legal services related to insurance claims and the storm drain pipe failure in Pacific Cove Mobile Home Park; and
 - 2) Adopt a Resolution amending the Fiscal Year 2011-2012 General Fund Budget by transferring \$20,000 from the Emergency Reserve Fund to City Attorney Contract Services Account to fund the Legal Services contract.
- G. Consideration of adopting Preliminary Administrative Budget for the Capitola Housing Successor.
RECOMMENDED ACTION: Adopt Preliminary Administrative Budget.
- H. Consideration of authorizing the City Manager to issue a Request for Proposals (RFP) for Website Design Services to redesign the City Website, and direct the City Manager to accept and review proposals and provide a recommendation to the City Council for its consideration.
RECOMMENDED ACTION:
1. Direct the City Manager to accept and review proposals and provide a recommendation to the City Council for its consideration; and
 2. Direct the Finance Director to record these changes into the City's accounting records in accordance with appropriate accounting practices to amend the Fiscal Year 2011-2012 Information Technology Budget allocating \$30,000 for services related to the City's website design.

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED

7. COUNCIL DIRECTOR/STAFF COMMUNICATIONS**8. ADJOURNMENT**

Adjourn to the Special Meeting of the City Council to be held on Thursday, February 16, 2012, at 6:00 p.m., 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 meet jointly 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.

City of Capitola Mayor's Proclamation

"TEEN DATING VIOLENCE PREVENTION & AWARENESS MONTH"

February 1 through February 29, 2012

WHEREAS, females between the ages 16-24 are more vulnerable to intimate partner violence, experiencing abuse at a rate almost triple the national average; and

WHEREAS, one in three adolescent girls in the United States is a victim of physical, emotional or verbal abuse from a dating partner, a figure that far exceeds victimization rates for other types of violence affecting youth; and

WHEREAS, high school students who experience physical violence in a dating relationship are more likely to use drugs and alcohol, are at greater risk of suicide and are much more likely to carry patterns of abuse into future relationships; and

WHEREAS, young people victimized by a dating partner are more likely to engage in risky sexual behavior and unhealthy dieting behaviors and the experience may disrupt normal development of self-esteem and body image; and

WHEREAS, nearly half of teens who experience dating violence report that incidents of abuse took place in a school building or on school grounds; and

WHEREAS, only 33% of teens who are in an abusive relationship ever tell anyone about the abuse, and 81% of parents surveyed either believe teen dating violence is not an issue or admit they do not know if it is one; and

WHEREAS, by providing young people with education about healthy relationships and relationship skills and by changing attitudes that support violence, we recognize that dating violence can be prevented; and

WHEREAS, it is essential to raise community awareness and to provide training for teachers, counselors and school staff so that they may recognize when youth are exhibiting signs of dating violence; and

WHEREAS, the establishment of Dating Violence Prevention and Awareness Month will benefit young people, their families, schools and communities regardless of socioeconomic status, gender, sexual orientation or ethnicity; and

WHEREAS, everyone has the right to a safe and healthy relationship and to be free from abuse.

NOW, THEREFORE, I, Michael Termini, Mayor of the Capitola City Council, do hereby proclaim February 2012, Dating Violence Prevention and Awareness Month, throughout the city of Capitola. I urge all residents in Capitola to work toward ending teen dating violence by empowering young people to develop healthier relationships, assisting victims in accessing the information and supportive services they need, creating better and more resources for young people in need, instituting effective intervention and prevention policies in schools and engaging in discussions with family members and peers to promote awareness and prevention of the quiet epidemic of teen dating violence.

Michael Termini, Mayor
Signed and sealed this 9th day of February 2012



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: FINANCE DEPARTMENT

SUBJECT: APPROVAL OF CITY CHECK REGISTER REPORT

RECOMMENDED ACTION: By motion and roll call vote, that the City Council approve the attached Check Register Reports for January 20 and January 27, 2012.

DISCUSSION: The attached Check Registers for:

Date	Starting Check #	Ending Check #	Total Checks	Amount
1/20/12	68614	68663	50	\$359,747.35
1/27/12	68664	68739	76	\$812,287.12
1/27/12 Payroll				\$159,780.38

The check register of January 13, 2012 ended with check #68613.

Following is a list of checks issued for more than \$10,000.00, and a brief description of the expenditure:

Check	Issued to:	Dept.	Purpose	Amount
68621	BELFOR Inc.	CM	Final Payment, Flood Recovery	\$189,382.07
68644	SCC Conf & Visitor Council	CM	Q2 FY11/12 TMD Pass Thru	\$21,918.10
68646	SC Regional 911	PD	Q3 FY11/12 Opns, SCRMS	\$104,372.00
68655	Watsonville Police Dept	PD	Avoid the 9, Grant Funded	\$18,143.28
68670	CalPERS Health Ins	CM	Feb12 Premium, Employee funded	\$52,196.85
68682	Garden City Construction	PW	Rispin Stabilization Project	\$194,691.33
68694	Monterey Bay Self Insurance Authority	CM	FY11/12 Workers Comp & Gen Liability Ins	\$400,013.00
68702	SCC Sanitation District	PW	FY11/12 Sewer Charges	\$19,611.36
68715	Susan Westman	CDD	Jan 2012 Comm Dev Dir	\$10,960.00
68720	Capitola Roth Investments	CDD	Landscape Refund	\$22,000.00
68725	Marie Goodlander	CDD	BASAPA Relocation Payment	\$21,424.00
68726	Doris Harhen	CDD	BASAPA Relocation Payment	\$16,278.00

On March 28, 2002, Council adopted Ordinance 838, which amended the City Municipal Code as follows:

"3.28.010 Auditing. All claims for salaries and wages of officers and employees and payroll-related withholdings, assessments, and attachments against the treasury of the City and all other claims for payment may be audited and allowed by the City Manager or his/her designee prior to payment thereof."

"3.28.050 Approval. All claims against the City treasury are to be allowed for payment by the City Manager or his/her designee and are to be presented to the City Council as an informational item as part of their regularly scheduled meetings after their issuance for ratification."

RESOLUTION NO. 2683 On September 22, 1994, Resolution No. 2683 was passed and adopted by the City Council. This resolution includes the following text:

Be it hereby resolved by the City Council of the City of Capitola that the City Manager is authorized, as cash shortages arise, to make temporary cash loans between and among the General Fund and all other City funds except the Redevelopment Agency; Special Assessment District funds; and The Village and Beach Parking Fund; and

Be it further resolved that such inter-fund loans shall be repaid by the borrowing fund to the lending fund as soon as, in the opinion of the City Manager, it is fiscally prudent to do so; and

Be it further resolved that the City Manager shall report to the City Council at its next regularly scheduled meeting, the amounts of such Interfund loans actually made; the funds from which and to which such Interfund loans were made; and the anticipated date the loans will be repaid.

The bank statement reconciliation has not been completed for the month. Bank reconciliation is completed and reported in conjunction with the monthly Treasurer's report. All checks on these registers have been deducted from the corresponding fund's cash balance. Interfund loans are not recorded on the financial records on a regular basis, except at year-end for financial reporting purposes.

There are several significant timing issues that create cash flow shortages:

- Triple flip delay of Sales Tax from monthly to December and April (~\$500,000/2x year)
- One quarter of the annual Worker's Compensation premium was paid in July (\$100,000)
- One half of the Self Insurance/Liability annual payment was paid in July (\$32,669)
- One third of the Police Communication JPA annual payment was paid in July (\$146,121)

As of 1/31/12 the total cash available is \$1,825,638. The General Operating Fund has a cash balance of \$643,046. Internal Service Funds (#2210 through #2214) were created for City budget purposes and are reclassified for financial reporting into the General Fund. The Compensated Absences Fund (#2216) has a positive cash balance of \$82,995. The Capital Improvement Projects has a positive cash balance of \$697,377. By Council direction the Emergency Reserves Fund (#1020) may not participate in cash loans; the Emergency Reserves Fund has a fund balance of \$151,804.

For cash flow purposes these funds are available to the General Fund. A consolidation of these cash balances results in a cash position of \$1,825,638.

The following table shows the funds that are consolidated:

CASH POSITION - CITY OF CAPITOLA 1/31/12

	<u>Net Balance</u>
General Fund	643,046
Worker's Comp. Ins. Fund	58,210
Self Insurance Liability Fund	17,891
Stores Fund	11,357
Information Technology Fund	33,685
Equipment Replacement	10,065
Compensated Absences Fund	82,995
Contingency Reserve Fund	-
Public Employee Retirement - PERS	270,757
Open Space Fund	256
Capital Improvement Projects	697,377
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u><u>1,825,638</u></u>

The Emergency Reserve Fund balance is \$151,804.17 and is not included above.

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, loans in the amount of \$1,139,895.66 were made from the following funds to the general fund:

Loans Between funds:

Contingency Reserve	\$464,895.66
Equipment Replacement	\$325,000.00
Information Technology	\$150,000.00
Self Insurance Liability	\$200,000.00
Total Loans	<u>\$1,139,895.66</u>

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

ATTACHMENTS:

1. Check Register for January 20, 2012
2. Check Register for January 27, 2012

**Report Prepared By: Linda Benko
AP Clerk**

**Reviewed and Forwarded
by City Manager: _____**

ATTACHMENT 1

Checks dated 1/20/12 numbered 68614 to 68663 for a total of \$359,747.35 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 1/20/12 the unaudited cash balance is \$2,597,923

CASH POSITION - CITY OF CAPITOLA 1/20/12

	<u>Net Balance</u>
General Fund	897,651
Worker's Comp. Ins. Fund	308,629
Self Insurance Liability Fund	51,455
Stores Fund	13,276
Information Technology Fund	34,599
Equipment Replacement	10,065
Compensated Absences Fund	129,790
Contingency Reserve Fund	-
Public Employee Retirement - PERS	258,085
Open Space Fund	256
Capital Improvement Projects	894,118
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u><u>2,597,923</u></u>

The Emergency Reserve Fund balance is \$153,631.67 and is not included above.


On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, loans in the amount of \$1,139,895.66 were made from the following funds to the general fund:

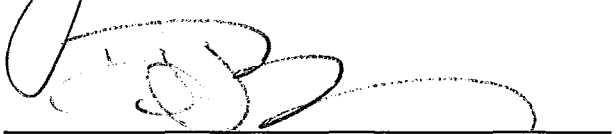
Loans Between funds:

Contingency Reserve	\$464,895.66
Equipment Replacement	\$325,000.00
Information Technology	\$150,000.00
Self Insurance Liability	\$200,000.00
Total Loans	<u>\$1,139,895.66</u>

It is anticipated that these loans to the General Fund will be repaid by June 30, 2012.



Jamie Goldstein, City Manager



Jacques J.J. Bertrand, City Treasurer

1/20/12
Date

2.1.12
Date

City of Capitola
City Checks Issued 1/20/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68614	01/20/2012	Open			ACCURATE RUBBER STAMP	\$132.67
	Invoice		Date	Description		Amount
	679587		11/17/2011	Rubber Stamps-PD		\$132.67
68615	01/20/2012	Open			ACME ROTARY BROOM SERVICE	\$1,680.24
	Invoice		Date	Description		Amount
	4276		12/28/2011	Sweeper parts-Fund 1310, Gas Tax		\$1,680.24
68616	01/20/2012	Open			ADVANTAGE CREDIT INC.	\$90.00
	Invoice		Date	Description		Amount
	E10001-Dec11		12/31/2011	Credit checks, new hires		\$90.00
68617	01/20/2012	Open			ALLSAFE LOCK COMPANY	\$7.29
	Invoice		Date	Description		Amount
	42995		12/28/2011	Keys		\$7.29
68618	01/20/2012	Open			AT&T	\$19.15
	Invoice		Date	Description		Amount
	624-Jan12		01/01/2012	Jan2012 Long Distance		\$7.82
	674-Jan12		01/01/2012	Jan2012 Long Distance		\$11.33
68619	01/20/2012	Open			B & B SMALL ENGINE REPAIR	\$264.74
	Invoice		Date	Description		Amount
	256094		12/29/2011	Stihl 034 chainsaw		\$248.50
	256357		01/05/2012	Primer pump		\$38.84
	256435		01/06/2012	Exchange Primer Pump		(\$22.60)
68620	01/20/2012	Open			BANK OF AMERICA	\$4,936.43
	Invoice		Date	Description		Amount
	Dec2011		01/06/2012	Dec 2011 credit card charges		\$4,936.43
				Fund 1000, Gen Fund=\$2960.51		
				Fund 2211, IT=\$1975.92		
68621	01/20/2012	Open			BELFOR	\$189,382.07
	Invoice		Date	Description		Amount
	10133-3Recon3		08/25/2011	Reconstruction services, Payment #3		\$46,539.45
	10133-2EmPh2		09/26/2011	Emergency Services, Phase 2		\$142,842.62
				Fund 1020, Emergency Res		
68622	01/20/2012	Open			BIG CREEK LUMBER	\$44.38
	Invoice		Date	Description		Amount
	2964754		12/28/2011	Wood for Memorial Plaque		\$44.38
				Fund 1311, Wharf Fund		
68623	01/20/2012	Open			CDW GOVERNMENT INC.	\$1,878.58
	Invoice		Date	Description		Amount
	C745520		12/22/2011	Hardware, Edge 2GB PC2100		\$126.61
	C712868		12/21/2011	Hardware, IOMEGA 8TB Cloud		\$1,751.97
				Fund 2211, IT		
68624	01/20/2012	Open			CITY OF SANTA CRUZ	\$1,556.94
	Invoice		Date	Description		Amount
	746		01/03/2012	Avoid the 9, DUI checkpoint, Grant funded		\$1,556.94

City Checks Issued 1/20/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68625	01/20/2012 Invoice 373793	Open	Date 01/03/2012	Description Evidence supplies	COAST PAPER & SUPPLY INC.	\$285.72
68626	01/20/2012 Invoice Dec2011	Open	Date 12/31/2011	Description Dec 2011 Drinking Water	CRYSTAL SPRINGS WATER CO.	\$106.00
68627	01/20/2012 Invoice AAU2203-2012	Open	Date 12/19/2011	Description Manuf. Home Registration Renewal	DEPARTMENT OF HOUSING AND COMM	\$29.00
68628	01/20/2012 Invoice D7669	Open	Date 01/13/2012	Description service call 12/6/11	ELEVATOR SERVICE COMPANY, INC.	\$340.39
68629	01/20/2012 Invoice 16056	Open	Date 12/30/2011	Description Irrigation Controller	ET Water Systems Inc.	\$199.00
68630	01/20/2012 Invoice 2012 dues	Open	Date 01/12/2012	Description 2012 dues for Held-PD	FBINAA, California Chapter	\$90.00
68631	01/20/2012 Invoice Spring2012	Open	Date 01/17/2012	Description Certification Exam Fee, Saldana	GOV'T & NONPROFIT ASSIST CENTER	\$145.00
68632	01/20/2012 Invoice 2012	Open	Date 01/01/2012	Description 2012 membership dues for Tom Held	INTERNAT'L ASSOC OF CHIEFS OF POLICE	\$120.00
68633	01/20/2012 Invoice Dec2011	Open	Date 12/22/2011	Description Medical Evals, New Hires	LIFESPORT MEDICINE	\$675.00
68634	01/20/2012 Invoice 67347-67348 66899-67023	Open	Date 12/22/2011 12/08/2011	Description BIA Advertising BIA Advertising Fund 1321, BIA	Mainstreet Media dba GOODTIMES	\$550.00
68635	01/20/2012 Invoice R16	Open	Date 01/18/2012	Description Riparian Restoration - wetland	McMENAMIN, GEORGE	\$887.50
68636	01/20/2012 Invoice 1250272	Open	Date 12/22/2011	Description Gloves	MICROFLEX CORP #774353	\$376.08

City of Capitola
City Checks Issued 1/20/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68637	01/20/2012	Open			MID-COUNTY AUTO SUPPLY	\$593.85
	Invoice		Date	Description		Amount
	287483		12/28/2011	auto parts-PD 2001 Impala		\$119.76
	287031		12/23/2011	auto parts-2008 F-450 Dump Truck		\$28.97
	287280		12/27/2011	auto parts-Saturn		\$124.01
	287351		12/27/2011	auto parts-2001 Impala		\$48.67
	286441		12/19/2011	auto parts-2001 Impala		\$87.47
	286530		12/19/2011	auto parts-2001 Impala		\$54.60
	286495		12/19/2011	auto parts-2001 Impala		\$106.72
	286578		12/20/2011	auto parts-Sweeper		\$23.65
68638	01/20/2012	Open			MISSION LINEN SUPPLY	\$977.42
	Invoice		Date	Description		Amount
	Mission-Dec11		12/31/2011	Dec2011 Mat and Uniform Cleaning Service		\$977.42
68639	01/20/2012	Open			ORCHARD SUPPLY HARDWARE	\$183.65
	Invoice		Date	Description		Amount
	6013-9878768		12/28/2011	Saw blades		\$35.15
	6013-330240		01/07/2012	Community Center supplies		\$97.41
	6009-1382428		01/09/2012	Misc Supplies, IT		\$32.71
	6010-4769448		01/11/2012	Tools, IT		\$18.38
68640	01/20/2012	Open			PALACE ART & OFFICE SUPPLIES	\$193.45
	Invoice		Date	Description		Amount
	937551		12/30/2011	Office Supplies, City Hall		\$172.99
	9716829		01/04/2012	Office Supplies, Museum		\$20.46
68641	01/20/2012	Open			QUENVOLD'S SAFETY SHOEMOBILES	\$162.38
	Invoice		Date	Description		Amount
	47136		12/28/2011	safety shoes-PW		\$162.38
68642	01/20/2012	Open			RED SHIFT INTERNET SERVICES	\$115.11
	Invoice		Date	Description		Amount
	1490281		01/01/2012	Internet Access, Jan 2012		\$49.94
	1490280		01/01/2012	Internet Access, Jan2012		\$65.17
				Fund 2211, IT		
68643	01/20/2012	Open			REPUBLIC ITS INC.	\$1,788.21
	Invoice		Date	Description		Amount
	RI-123648		12/23/2011	FY 11/12 Traffic Signal Maintenance		\$1,788.21
				Fund 1310, Gas Tax		
68644	01/20/2012	Open			SCC CONF & VISITORS COUNCIL	\$21,918.10
	Invoice		Date	Description		Amount
	Q2 TMD		12/31/2011	Q2 2011/12 TMD Pass through		\$21,918.10
68645	01/20/2012	Open			SANTA CRUZ MOSQUITO & VECTOR CONTROL	\$95.93
	Invoice		Date	Description		Amount
	03514135-2012		11/14/2011	Vector & Disease Control Assessment, 2012		\$95.93

City Checks Issued 1/20/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68646	01/20/2012	Open			SANTA CRUZ REGIONAL 911	\$104,372.00
	Invoice		Date	Description		Amount
	Opn-Q3 FY11/12		01/01/2012	FY11/12 3rd Qrt. operating expense		\$100,653.50
	SCRMS-Q3 FY11/12		01/01/2012	Q3 FY 11/12 SCRMS		\$3,718.50
68647	01/20/2012	Open			SIRCHIE	\$187.25
	Invoice		Date	Description		Amount
	65612-in		01/12/2012	Misc supplies-PD		\$187.25
68648	01/20/2012	Open			SOQUEL NURSERY GROWERS, INC.	\$120.23
	Invoice		Date	Description		Amount
	302887		01/04/2012	Plants		\$120.23
68649	01/20/2012	Open			STAPLES	\$415.87
	Invoice		Date	Description		Amount
	Cr Adj-Sep11		09/12/2011	Credit Adjustment to Acct, Sep 2011		(\$48.15)
	Dec2011		01/17/2012	IT Supplies		\$464.02
				Fund 2211, IT		
68650	01/20/2012	Open			SWIFT, CAROLYN	\$598.16
	Invoice		Date	Description		Amount
	Goods		01/10/2012	Museum Display Expense Reimbursement		\$159.75
	Bev-Jan12		01/13/2012	Museum Display Expense Reimbursement		\$190.77
	Deck-Jan12		01/12/2012	Museum Display Expense Reimbursement		\$26.81
	Guernsey-Jan12		01/13/2012	Museum Display Expense Reimbursement		\$160.00
	20120114		01/17/2012	Museum Display Expense Reimbursement		\$60.83
68651	01/20/2012	Open			THILL, WENDY	\$120.00
	Invoice		Date	Description		Amount
	2012-00000509		01/17/2012	Volleyball Official		\$120.00
68652	01/20/2012	Open			TLC ADMINISTRATORS, INC.	\$1,000.00
	Invoice		Date	Description		Amount
	FlexCash-Jan12		01/17/2012	Replenish Flex Cash, Employee Funded		\$1,000.00
68653	01/20/2012	Open			UNITED PARCEL SERVICE	\$183.93
	Invoice		Date	Description		Amount
	954791511		01/06/2012	Shipping, PD and IT		\$183.93
68654	01/20/2012	Open			VERIZON WIRELESS-ACCT#572015869-	\$36.18
	Invoice		Date	Description		Amount
	1044983413		01/03/2012	T-1 Lines-Fund 2211, IT		\$36.18
68655	01/20/2012	Open			WATSONVILLE POLICE DEPT	\$18,143.28
	Invoice		Date	Description		Amount
	Dec 2011		12/31/2011	Avoid the 9, DUI Checkpoint, Grant funded		\$18,143.28
68656	01/20/2012	Open			Goepfrich, Karl	\$2,208.00
	Invoice		Date	Description		Amount
	2012-00000503		01/13/2012	Landscape Deposit Refund, 603 Gilroy Dr		\$2,208.00

City Checks Issued 1/20/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68657	01/20/2012 Invoice 2001207-002	Open	Date 01/17/2012	Description Balance on account	Miller, Cathy	\$3.60 \$3.60
68658	01/20/2012 Invoice 2012-00000510	Open	Date 01/17/2012	Description Building Plan Check Refund	Miller, Judith	\$354.17 \$354.17
68659	01/20/2012 Invoice 2012-00000502	Open	Date 01/13/2012	Description Tree Deposit Refund Permit #11-127	Pabich, Phil and Jackie	\$500.00 \$500.00
68660	01/20/2012 Invoice 2001211-002	Open	Date 01/17/2012	Description Class refund	Roush, Michele	\$86.40 \$86.40
68661	01/20/2012 Invoice 2012-00000511	Open	Date 01/12/2012	Description Child passenger safety refresher course	Safe Kids Chapter	\$25.00 \$25.00
68662	01/20/2012 Invoice 2001217-002	Open	Date 01/17/2012	Description Sports League refund	Vaden, Jon	\$257.00 \$257.00
68663	01/20/2012 Invoice 2012-00000504	Open	Date 01/13/2012	Description Landscape Deposit Refund, 410 Escalona D	Welch, Troy and Coni	\$1,312.00 \$1,312.00
Check Totals:				Count	50	Total \$359,747.35

ATTACHMENT 2

Checks dated 1/27/12 numbered 68664 to 68739 for a total of \$812,287.12 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 1/27/12 the unaudited cash balance is \$1,807,286

CASH POSITION - CITY OF CAPITOLA 1/27/12

	<u>Net Balance</u>
General Fund	624,694
Worker's Comp. Ins. Fund	58,210
Self Insurance Liability Fund	17,891
Stores Fund	11,357
Information Technology Fund	33,685
Equipment Replacement	10,065
Compensated Absences Fund	82,995
Contingency Reserve Fund	-
Public Employee Retirement - PERS	270,757
Open Space Fund	256
Capital Improvement Projects	697,377
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u><u>1,807,286</u></u>

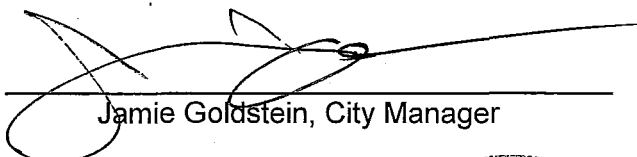
The Emergency Reserve Fund balance is \$151,804.17 and is not included above.

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, loans in the amount of \$1,139,895.66 were made from the following funds to the general fund:

Loans Between funds:	
Contingency Reserve	\$464,895.66
Equipment Replacement	\$325,000.00
Information Technology	\$150,000.00
Self Insurance Liability	\$200,000.00
Total Loans	<u>\$1,139,895.66</u>

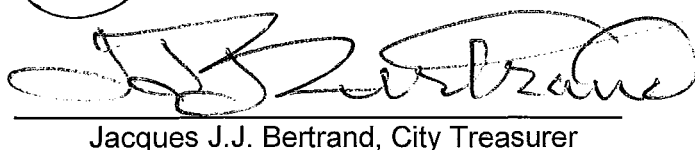
It is anticipated that these loans to the General Fund will be repaid by June 30, 2012.



 Jamie Goldstein, City Manager

1/27/12

 Date



 Jacques J.J. Bertrand, City Treasurer

2.1.12

 Date

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68664	01/27/2012	Open			APTOS LANDSCAPE SUPPLY, INC.	\$20.52
	Invoice		Date	Description		Amount
	326372		01/17/2012	Top soil		\$20.52
68665	01/27/2012	Open			BEEMERSHOP, INC	\$1,917.01
	Invoice		Date	Description		Amount
	22714		01/05/2012	Motorcycle repair-PD		\$1,917.01
68666	01/27/2012	Open			BEN'S MOTORCYCLE WORKS	\$1,805.47
	Invoice		Date	Description		Amount
	0356		01/12/2012	Motorcycle repair-PD		\$1,805.47
68667	01/27/2012	Open			BIG CREEK LUMBER	\$672.38
	Invoice		Date	Description		Amount
	2560199		12/19/2011	Wood - Noble Gulch Park		\$672.38
68668	01/27/2012	Open			BRESLIN-KESSLER, PAUL	\$502.50
	Invoice		Date	Description		Amount
	BK-Jan12		01/24/2012	Private Lessons-Pass Thru		\$502.50
68669	01/27/2012	Open			CALE AMERICA	\$841.32
	Invoice		Date	Description		Amount
	125444		12/30/2011	December 2011 Active Meters		\$770.00
	125523		01/19/2012	Two set of keys for meters-requested by PD		\$71.32
				Fund 1316, Parking Reserve Fund		
68670	01/27/2012	Open			CalPERS Health Insurance	\$52,196.85
	Invoice		Date	Description		Amount
	Feb2012		01/20/2012	Feb 2012 Health Ins Premium, Employee Funded		\$52,196.85
68671	01/27/2012	Open			CDW GOVERNMENT INC.	\$249.36
	Invoice		Date	Description		Amount
	C851220		12/28/2011	IOMEGA Service Plan Fund 2211, IT		\$249.36
68672	01/27/2012	Open			CERTIFIED FOLDER DISPLAY SERVICE	\$3,045.42
	Invoice		Date	Description		Amount
	439675		12/31/2011	Bay Area Advertising, FY11/12 Fund 1321, BIA		\$3,045.42
68673	01/27/2012	Open			CHEVROLET OF WATSONVILLE	\$1,733.78
	Invoice		Date	Description		Amount
	CM163061		08/18/2011	Return Auto Parts, original inv 163061		(\$80.00)
	172599		01/19/2012	auto parts		\$839.40
	172561		01/18/2012	auto parts		\$416.46
	172172		01/05/2012	auto parts		\$63.46
	172044		12/30/2011	auto parts		\$537.10
	172099		01/03/2012	auto parts		(\$42.64)
68674	01/27/2012	Open			CLEAN BUILDING MAINTENANCE	\$3,542.00
	Invoice		Date	Description		Amount
	9195		12/31/2011	Dec2011 Cleaning Service		\$3,542.00

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68675	01/27/2012	Open			CLEAN SOURCE	\$1,364.10
	Invoice		Date	Description		Amount
	1308980		12/30/2011	Cleaning supplies		\$1,364.10
68676	01/27/2012	Open			COASTAL WATERSHED COUNCIL	\$4,333.07
	Invoice		Date	Description		Amount
	1116		12/31/2011	2011 Storm Water Educ. and Outreach Svc		\$925.57
	1121		12/31/2011	Soquel Creek Monitoring -Water Quality		\$3,407.50
68677	01/27/2012	Open			CONFLICT RESOLUTION CTR OF SC	\$1,379.00
	Invoice		Date	Description		Amount
	Q1-2		01/20/2012	Community Grant, Q1 and Q2		\$1,379.00
68678	01/27/2012	Open			CVS PHARMACY INC.	\$109.98
	Invoice		Date	Description		Amount
	11912		01/19/2012	Cleaning supplies-PD		\$109.98
68679	01/27/2012	Open			DREAMLAND SKATEPARKS LLC	\$2,500.00
	Invoice		Date	Description		Amount
	1		01/18/2012	Skatepark AutoCad 3D Rendering Fund 1200, CIP		\$2,500.00
68680	01/27/2012	Open				\$57.52
	Invoice		Date	Description		Amount
	4249680		01/05/2012	Grass seed		\$14.04
	4249681		01/05/2012	Gromulch		\$29.44
	4264470		01/09/2012	Grass seed		\$14.04
68681	01/27/2012	Open				\$1,858.67
	Invoice		Date	Description		Amount
	12-687241		01/06/2012	425 Gal Ethanol		\$1,637.33
	12-687242		01/06/2012	55 Gal Diesel		\$221.34
68682	01/27/2012	Open			GARDEN CITY CONSTRUCTION INC.	\$194,691.33
	Invoice		Date	Description		Amount
	G10330-4		11/30/2011	Rispin Mansion Stabilization Project Fund 1200, CIP		\$194,691.33
68683	01/27/2012	Open			Geo. H. Wilson, Inc.	\$285.00
	Invoice		Date	Description		Amount
	99397		01/17/2012	HVAC maintenance - CPD		\$285.00
68684	01/27/2012	Open			HOWARD, CHARLIE	\$1,320.00
	Invoice		Date	Description		Amount
	Jan-week2		01/23/2012	Mechanic		\$730.00
	Jan-Week3		01/23/2012	Mechanic		\$590.00
68685	01/27/2012	Open			JIMMIE SMITH PLUMBING, INC.	\$149.81
	Invoice		Date	Description		Amount
	W02720		01/03/2012	Urinal repair		\$149.81

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68686	01/27/2012 Invoice 1201004	Open	Date 01/03/2012	Description Police Chief Ad	JOB'S AVAILABLE	\$315.00 \$315.00
68687	01/27/2012 Invoice A152750	Open	Date 01/13/2012	Description Painting supplies	KING'S PAINT AND PAPER, INC.	\$123.08 \$123.08
68688	01/27/2012 Invoice 112611	Open	Date 01/02/2012	Description Background Investigation Exp, PD	LAW ENFORCEMENT PSYCH SERVICE	\$350.00 \$350.00
68689	01/27/2012 Invoice 115433	Open	Date 01/03/2012	Description 2012 Membership dues	LEAGUE OF CALIFORNIA CITIES	\$4,562.00 \$4,562.00
68690	01/27/2012 Invoice 10989247	Open	Date 12/31/2011	Description Armored car service	LOOMIS	\$1,234.31 \$1,234.31
68691	01/27/2012 Invoice 47708226	Open	Date 12/28/2011	Description Internet Access Fund 2211, IT	MEGAPATH COVAD COMMUNICATIONS	\$643.86 \$643.86
68692	01/27/2012 Invoice 289861 289148 289513 288965 289050 288849 288729 288702 288561 288559 288542 288236 287909 287894 288021 288055	Open	Date 01/19/2012 01/13/2012 01/17/2012 01/12/2012 01/12/2012 01/11/2012 01/10/2012 01/10/2012 01/09/2012 01/09/2012 01/09/2012 01/05/2012 01/03/2012 01/03/2012 01/04/2012 01/04/2012	Description auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts auto parts	MID-COUNTY AUTO SUPPLY	\$684.10 \$0.72 \$19.06 \$9.05 \$13.96 \$47.30 \$73.51 \$9.82 \$9.72 \$9.79 \$40.00 \$62.93 \$42.06 \$40.00 \$69.67 \$215.99 \$20.52
68693	01/27/2012 Invoice 955248387	Open	Date 01/04/2012	Description Jan12 Storage Trailer-PD	MOBILE MINI LLC	\$517.60 \$517.60

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68694	01/27/2012 Invoice 11-12WC	Open	Date 12/19/2011	Description FY11/12 Workers Comp & Gen Liability Ins. Fund 2213, Self Ins Liability=\$32,669 Fund 2214, Worker Comp=\$367,344	MONTEREY BAY AREA SELF INS AUTH	\$400,013.00
68695	01/27/2012 Invoice MBA10-0613b	Open	Date 12/28/2011	Description Claim Settlement, Cholden Fund 2213, Self Ins Liability	MONTEREY BAY AREA SELF INS AUTH	\$895.22
68696	01/27/2012 Invoice cm2256741 225641 225392 225539 225574	Open	Date 01/19/2012 01/17/2012 01/05/2012 01/12/2012 01/16/2012	Description auto parts auto parts auto parts auto parts auto parts	NORTH BAY FORD	\$711.57
68697	01/27/2012 Invoice 6005-2430721 6005-3520822 6007-3693897 6011-4791453 6011-3322445	Open	Date 01/04/2012 01/05/2012 01/09/2012 01/05/2012 01/09/2012	Description Misc. Tarps & ropes - Tsunami Work Crew Painting supplies Misc. Main Supplies Brushes	ORCHARD SUPPLY HARDWARE	\$281.81
68698	01/27/2012 Invoice 1112043	Open	Date 01/12/2012	Description Pac Cove Relocation Plan Fund 1020, Emergency Reserve	OVERLAND, PACIFIC & CUTLER, INC.	\$1,827.50
68699	01/27/2012 Invoice 8714044 938541 938268 938657 938578 C937346 939152 938084 938083 939247 939417	Open	Date 01/03/2012 01/06/2012 01/05/2012 01/06/2012 01/06/2012 01/04/2012 01/10/2012 01/12/2012 01/12/2012 01/11/2012 01/11/2012	Description Office supplies-Rec Paper-PD Office Supplies, City Hall Office Supplies, City Hall Office Supplies, City Hall Return Office Supplies, PD Office Supplies, City Hall Office Supplies, City hall Office Supplies, City Hall Office Supplies, City Hall Office Supplies, City Hall Office Supplies, City Hall	PALACE ART & OFFICE SUPPLIES	\$450.62
68700	01/27/2012 Invoice 838727	Open	Date 01/03/2012	Description Postage Meter Rental Charge Fund 2210, Stores	PITNEY BOWES INC.	\$207.84
68701	01/27/2012 Invoice SCAN-Jan2012	Open	Date 01/04/2012	Description Jan 2012 Open query SCAN charges	SCC INFORMATION SERVICES	\$502.78

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68702	01/27/2012	Open			SCC SANITATION DISTRICT	\$19,611.36
	Invoice		Date	Description		Amount
	SCCSD11-12-PacCo		01/09/2012	2011/2012 Sewer service charges Pac Cove		\$18,105.60
	SCCSD-11-12		01/09/2012	2011/2012 Sewer service charges Jade St		\$1,505.76
68703	01/27/2012	Open			SENTINEL PRINTERS, INC.	\$134.54
	Invoice		Date	Description		Amount
	293030		12/15/2011	Business Cards, VanSon		\$134.54
				Fund 2210, Stores		
68704	01/27/2012	Open			SOQUEL CREEK WATER DISTRICT	\$4,152.48
	Invoice		Date	Description		Amount
	Nov11-Jan12		01/09/2012	Semi-Monthly Water Usage, Irrigation		\$4,152.48
				Fund 1000, Gen Fund=\$3618.79		
				Fund 1311, Wharf Fund=\$533.69		
68705	01/27/2012	Open			SPORT ABOUT	\$626.40
	Invoice		Date	Description		Amount
	21892KM		01/23/2012	Softballs		\$626.40
68706	01/27/2012	Open			STAPLES	\$21.40
	Invoice		Date	Description		Amount
	9224066912		01/17/2012	IT Supplies		\$21.40
				Fund 2211, IT		
68707	01/27/2012	Open			SUMMIT UNIFORM CORP	\$22.73
	Invoice		Date	Description		Amount
	44411		12/29/2011	Uniform Exp, Josh Murray-PD		\$22.73
68708	01/27/2012	Open			SWIFT, CAROLYN	\$1,069.26
	Invoice		Date	Description		Amount
	0050		01/20/2012	Reimburse Museum Display Expense		\$312.00
	46806194		01/20/2012	Reimburse Museum Display Expense		\$6.25
	Flowers		01/20/2012	Reimburse Museum Display Expense		\$20.99
	Gaylord		01/20/2012	Reimburse Museum Display Expense		\$228.36
	Postcard		01/20/2012	Reimburse Museum Display Expense		\$5.64
	Fashion		01/20/2012	Reimburse Museum Display Expense		\$224.98
	Archives		01/20/2012	Reimburse Museum Display Expense		\$271.04
68709	01/27/2012	Open			THE HARTFORD -PRIORITY ACCOUNTS	\$1,505.04
	Invoice		Date	Description		Amount
	5743374-0		01/20/2012	City Employee Life and Disability Ins		\$1,505.04
68710	01/27/2012	Open			TLC ADMINISTRATORS, INC.	\$183.00
	Invoice		Date	Description		Amount
	15306		01/17/2012	Admin Fee, Jan 2012		\$183.00
68711	01/27/2012	Open			TRI-COUNTY BUSINESS SYSTEMS INC.	\$990.65
	Invoice		Date	Description		Amount
	CN1N017720		12/30/2011	Copier Contract, Sep-Dec11 Copies		\$990.65
				Fund 2210, Stores		

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68712	01/27/2012	Open			UNITED PARCEL SERVICE	\$20.76
	Invoice		Date	Description		Amount
	954791022		01/14/2012	Shipping-PD		\$20.76
68713	01/27/2012	Open			UNITED STATES POSTAL SERVICE	\$190.00
	Invoice		Date	Description		Amount
	Permit13-2012		12/20/2011	Mailing Permit Renewal Fund 2210, Stores		\$190.00
68714	01/27/2012	Open			Van Den Heuvel, Dana	\$1,815.49
	Invoice		Date	Description		Amount
	IDR-Jan27		01/17/2012	PERS payment in advance of IDR		\$1,815.49
68715	01/27/2012	Open			WESTMAN, SUSAN	\$10,960.00
	Invoice		Date	Description		Amount
	Jan2012		01/20/2012	Comm Dev Dir Contract Services, Jan 2012		\$10,960.00
68716	01/27/2012	Open			ZAP MANUFACTURING INC.	\$680.14
	Invoice		Date	Description		Amount
	39904		01/08/2012	Signs		\$680.14
68717	01/27/2012	Open			ZUMAR INDUSTRIES INC.	\$1,531.48
	Invoice		Date	Description		Amount
	135578		12/30/2011	No Smoking signs - Esplanade		\$287.46
	135607		12/30/2011	Street name signs		\$1,244.02
68718	01/27/2012	Open			Advantage Credit & CCI Profiles	\$20.00
	Invoice		Date	Description		Amount
	2012-00000512		01/18/2012	Credit check for 187 PC case 11c-02286		\$20.00
68719	01/27/2012	Open			Amick, Thais	\$1,000.00
	Invoice		Date	Description		Amount
	10j		01/20/2012	Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund		\$1,000.00
68720	01/27/2012	Open			Capitola Roth Investments, LLC	\$22,000.00
	Invoice		Date	Description		Amount
	2012-00000514		01/20/2012	Landscape Installation Agreement		\$22,000.00
68721	01/27/2012	Open			Dill, Mary Anna	\$500.00
	Invoice		Date	Description		Amount
	2012-00000513		01/20/2012	Tree Deposit Refund #11-128		\$500.00
68722	01/27/2012	Open			Doze, Frank	\$1,000.00
	Invoice		Date	Description		Amount
	10e		01/20/2012	Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund		\$1,000.00
68723	01/27/2012	Open			Faulk, LaDell	\$1,175.00
	Invoice		Date	Description		Amount
	10g		01/20/2012	Bay Ave Sr. Apts Relocation Pmt Fund 1371, HOME Grant Fund		\$1,175.00
68724	01/27/2012	Open			Garrison, Geri	\$72.00
	Invoice		Date	Description		Amount
	2012-00000515		01/23/2012	Class refund		\$72.00

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
68725	01/27/2012 Invoice 10h	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Goodlander, Marie	\$21,424.00
68726	01/27/2012 Invoice 10a	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Harhen, Doris	\$16,278.00
68727	01/27/2012 Invoice 10b	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Huffnagle, Marion	\$1,000.00
68728	01/27/2012 Invoice 2001229-002	Open	Date 01/23/2012	Description Class refund	Kates, Elaine	\$55.00
68729	01/27/2012 Invoice 10f	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Kraft, Greg	\$1,175.00
68730	01/27/2012 Invoice 2012-00000517	Open	Date 01/23/2012	Description Center deposit refund	McConnell, Mark	\$100.00
68731	01/27/2012 Invoice 10d	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Robles, Stella	\$1,175.00
68732	01/27/2012 Invoice 10c	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Santi, Kathryn, E.	\$4,700.00
68733	01/27/2012 Invoice 10i	Open	Date 01/20/2012	Description Bay Ave Sr Apts Relocation Pmt Fund 1371, HOME Grant Fund	Sawyer, Margaret	\$1,000.00
68734	01/27/2012 Invoice POA1-27-12	Open	Date 01/26/2012	Description POA Dues, 1/27/12 PR, Employee Funded	CAPITOLA PEACE OFFICERS ASSOC.	\$765.08
68735	01/27/2012 Invoice ICMA1/27/12	Open	Date 01/26/2012	Description Retirement Plan Contribution, Employee Funded	ICMA RETIREMENT TRUST 457	\$4,885.41
68736	01/27/2012 Invoice Dues1/27/12	Open	Date 01/26/2012	Description Pension Dues, 1/27/12 PR, Employee Funded	LIUNA PENSION FUND	\$484.00

City Checks Issued 1/27/2012

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount	
68737	01/27/2012	Open			UNION BANK OF CALIFORNIA	\$211.52	
	Invoice		Date	Description		Amount	
	PARS1-27-12		01/26/2012	PARS Contribution, Jan 27 PR, Employee Funded		\$211.52	
68738	01/27/2012	Open			UNITED WAY OF SANTA CRUZ COUNT	\$40.00	
	Invoice		Date	Description		Amount	
	UW1/27/12		01/26/2012	United Way Donation, 1/27/12 PR, Employee Funded		\$40.00	
68739	01/27/2012	Open			UPEC LIUNA LOCAL 792	\$1,817.00	
	Invoice		Date	Description		Amount	
	DUES1/27/12		01/26/2012	Union Dues, 1/27/12 PR, Employee Funded		\$1,817.00	
Check Totals:				Count	76	Total	\$812,287.12



Item #: 5.A.

CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: CITY MANAGER'S DEPARTMENT

SUBJECT: LIABILITY CLAIMS

RECOMMENDED ACTION: Deny liability claims and forward to the City's liability insurance carrier.

DISCUSSION:

The following claimants have filed liability claims against the City of Capitola:

1. American Alternative Insurance Corporation, subrogee of Central Fire Protection District of Santa Cruz County: \$184,982.40;
2. Paula Bradley: undetermined amount.

ATTACHMENTS: None

Report Prepared By: **Liz Nichols**
Executive Assistant to the City Manager

Reviewed and Forwarded
by City Manager: _____



Item #: 5.B.

CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: OFFICE OF THE CITY CLERK/REDEVELOPMENT AGENCY SECRETARY

SUBJECT: CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY MINUTE APPROVAL:
MINUTES OF THE JOINT REGULAR MEETING OF THE CAPITOLA CITY COUNCIL/
REDEVELOPMENT AGENCY OF JANUARY 12, 2012

RECOMMENDED ACTION: By motion that the City Council/Redevelopment Agency Directors approve the subject minutes as submitted.

DISCUSSION: Attached for City Council/Redevelopment Agency review and approval are the Minutes to the subject meetings.

ATTACHMENTS

1. January 12, 2012 Minutes

Report Prepared By: Susan Sneddin, CMC
City Clerk/RDA Secretary

Reviewed and Forwarded by
City Manager/Executive Director: _____

NOT OFFICIAL UNTIL APPROVED BY COUNCIL/RDA DIRECTORS

**CITY OF CAPITOLA
CITY COUNCIL/REDEVELOPMENT AGENCY**

January 12, 2012
Capitola, California

MINUTES OF A REGULAR JOINT MEETING

5:00 P.M. — CLOSED SESSION — CITY MANAGER’S OFFICE

CALL TO ORDER

At 5:00 p.m. in the City Hall Council Chambers, Mayor/Chairperson Termini noted that all Council Members/Redevelopment Agency Directors were present. Mayor/Chairperson 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 Govt. Code §54956.9:
Two cases: 1) Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park
2) Pacific Cove Mobile Home Park Flooding and Closure

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

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]

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Jamie Goldstein, City Manager
Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Allstate Insurance, subrogee of Nazar Turkish Imports
Claimant: Allied Interstate, subrogee of Capitola Associates, LLC
Claimant: Brian Alexander
Agency claimed against: City of Capitola

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)

Title: City Manager

Mayor/Chairperson Termini noted that there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:00 p.m. to the Closed Session in the City Manager’s Office.

6:00 P.M. – OPEN SESSION**REGULAR JOINT MEETING OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY****CALL TO ORDER**

Mayor/Chairperson Termini called the Regular Joint Meeting of the Capitola City Council/ Redevelopment Agency to order at 6:08 p.m. on Thursday, January 12, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

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

ABSENT: None

OTHERS: City Treasurer Jacques Bertrand and Interim Redevelopment Agency Treasurer Jamie Goldstein

STAFF: City Manager/Executive Director Jamie Goldstein, City Attorney/General Counsel John Barisone, Interim Community Development Director/Deputy Executive Director Susan Westman, Public Works Director Steve Jesberg, Chief of Police Michael Card, and City Clerk/Secretary Susan Sneddon

PRESENTATIONS

Introduction of the new City Clerk, Susan Sneddon

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone stated that the items Council was scheduled to discuss in Closed Session are those listed on the Council's posted Closed Session Agenda. He reported that due to time constraints the Council discussed the anticipated litigation regarding Pacific Cove Mobile Home Park Flooding and Closure and the potential litigation against the City's first party insurance carrier regarding property damages the City sustained as a result of the March 2011 flood. No reportable action was taken.

2. PUBLIC HEARING

A. Continued Public Hearing on Project Application #11-114, 426 Capitola Avenue, APN 035-141-33, to consider an application regarding a Coastal Development Permit, Relocation Impact Report (RIR), and Relocation Plan for the closure of Pacific Cove Mobile Home Park. The Capitola Planning Commission, at its meeting held December 1, 2011, determined the project is exempt from CEQA, and approved a Coastal Development for Closure of Park subject to findings and conditions, and determined the Relocation Impact Report is sufficient with conditions and measures to mitigate the adverse impacts on the change of use. Environmental Determination: Categorical Exemption. Property Owner: City of Capitola, Owner/filed 10/27/11 [730-10/260-10].

2. PUBLIC HEARING (continued)

Senior Planner Bane stated that the Planning Commission discussed this item at their December 1, 2011 meeting and provided their comments to Council. He summarized the agenda report and reviewed five options. Utilizing a PowerPoint Presentation, Senior Planner Bane reviewed four basic payments which are proposed in the Relocation Impact Report.

Council Member Storey asked if the residents' claims would be based on the appraisals prior to the March 2011 flood or based on the damages sustained as a result of the flood.

Council Member Norton asked about plans for relocating the mobile homes.

City Manager Goldstein stated the Relocation Impact Report includes a potential timeline regarding the relocation of the mobile homes contingent upon the Council's action this evening. He stated that at a subsequent meeting the Council will provide direction to staff regarding the issuance of the notice of the Pacific Cove Mobile Home Park (Park) closure pursuant to state law.

Mayor Termini opened the public hearing.

John Hannon, attorney and resident, stated he was contacted by approximately fifteen Pacific Cove Mobile Home Park homeowners. He said the homeowners are not attempting to obstruct progress regarding the park closure; however, they want to protect their interests.

Chris Flynn, Pacific Cove Mobile Home Park (Space 40), recommended adding a sixth option to designate a City staff member: To be a negotiator on behalf of the City with designated person(s) representing the Park homeowners, to arrive at a collective decision to resolve conditions of the RIR, and to reconcile any differences to avoid anticipated litigation.

Carol Lerno, Pacific Cove Mobile Home Park (Space 56), suggested that the City delay in moving forward with the closure of the Park due to the pending lawsuit.

Frederick Coquelin, Cabrillo Mobile Home Park, stated that Castle Mobile Home Park is another relocation option for the low-income residents.

Mayor Termini closed the public hearing.

Mayor Termini asked Public Works Director Jesberg about the cost to replace the drainage line. (**Public Works Director Jesberg** replied that the drainage line under the Park would be separate and would cost over one million dollars).

2. PUBLIC HEARING (continued)

Council Member Storey asked that each resolution for this item be addressed individually. He does not support **Recommendation No. 2** regarding replacing Resolution 1950 (adopted in 1984) because the City had made a commitment that mobile homes used as a second home or temporary home be treated equally. In addition, he does not support **Recommendation No. 3** regarding finding the RIR adequate; it does not sufficiently identify the fair market value of the coaches and does not sufficiently reduce the economic impact. He stated that there should be more discussion and negotiations regarding efforts to reduce the economic impact of the Park closure, and enable the homeowners to relocate. He added that homeowners should not be able to get full value before the flood and also be able to claim damages that occurred as a result of the flood. He does not support **Recommendation No. 4** finding that the RIR is inadequate because more work is needed on the RIR. He supports **Recommendation No. 5** directing staff to return to the Council on January 26, 2012 with a draft Financing Plan; however it should include a more detailed analysis.

Council Member Nicol stated that he supports all of the staff recommendations and is in favor of formulas that address the unique circumstances of the homeowners' properties.

Council Member Harlan stated that she supports all of the staff recommendations. The City needs to move forward with the closure of the Park due to its known liability. She suggested increasing the value of each mobile home in place.

Council Member Norton stated that he supports all of the staff recommendations. He feels differently for those who have secondary mobile homes in the Park because they have enjoyed the lowest rent in the community. He suggested adding an additional recommendation that would direct the City Manager to negotiate with individual homeowners.

Mayor Termini asked how many current residents were residing there when the City purchased the Park. (**City Manager Goldstein** responded that there are probably three to five residents still residing in the Park). **Mayor Termini** stated his concern in allowing mobile homes in the affected area because of potential future flooding.

City Council took the following actions:

1. ***Motion by Council Member Norton, seconded by Council Member Harlan, to find the project is exempt from CEQA as it does not involve an increase in the intensity of use or new development (CEQA Guidelines 15301 Existing Facilities). The motion was unanimously carried.***

2. PUBLIC HEARING (continued)

2. *Motion by Council Member Norton, seconded by Council Member Harlan, to adopt Resolution No. 3902 approving the Coastal Development Permit and demonstrating consistency with the Mello Act for the closure of Pacific Cove Mobile Home Park, subject to specific findings and conditions. The motion was unanimously carried.*
3. *Motion by Council Member Norton, seconded by Council Member Nicol, to adopt Resolution No. 3903 the proposed resolution replacing Resolution 1950, and clarifying that only second home owners who owned coaches in the park prior to the City's acquisition of Pacific Cove are entitled to the same benefits as full time residents. The motion carried on the following roll call vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN:None.*
4. *Motion by Council Member Norton, seconded by Council Member Nicol, to adopt Resolution No. 3904 with conditions finding that the RIR is sufficient pending the application of measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents. The motion carried on the following roll call vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.*
5. *Motion by Council Member Nicol, seconded by Council Member Norton, to direct staff to return to City Council on January 26, 2012 with a draft Financing Plan, a draft six-month written notice of termination of tenancy, and a contract for relocation services. The motion was unanimously carried.*

Mayor Termini stated that the following is an additional recommendation (Recommendation No. 6) to designate a staff member to negotiate with the Park residents regarding the closure of Pacific Cove Mobile Home Park.

6. *Motion by Council Member Norton, seconded by Council Member Nicol, to direct the city manager to formulate a negotiating plan regarding the closure of Pacific Cove Mobile Home Park with individual residents. The motion unanimously carried.*

City Attorney Barisone stated that he agrees with Council Member Storey's recommendation to revise the adopted Resolution (Resolution No. 3902) regarding approving the Coastal Development Permit and demonstrating consistency with the Mello Act for the closure of Pacific Cove Mobile Home Park to address the elimination of the Redevelopment Agency through the California Supreme Court decision as another basis for infeasibility. (Mayor Termini agreed).

The Council took at short break at 7:18 PM and reconvened at 7:26 PM.

3. ORAL COMMUNICATIONS

A. Public Comments:

The following members of the public addressed the City Council pertaining to their ongoing concerns regarding the PG&E SmartMeters:

Karen Nevis, Capitola Art & Cultural Commission member, stated why she desires the City's SmartMeter Ordinance should remain in effect.

Marilyn Garrett spoke against the SmartMeters and submitted written material to Council.

B. Staff Comments:

None provided

C. City Council/RDA Director/Treasurer Comments/Committee Reports

Council Member Nicol, the City's representative on the Santa Cruz County Regional Transportation Commission (SCCRTC), stated that on Highway 1, between Soquel Avenue and Morrissey Boulevard, auxiliary lane work will begin next week; the public may attend a meeting at DeLaVeaga Elementary School on Thursday, January 19, at 7 PM.

Council Member Storey, the City's representative on the Santa Cruz Library Joint Powers Board, thanked Barbara Gorson (Capitola resident), who recently resigned as President on the Santa Cruz Library Joint Powers Board; he welcomed Dick English as the new incoming President [230-10].

Council Member Harlan, the City's representative on the Santa Cruz County Integrated Waste Management Local Task Force, stated that on Saturday, January 15, from 10 AM to 12 Noon there will be a Soquel Creek clean up near the Rispin Mansion and Perry Park. She provided an update from the December 1, 2011, Integrated Waste Management Local Task Force meeting when the proposed waste management development (Zero Waste EcoPark) was discussed. She stated that the County has been working with HDR Engineering on plans to develop the proposed EcoPark to be located at the Buena Vista Landfill. She stated that on September 20, 2011, the Santa Cruz County Board of Supervisors, in an effort to reduce litter and protect our local environment, enacted an ordinance relating to the reduction of single-use plastic bags. She stated that there has been a lawsuit by the Save the Plastic Bag Coalition; the County has requested a dismissal due to upcoming settlement hearings. She also provided an update on the County's proposed ordinance to establish minimum standards for the recycling of electronic waste; it would be mandated that the e-waste recycler receive a certificate. She stated that she received an update on the County's Polystyrene Ordinance, and the Fluorescent Retail Take-it-Back Program [903-55].

3. C. ORAL COMMUNICATIONS (continued)

Council Member Norton requested that in March 2012 a representative from the Santa Cruz County Regional Transportation Commission present information to Council regarding the Capitola corridor. (**Council Member Nicol** stated he will coordinate a presentation with SCRTC). **Council Member Norton** requested that the City Council consider a continuance of the ban on PG&E SmartMeters.

D. City Council/RDA Director/Treasurer Comments/Committee Reports

Mayor Termini stated that he requested a representative from the Soquel Creek Water District present the proposed Desalination Project Environmental Impact Report to City Council in April 2012. He requested the Public Works staff remove the table and chairs located on the sidewalk adjacent to the Silver Crest Apartments where some residents have set up a smoking area.

Interim Community Development Director/Deputy Executive Director Westman requested additional time in dealing with this issue as the Community Development Department staff is working towards a resolution.

Mayor Termini provided an update on the 41st Avenue Art Project to be held in March 2012; the City's Art & Cultural Commission will be reviewing the final art selections in February 2012.

E. Committee Appointments: Nomination by the Mayor of one Council Member to serve on the Capitola Public Safety and Community Service Foundation. [485-10]

Mayor Termini stated that pursuant to the Public Safety and Community Service Foundation (CPCSF) By-laws the Mayor or an appointee be appointed to the CPCSF Board.

Motion by Council Member Norton, seconded by Council Member Storey, to appoint Mayor Termini to the Public Safety and Community Service Foundation Board. The motion was unanimously carried.

F. Approval of Check Register Reports

1. **City: Approval of City Check Register Reports dated December 2, 9, 16 and 23, 2011. [300-10]**

Motion by Council Member Norton, seconded by Council Member Storey, to approve the Check Register Reports dated December 2, 9, 16 and 23, 2011, including checks numbered 68184 through 68282 in the amount of \$297,204.36, checks numbered 68283 through 68333 in the amount of \$84,509.96, checks numbered 68334 through 68396 in the amount of \$60,200.11, and checks numbered 68397 through 68508 in the amount of \$163,237.76, respectively; and payroll disbursements for the December 9, 2011, payroll in the amount of \$154,679.05, and the December 23, 2011, payroll in the amount of \$203,239.95, for a Grand Total of \$963,071.18, as submitted. The motion was unanimously carried.

3. F. ORAL COMMUNICATIONS (continued)

2. RDA: Approval of Redevelopment Agency Check Register Reports dated December 2, 16 and 23, 2011. [760-25]

Motion by Director Norton seconded by Director Storey to approve the Redevelopment Agency Check Register Reports dated December 2, 16 and 23, 2011, including checks numbered 3012 through 3013 in the amount of \$10,347.04, checks numbered 3014 through 3017 in the amount of \$29,640.50, and check numbered 3018 through 3018 in the amount of \$152,520.00, respectively; for a Grand Total of \$192,507.54, as submitted. The motion was unanimously carried.

4. CONSENT CALENDAR

- A. Approve reading by title of all Ordinances and Resolutions and declare that said titles which appear on the Public Agenda shall be determined to have been read by title and further reading waived.

Action: Approved the reading.

- B. City/RDA: Approve minutes of the Regular Joint Meetings of the City Council/Redevelopment Agency of November 22, 2011, and December 8, 2011.

Action: Minutes were approved.

- C. Deny liability claims and forward to the City's liability insurance carrier:
1. Allstate Insurance, subrogee of Nazar Turkish Imports: \$26,582;
 2. Allied Interstate, subrogee of Capitola Associates, LLC: undetermined amount;
 3. Brian Alexander: undetermined amount.

Action: Liability Claims denied [Claims Binder].

- D. City/RDA: Receive the Comprehensive Annual Financial Report for the City of Capitola for June 30, 2011.

Action: Received and Filed [310-20]

- E. City/RDA: Receive Annual Capitola Redevelopment Agency Fiscal Year

Action: Received and Filed [760-25]

- F. Receive City Treasurer's Report for Month ended November 30, 2011 (Unaudited).

Action: Received and Filed [380-30]

- G. Consideration of the adoption of Resolution amending the Fiscal Year 2011/2012 General Fund and Supplemental Law Enforcement Services Fund (SLESF) Budgets by \$100,000 to reflect a Total State Grant of \$100,000.

Action: Approved Resolution No. 3905 [330-05/330-10]

4. CONSENT CALENDAR (continued)

- H. Consideration of an Employment Agreement for the Finance Director, Tori Hannah; and authorize the City Manager to execute the agreement.
Action: Approved Agreement Approve Agreement [500-10 A/C]**

Motion by Council Member/Director Nicol, seconded by Council Member/Director Storey, to approve the Consent Calendar. The motion was unanimously carried.

City Manager Goldstein introduced the new Finance Director, Tori Hannah.

5. OTHER BUSINESS

- A. Consideration of a Resolution electing the City of Capitola to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency, and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act. [780-10/790-10]**

Interim Community Development Director/Deputy Executive Director Westman introduced this item and provided a brief summary of the state's decision in December 2011 to eliminate redevelopment agencies (RDA); therefore, all redevelopment agencies in California will be ending on February 1, 2012. She stated that staff is recommending the City take on the role as the successor agency. She recommended that at the January 26, 2012, Council meeting a discussion take place regarding various contracts which are invalid under the new law (Example: the City's RDA funding contract with the Capitola Chamber of Commerce).

Mayor Termini requested that staff elaborate on the composition of the Oversight board for the successor agency.

Interim Community Development Director/Deputy Executive Director Westman responded that the RDA has adopted a list of long-term obligations, which staff believes should continue to be paid. The state will put in place an Oversight board for each agency, which will consist of two members from the Board of Supervisors, a member from the County Office of Education, a member from Cabrillo College, a public member to be appointed by the Board of Supervisors, the Mayor of the jurisdiction from which the agency was located, a representative from the largest taxing entity (Central Fire District), and one former employee of the RDA. She stated that the Oversight board will be appointed in May 2012.

Council Member Storey asked if the Oversight board will have the authority to not meet the funding obligations that the City has accepted.

Interim Community Development Director/Deputy Executive Director Westman responded that the Oversight board will have the authority to decide whether to continue with the RDA's previous contractual obligations.

5. OTHER BUSINESS (Continued)

Motion by Council Member Nicol, seconded by Council Member Storey, adopting Resolution No. 3906 electing the City of Capitola to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act. Motion unanimously carried.

B. Consideration of Budget Calendar for Fiscal Year 2012/2013. [330-10]

Motion by Council Member Storey, seconded by Council Member Nicol, approving the Budget Calendar for Fiscal Year 2012/2013. Motion unanimously carried.

C. Consideration of the approval of the 5th Amendment with JFS, Inc., DBA Capitola Boat and Bait for the Wharf Lease and Mooring Concession Agreement. [280-25/500-10 A/C: JFS, Inc.]

Motion by Council Member Harlan, second by Council Member Nicol, to (1) authorize the 5th amendment to the Wharf Lease and Mooring Concession Agreement with JFS, Inc., for one year commencing on January 1, 2012, through December 31, 2012, with an option to renew for one additional year; and (2) waive rent except utility bills for the months of January, February, and March 2012, as submitted. Motion unanimously carried.

D. Designation of two Council Members to sit on the February 3, 2012, interview panel for the recruitment of the Police Chief.

Motion by Council Member Norton, seconded by Council Member Harlan, to designate Council Member Nicol and Mayor Termini to sit on the February 3, 2012 interview panel for the recruitment of the Police Chief. Motion was unanimously carried [650-20].

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE
CONSIDERED

6. COUNCIL/RDA DIRECTOR/STAFF COMMUNICATIONS (None provided)

7. ADJOURNMENT

Mayor Termini adjourned at 8:09 PM. to the next Regular Joint Meeting of the City Council/ Redevelopment Agency to be held on Thursday, January 26, 2012, at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Item #: 5.C.

CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: ADOPT RESOLUTION APPROVING A FINAL MAP FOR PEARSON COURT
SUBDIVISION TRACT NO. 1548, SN FILLMORE, LLC DEVELOPER
APPLICATION NO.08-053

RECOMMENDED ACTION: By motion adopt a resolution approving the final map for the Pearson Court subdivision, Tract No. 1548, SN Fillmore, LLC developer.

BACKGROUND: On May 14, 2009 the City Council approved the tentative map for a ten lot subdivision at 1911 42nd Avenue known at Pearson Court. The conditions for approval have been met and the final map is in conformance with the tentative map.

DISCUSSION: Government Code Section 66474.1 states that a legislative body shall not deny approval of a final or parcel map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final or parcel map is in substantial compliance with the previously approved tentative map. The City Surveyor and City staff have reviewed the final map and find is in substantial compliance with the tentative map.

FISCAL IMPACT: None

ATTACHMENTS

1. Draft Resolution
2. Final Map

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

Reviewed and Forwarded
By City Manager: _____

DRAFT

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
APPROVING THE FINAL MAP FOR THE PEARSON COURT SUBDIVISION,
TRACT NO. 1548, AT 1911 42ND AVENUE**

Project: Application #08-053
1911 42nd Avenue, Final Map Approval

APN: 034-201-33

WHEREAS, a tentative map was approved for a ten (10) unit subdivision by the City Council of the City of Capitola on May 14, 2009; and

WHEREAS, the land owner has caused the preparation of a final map for this subdivision pursuant to the State Map Act; and

WHEREAS, the City Surveyor, City Engineer, and City Community Development Director, have reviewed the final map and found it to be in conformance with the tentative map.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola hereby approves the final map for the Pearson Court Subdivision, Tract No. 1548, as shown on Exhibit "A" to this resolution.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 9th day of February 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael Termini, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

Statement of Owner

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP, AND THAT WE ARE THE ONLY PERSONS NECESSARY TO SIGN SAID MAP PURSUANT TO PROVISION OF SECTION 66426(d) OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, AND WE CONSENT TO THE PREPARATION AND RECORDATION, OF SAID MAP AND SAID SUBDIVISION, AS SHOWN WITHIN THE DISTINCT BORDER LINES, AND WE HEREBY OFFER FOR PUBLIC USE, PEARSON COURT, (A PRIVATE STREET), EASEMENTS FOR INGRESS AND EGRESS, DRAINAGE AND PUBLIC UTILITIES, INCLUDING THE SANTA CRUZ COUNTY SANITATION DISTRICT, AS SHOWN ON THIS MAP.

OWNER:
SN FILLMORE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
Steven Mayer
STEVEN MATER, MANAGER

TRUSTEE:
LIGHTHOUSE BANK, THE UNDERSIGNED, AS TRUSTEE UNDER DEED OF TRUST RECORDED IN DOCUMENT 2011-0029680 OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY, DOES HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE ABOVE STATEMENT OF OWNER.

OWNER'S ACKNOWLEDGMENT:

STATE OF CALIFORNIA } 00
COUNTY OF Santa Clara }
ON June 29, 2011 BEFORE ME, Jihane Kibursi, Notary Public,
PERSONALLY APPEARED Steven Mayer

I, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE, TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN HIS AUTHORIZED CAPACITY, AND THAT BY HIS SIGNATURE ON THE INSTRUMENT, THE PERSON(S) OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

Santa Clara September 22, 2011
COUNTY OF NOTARY'S NOTARY COMMISSION EXPIRATION DATE
PRINCIPAL PLACE OF BUSINESS

Jihane Kibursi
PRINTED NOTARY NAME
Jihane Kibursi
NOTARY SIGNATURE



Auditor-Controller's Certificate

I HEREBY CERTIFY THAT THERE ARE NO LIENS FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES AGAINST THE LAND INCLUDED IN THE WITHIN SUBDIVISION OR AGAINST ANY PART THEREOF, EXCEPT TAXES WHICH ARE NOT YET PAYABLE AND WHICH IT IS HEREBY ESTIMATED WILL NOT EXCEED THE SUM OF \$ _____ FOR THE YEAR _____ AND THAT SAID LAND IS NOT, NOR IS ANY PART THEREOF, SUBJECT TO ANY SPECIAL ASSESSMENT WHICH HAS NOT BEEN PAID IN FULL AND THAT THIS CERTIFICATE DOES NOT INCLUDE ANY ASSESSMENT OF ANY ASSESSMENT DISTRICT, THE BONDS OF WHICH HAVE NOT YET BECOME A LIEN AGAINST SAID LAND OR ANY PART THEREOF.

DATED: _____
AUDITOR-CONTROLLER OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

BY: _____ DEPUTY

TRUSTEE'S ACKNOWLEDGMENT:

STATE OF CALIFORNIA } 55
COUNTY OF SANTA CRUZ }
IN Jan. 13, 2012 BEFORE ME, Dara Harris, Notary Public
PERSONALLY APPEARED Jon Sisk

I, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE, TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT/ THEY EXECUTED THE SAME HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

Santa Cruz Jan. 22, 2013
COUNTY OF NOTARY'S NOTARY COMMISSION EXPIRATION DATE
PRINCIPAL PLACE OF BUSINESS

Dara Harris
PRINTED NOTARY NAME
Dara Harris
NOTARY SIGNATURE



Community Development Department Statement

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP OF THIS SUBDIVISION AS APPROVED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA ON THE 14TH DAY OF MAY, 2009, AND THAT ALL RELEVANT PERMIT CONDITIONS HAVE BEEN MET. PERMIT NO. 08-063.

DATED: _____
DEREK JOHNSON, DIRECTOR

City Clerk's Statement

I HEREBY STATE THAT THIS MAP, DESIGNATED AS TRACT NO. 1548, PEARSON COURT, CONSISTING OF 3 SHEETS, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AT A MEETING OF SAID COUNCIL, HELD ON THE DAY OF _____ AND THAT SAID COUNCIL REJECTED, ON BEHALF OF THE PUBLIC PEARSON COURT, (A PRIVATE STREET), EASEMENTS FOR INGRESS AND EGRESS, DRAINAGE AND PUBLIC UTILITIES, INCLUDING THE SANTA CRUZ COUNTY SANITATION DISTRICT THAT WERE OFFERED FOR DEDICATIONS SHOWN ON SAID MAP WITHIN SAID SUBDIVISION.

DATED: _____
SUSAN SNEEDON, CITY CLERK
CITY OF CAPITOLA, CALIFORNIA

Clerk of the Board's Certificate

THE CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ DOES HEREBY CERTIFY THAT ALL CERTIFICATES AND SECURITIES REQUIRED UNDER THE PROVISIONS OF SECTIONS 66440 AND 66443 OF THE GOVERNMENT CODE HAVE BEEN DULY FILED AND DEPOSITS HAVE BEEN DULY MADE, PURSUANT TO THE AUTHORITY DELEGATED TO ME BY SAID BOARD. I HEREBY APPROVE SAID CERTIFICATES AND SECURITIES ON BEHALF OF THE COUNTY OF SANTA CRUZ.

DATED: _____
CLERK OF THE BOARD OF SUPERVISORS
DEPUTY CLERK

Certificate of Soils Report

A SOILS REPORT DATED MARCH, 2009, AND REVISED NOVEMBER, 2010, WAS PREPARED BY DEES & ASSOCIATES, INC, PROJECT NO. DCR-0358, AND IS ON FILE IN THE OFFICE OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF CAPITOLA.

Statement of Surveyor

THIS MAP WAS MADE BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY PERFORMED IN CONFORMANCE WITH THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF MARK DE MATTEL, ON MARCH 3, 2008. THE SURVEY IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP, ALL MONUMENTS ARE OF THE CHARACTER, AND OCCUPY THE POSITIONS INDICATED, OR WILL BE SET IN THOSE POSITIONS ON OR BEFORE DECEMBER 31, 2010, THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

Mark De Mattel
DARYL R. IFLAND, LS 7567 8/28/11



City Engineer's Statement

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, IF ANY, AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE STATE SUBDIVISION MAP ACT, AS AMENDED, SUB-SECTIONS 1, 2, AND 3 OF SECTION 66426(d) AND OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF ANY, HAVE BEEN COMPLIED WITH.

DATED: _____
STEVEN E. JERBERG, CITY ENGINEER
CITY OF CAPITOLA, CALIFORNIA
RCC 44731

City Surveyor's Statement

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP PURSUANT TO GOVERNMENT CODE SECTION 66442(b)(4) AND PURSUANT TO GOVERNMENT CODE SECTION 66442(b)(4). I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.

DATED: _____
JOE L. AKERS, CITY SURVEYOR
CITY OF CAPITOLA, CALIFORNIA
RCC 20372

Certificate of Recorder

SERIAL NUMBER _____
FILED THIS _____ DAY OF _____, 2011, AT _____ M, IN BOOK _____ OF MAPS, AT PAGE _____ SANTA CRUZ COUNTY RECORDS, AT THE REQUEST OF MARK DE MATTEL.

SIGNED: _____ DEAN SALDANIA, COUNTY RECORDER
BY: _____ DEPUTY

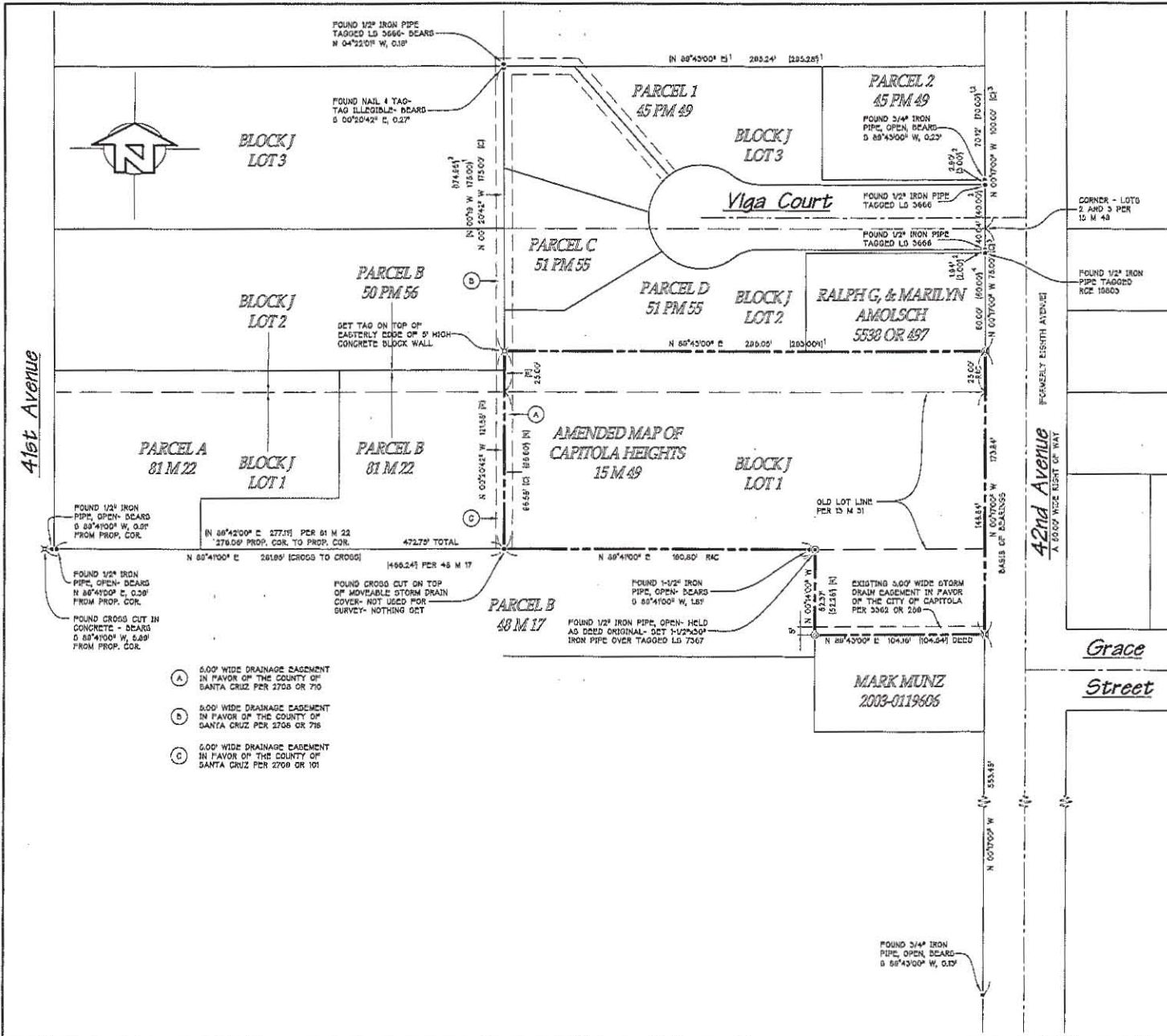
TRACT NUMBER 1548
Pearson Court

BEING THE LANDS, WITHIN THE CITY OF CAPITOLA, CONVEYED TO SN FILLMORE, LLC, BY DEED RECORDED IN DOCUMENT NUMBER 2011-0008847 OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY

MARCH, 2011 APN 034-201-03 SCALE: N/A



SHEET NO. 1 OF 3 SHEETS JOB NUMBER 07064



Legend

- MONUMENT FOUND AS NOTED.
- SET 1/2"Ø GALVANIZED IRON PIPE, TAGGED LS 7367, UNLESS OTHERWISE NOTED.
- ⊙ SET 1-1/2"Ø GALVANIZED IRON PIPE, TAGGED LS 7367, UNLESS OTHERWISE NOTED.
- ⊕ SET 1-1/2"Ø GALVANIZED IRON PIPE, TAGGED LS 7367, OVER MONUMENT FOUND AS NOTED.
- X SET LEAD PLUG & TAG IN CONCRETE, TAGGED LS 7367.
- (R) RECORD (DEED 2011-0008847)
- (C) CALCULATED
- []¹ RECORD DATA PER 46 PM 49
- []² RECORD DATA PER 51 PM 55
- []³ RECORD DATA PER 15 M 49
- []⁴ RECORD DATA PER 5538 OR 487

--- INDICATES THE BOUNDARIES OF THE LANDS SUBDIVIDED BY THIS MAP

ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF

THE TOTAL AREA OF LAND BEING SUBDIVIDED BY THIS MAP IS 0.85 ACRES / 41,294 SQUARE FEET.

Basis of Bearings

THE BASIS OF BEARINGS FOR THIS SUBDIVISION IS BETWEEN MONUMENTS FOUND ALONG THE WEST SIDE OF 42ND AVENUE, (FORMERLY 8th AVENUE), AS SAID WEST SIDE LINE IS SHOWN ON THAT MAP TITLED "AMENDED MAP OF CAPITOLA HEIGHTS", FILED IN VOLUME 15 OF MAPS, AT PAGE 49, SANTA CRUZ COUNTY RECORDS.



- (A) 6.00' WIDE DRAINAGE EASEMENT IN FAVOR OF THE COUNTY OF SANTA CRUZ PER 2708 OR 710
- (B) 8.00' WIDE DRAINAGE EASEMENT IN FAVOR OF THE COUNTY OF SANTA CRUZ PER 2706 OR 718
- (C) 6.00' WIDE DRAINAGE EASEMENT IN FAVOR OF THE COUNTY OF SANTA CRUZ PER 2709 OR 101

Grace Street

PEARSON COURT

TRACT NUMBER 1548

Pearson Court

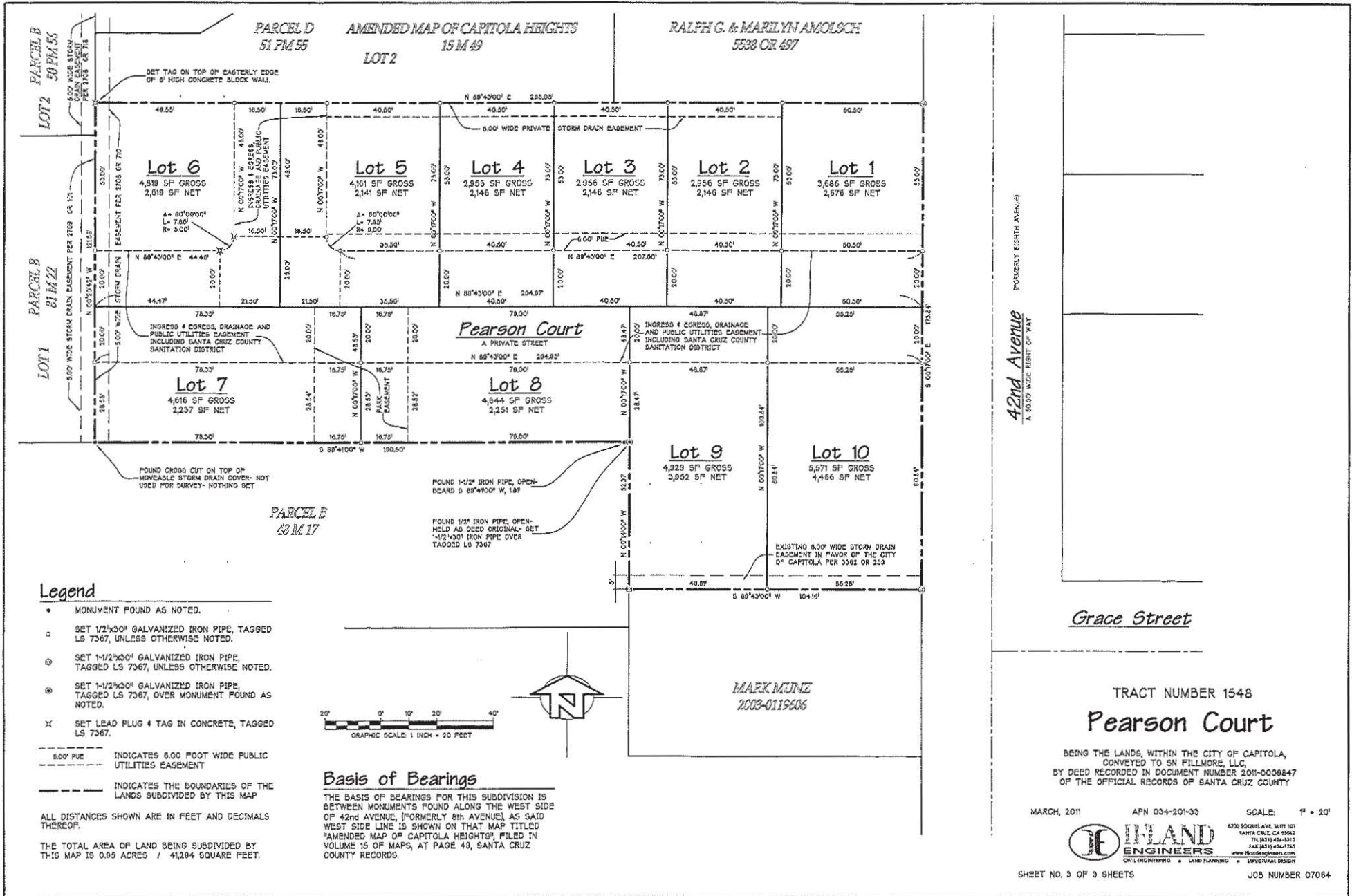
BEING THE LANDS, WITHIN THE CITY OF CAPITOLA, CONVEYED TO SN FILLMORE, LLC, BY DEED RECORDED IN DOCUMENT NUMBER 2011-0008847 OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY

MARCH, 2011 APN 034-201-33 SCALE: 1" = 40'

IFLAND ENGINEERS
CIVIL ENGINEERING • LAND PLANNING • STRUCTURAL DESIGN

1300 SCHOEN AVENUE, SUITE 101
SANTA CRUZ, CA 95062
TEL (831) 424-6313
FAX (831) 424-7743
www.iflandengineers.com

SHEET NO. 2 OF 3 SHEETS JOB NUMBER 07064



Legend

- MONUMENT FOUND AS NOTED.
- SET 1/2"x30" GALVANIZED IRON PIPE, TAGGED LS 7367, UNLESS OTHERWISE NOTED.
- ⊙ SET 1-1/2"x30" GALVANIZED IRON PIPE, TAGGED LS 7367, UNLESS OTHERWISE NOTED.
- ⊕ SET 1-1/2"x30" GALVANIZED IRON PIPE, TAGGED LS 7367, OVER MONUMENT FOUND AS NOTED.
- X SET LEAD PLUS & TAG IN CONCRETE, TAGGED LS 7367.
- 6.00' PUE INDICATES 6.00 FOOT WIDE PUBLIC UTILITIES EASEMENT
- INDICATES THE BOUNDARIES OF THE LANDS SUBDIVIDED BY THIS MAP

ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.

THE TOTAL AREA OF LAND BEING SUBDIVIDED BY THIS MAP IS 0.89 ACRES / 41,284 SQUARE FEET.



Basis of Bearings

THE BASIS OF BEARINGS FOR THIS SUBDIVISION IS BETWEEN MONUMENTS FOUND ALONG THE WEST SIDE OF 42nd AVENUE, [FORMERLY 8th AVENUE], AS SAID WEST SIDE LINE IS SHOWN ON THAT MAP TITLED "AMENDED MAP OF CAPITOLA HEIGHTS", FILED IN VOLUME 15 OF MAPS, AT PAGE 48, SANTA CRUZ COUNTY RECORDS.

EVERETT EIGHTH AVENUE
A 6.000' WIDE RIGHT OF WAY

Grace Street

TRACT NUMBER 1548
Pearson Court
 BEING THE LANDS, WITHIN THE CITY OF CAPITOLA,
 CONVEYED TO SM FILLMORE, LLC,
 BY DEED RECORDED IN DOCUMENT NUMBER 2011-0008847
 OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY

MARCH, 2011 APN 034-201-03 SCALE: 1" = 20'

JE INLAND ENGINEERS
 CIVIL ENGINEERING • LAND PLANNING • STRUCTURAL DESIGN

8200 SOLORE AVENUE, SUITE 101
 SANTA CRUZ, CA 95062
 TEL (831) 424-4212
 FAX (831) 424-1742
 www.inlandengineers.com

SHEET NO. 3 OF 3 SHEETS JOB NUMBER 07064



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PLANNING COMMISSION ACTION MINUTES OF FEBRUARY 2, 2012

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Commissioners: Ron Graves, Ed Newman, Mick Routh, Linda Smith and
Chairperson Gayle Ortiz

Staff: Interim Community Development Director Susan Westman
Senior Planner Ryan Bane
Minute Clerk Danielle Uharriet

2. NEW BUSINESS

A. Election of Chair and Vice-Chair

A MOTION WAS MADE BY COMMISSIONER ROUTH AND SECONDED BY COMMISSIONER NEWMAN TO NOMINATE COMMISSIONER GRAVES AS THE CHAIRPERSON.

MOTION PASSED 4-0, COMMISSIONER GRAVES ABSTAINED.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER SMITH TO NOMINATE COMMISSIONER ROUTH AS THE VICE-CHAIRPERSON.

MOTION PASSED 4-0, COMMISSIONER ROUTH ABSTAINED.

3. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda - NONE

B. Public Comments - NONE

C. Commission Comments

Commissioner Routh commented that Park Avenue is in very poor condition and should be repaved.

D. Staff Comments - NONE

4. APPROVAL OF MINUTES

A. December 1, 2011 Regular Planning Commission Meeting

Commissioner Ortiz: Page 5, last paragraph: "Gayle Clemson, property owner, spoke in support of the ~~opposition~~ application."

Page 6, paragraph 6: "Chairperson Ortiz stated that ~~there is~~ although the parking plan removes street parking because of the driveway, the development application requires parking to be located on-site."

APPROVED 5-0, WITH CHANGES

5. CONSENT CALENDAR

A. 4510 CAPITOLA ROAD #12-005 APN: 034-031-31

Sign Permit to install a wall sign and a monument sign in the CR (Commercial/Residential) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Richard Talmadge, owner/filed: 1/17/12

Representative: Steve Hosmer/Stokes Signs

APPROVED 2-1, COMMISSIONER GRAVES DISSENTING. COMMISSIONER NEWMAN AND COMMISSIONER ROUTH RECUSED.

6. PUBLIC HEARINGS

A. 115 SAN JOSE AVENUE #11-100 APN: 035-221-27

Conditional Use Permit for a take-out restaurant with the sale and dispensing of alcohol in the CV (Central Village) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Peter Dwares, owner/filed: 9/15/11

Representative: Dennis Norton Designs

**CONTINUED TO THE MARCH 1, 2012 MEETING
MOTION PASSED 5-0**

B. 612 GILROY AVENUE #11-112 APN: 035-073-15

Design Permit for a first and second floor addition to an existing one-story single-family residence in the R-1 (Single-Family Residence) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Brian Grocott, filed 10/20/11

Representative: Dennis Norton

APPROVED 5-0

**C. 835 BAY AVENUE #12-001 APN: 035-011-03,
035-381-01**

Conditional Use Permit to install a model manufactured home in conjunction with an existing manufactured home sales business (Ideal Homes) in the CC (Community Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Redtree Properties, owner/filed: 1/3/12

Representative: Richard Emigh

RECOMMENDED TO THE CITY COUNCIL THAT THE PROPOSED USE DOES NOT CONFORM TO THE ZONING DISTRICT STANDARD, AND DOES NOT REPRESENT AN APPROPRIATE GATEWAY TO THE CITY.

MOTION PASSED 5-0

7. DIRECTOR'S REPORT

8. COMMISSION COMMUNICATIONS

9. ADJOURNMENT

Adjourned to a Regular Meeting of the Planning Commission to be held on Thursday, March 1, 2012 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: POLICE DEPARTMENT

SUBJECT: SPECIAL EVENT PROGRAM

RECOMMENDED ACTION: By motion that the City Council approve the Special Event Permits Administrative Policy and the modifications to the Block Party Permit and Grant Program Administrative Policy, I-10.

BACKGROUND:

In February 2002, the City Council approved Resolution Number 3202, adopting a Special Event Permit Program and Fee Schedule. The purpose of the program was to provide regulations and guidelines for Special Events occurring within the City limits and to recover costs associated with those events.

Special Events are divided into two categories, General Special Events and Minor Special Events. General Special Events are those with more than 200 attendees or notable impacts to City services or a particular neighborhood and Minor Special Events, are events with less than 200 persons and limited impacts.

There currently is no policy in place to determine who may approve/deny an event, what Special Event requests are to be reviewed by the Council, or how to appeal a decision of approval/denial of a permit.

Also in 2002, the Council adopted Administrative Policy I-10, Block Party Grant Program. The purpose of the policy was to provide a source of funding for block party fees and liability insurance. All block party grant requests are now forwarded to the Council for their approval/denial.

DISCUSSION:

In order to reduce the time staff and Council spend on recurring Special Events, and to streamline the process for the applicant, a draft Administrative Policy for Special Event Permits was created. The purpose of the policy is to provide a process for the review and authorization of Special Events that occur within the City limits.

Minor Special Events can be approved by the City Manager providing the following:

1. The event, as proposed, can function safely;
2. The event will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic;
3. The event provides a benefit to the City and/or community as a whole that outweighs the limited impacts of the event on the City and/or community.

The City Manager's decision of whether to approve/deny an event can be appealed to the City Council.

General Special Events that were not held the previous year must be reviewed by the Council. Events that were held the prior year may be approved by the City Manager providing the following:

1. There are no significant modifications or variations to the event as compared to prior years;
2. There were no major issues with the event in recent prior years;
3. The event, as proposed, can function safely;
4. The event will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic;
5. The event provides a benefit to the City and/or community as a whole that outweighs the impacts of the event on the City and/or the community.

Approval/denial of any General Special Event by the City Manger may be appealed to the Council. The City Manager may refer, or any Council Member may require, any recurring General Special Event application to the Council for consideration. The policy also requires the Chief of Police to provide the Council with an annual report on General Special Events that were issued in the prior year.

The modifications to the Block Party Permit and Grant Program were established to reduce the time staff and Council will spend preparing and reviewing Block Party Permit applications. The policy allows the City Manager to approve the application after being reviewed by the City Departments. In addition to the application, the applicant must submit a sketch of the proposed event site and obtain signatures of two additional consenting neighbors. The application must also meet the criteria as proposed in the Minor Special Event listed above and outlines an appeal process if the application is approved/denied by the City Manager.

FISCAL IMPACT:

Reduction of time Police Department staff spends preparing Staff Agenda Reports for Special Event Permit Applications and Block Party Grants.

ATTACHMENTS:

- 1) Resolution Number 3202 – Special Events Permit Program and Fee Schedule
- 2) Special Event Permits
- 3) Block Party Permit and Grant Program

Report Prepared By: Tom Held, Captain of Police

**Reviewed and Forwarded
By City Manager: _____**

COPY

RESOLUTION NO. 3202

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
APPROVING A SPECIAL EVENTS PERMIT PROGRAM AND FEE SCHEDULE**

WHEREAS, the City of Capitola is venue to a wide variety of special events and activities throughout the year; and

WHEREAS, there currently is not a formal policy for the regulation of the size, location and structure of special events; and

WHEREAS, the City of Capitola spends thousands of dollars annually in public safety and maintenance services for persons and organizations hosting special events; and

WHEREAS, the Capitola Police Department has developed a Special Events Permit Program to provide guidelines and regulations for Special Events in the City of Capitola that has been reviewed and approved by the City Manager and City Attorney; and

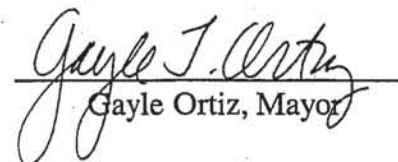
WHEREAS, there is a need for a Fee Schedule for the Special Events Permit Program to cover the associated costs of City services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Capitola hereby approves the Special Events Permit Program outlined in the Information Guide presented to the City Council on this date and designates the Capitola Police Department to be the regulatory agency for all special events in the City of Capitola.

BE IT FURTHER RESOLVED that the Fee Schedule for Special Events, attached hereto as Exhibit A, is hereby approved, and said fees may be adjusted annually by the City Manager and the Chief of Police.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 28th day of February, 2002, by the following vote:

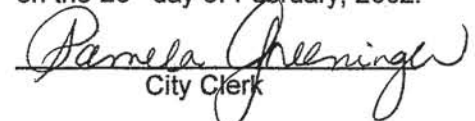
AYES: Council Members Norton, Gualtieri, Harlan, Arthur and Mayor Ortiz
 NOES: None
 ABSENT: None
 ABSTAIN: None


 Gayle Ortiz, Mayor

ATTEST:

 CMC
 Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3202 passed and adopted by the Capitola City Council on the 28th day of February, 2002.


 City Clerk

PERMIT FEE SCHEDULE FOR SPECIAL EVENTS

Application Fee: \$50.00 fee due at the time the application is submitted to the Police Department.

Cleanup Deposit:

For events involving the sale of food/beverages, water aide stations with disposable cups, horses or other large animals, or erection of structures including booths, reviewing stands, and floats. This fee is due one month prior to a Minor Special Event and three months prior to a general Special Event.

- \$150.00 per event with expected attendance of 100-500
- \$200.00 per event with expected attendance of 500 or more
- \$300.00 for a moving event of 500 or more

Traffic Control Fees: Actual Police Department employee costs are predicated on the amount of time the employee (Sergeant, Officer, Community Service Officer) is either at a fixed post for traffic control or physically directing traffic. Refer to the table below for costs. Similarly, Public Works staff costs are listed on the table below and are predicated on the time to bring traffic control materials to the location, and erect (signs, barricades), post (No Parking signs, Directional signs, etc.) at the location, or the time necessary to remove the same items.

City Vehicle Use Fee: \$50 per hour (equipment/personnel must be approved by City)

Security Deposit: To ensure cleanup and restoration of the site, an application may be required to post up to one thousand (1,000) dollars security deposit to be determined by the City. Upon inspection of the site by the City, the deposit may be returned to the applicant. This fee is due one month prior to a Minor Special Event and three months prior to a general Special Event.

Cancellation Fee: \$150.00 if event is cancelled less than 48 hours prior to the scheduled event. Cancellation fees will be deducted from security fees held by the City.

Police/Public Works Costs:

POLICE OFFICER	REGULAR	OVERTIME
Hourly Rate	78.70	90.62
POLICE SERGEANT		
Hourly Rate	94.95	142.42
COMMUNITY SERVICE OFFICER		
Hourly Rate	47.81	71.73
MAINTENANCE WORKER		
Hourly Rate	35.27	52.91

Police/Public Works costs are predicated on existing Memoranda of Understanding with City of Capitola employees as of February 28, 2002. These fees will be modified by existing Memoranda of Understanding and later negotiated contracts.

Deposits are placed in a non-interest bearing account. Refundable portions of deposits will be returned within forty-five days.



ADMINISTRATIVE POLICY

Number: I-
 Issued:

Jurisdiction: City Council

SPECIAL EVENT PERMITS**PURPOSE**

The purpose of this policy is to provide a process for the review and authorization of special events that occur within the City limits of Capitola. Special events may fall into one of two categories. General Special Events are those with more than 200 attendees, or notable impacts to City services or a particular neighborhood, and Minor Special Events are events with less than 200 persons in attendance and limited impacts. Any organized activity involving the use of, or having impact upon, public property, facilities, public parks, sidewalks or streets require a Special Event Permit.

I. POLICY

A Minor Special Event (less than 200 attendees and limited impacts) requires a completed application at least one month prior to the event. A General Special Event (more than 200 attendees or notable impacts) requires a completed application at least three months prior to the event. It is the policy of the City of Capitola to provide a streamlined oversight process for all Special Event Permit applications. All Special Event permit applications will be reviewed by the Police Department and other applicable City departments.

It is the policy of the City to require Special Events to pay fees necessary to offset the City's costs for the event. This policy does not establish a grant process for General or Minor Special Events, or prescribe a fund to pay for General or Minor Special Event services and/or administration costs by staff.

Minor Special Events

The City Manager is authorized to approve Minor Special Event Permit applications provided the City Manager can make all of the following findings:

1. The event, as proposed, can function safely.
2. The event will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic.
3. The event provides a benefit to the City and/or community as a whole that outweighs the limited impacts of the event on the City and/or community.

If the City Manager cannot make the above findings, the application shall be denied.

The City Manager's approval/denial of a minor Special Event permit is appealable to the City Council. All appeals must be made in writing to the City Clerk within 10 calendar days and include the payment of the Special Event Appeal Fee to the City Clerk.

General Special Events

General Special Event permit applications, which were not held in the prior year, must be reviewed by the City Council who is authorized to approve or deny the application.

General Special Event permit applications, which were held in the prior year, may be approved by the City Manager provided the City Manager can make all of the following findings:

1. There are no significant modifications or variations to the event as compared to prior years.
2. There were no major issues with the event in recent prior years.
3. The event, as proposed, can function safely.
4. The event will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic.
5. The event provides a benefit to the City and/or community as a whole that outweighs the impacts of the event on the City and/or community.

If the City Manager cannot make the above findings, the application shall be denied or the City Manager may refer the application to the City Council. The City Manager's approval/denial of a General Special Event permit is appealable to the City Council. All appeals must be made in writing to the City Clerk within 10 calendar days and include the payment of the Special Event Appeal Fee.

The City Manager may refer any recurring General Special Event Permit application to the City Council for consideration. Any Council Member may require that any recurring General Special Event Permit be brought to the City Council for consideration by making such a request prior to the City Manager's issuance of a General Special Event permit.

The Police Chief shall provide the City Council with an annual report on the General Special Event permits that were issued in the prior year, summarizing issues that were identified and outlining procedural changes for the next year.

II. **PROCEDURE**

- A. General and Minor Special Events require:
 1. Completed Special Event Permit Application
 2. Other required applications completed if necessary:
 - a. Encroachment Permit application
 - b. Sign/Banner Permit application
 - c. Public Address System Permit application
 - d. Entertainment Permit application
 - e. ABC License for events serving alcohol
 - f. Health Department Permit for events serving Food
 - g. Insurance Certificate
- B. Initial review by applicable City Departments
- C. Approval by the City Manager or City Council
- D. Police Department will route to City Departments and outside agencies for final sign off.
- E. After the Police Department collects the appropriate fees the permits will be issued

F. Copies will be routed to the appropriate Departments

This policy is approved and authorized by:

Jaime Goldstein
City Manager



Number: I-10
Issued: June 28, 2002
June 25, 2002
Jurisdiction: City Council

BLOCK PARTY PERMIT AND GRANT PROGRAM

PURPOSE

The purpose of this policy is to provide a process for residents to obtain authorization for the temporary closure of a public street for a neighborhood block party and a limited source of funding for that can be allocated to provide liability insurance for such block parties. A block party is found to be a positive social event that encourages communication, cooperation, and friendly personal interactions among neighbors.

I. POLICY

A Block Party is defined as a social event that includes the closure of a local street, usually residential, for neighborhood-scale events, such as potluck dinners and barbecues with less than 200 attendees. The Block Party is intended to primarily serve residents on the street to be closed. Block parties will be permitted only on Saturdays, Sundays, or federal or state public holidays.

A Block Party Permit is required for a Block Party within the city limits of Capitola. It is the policy of the City Council of the City of Capitola to encourage safe Block Party by making available on a first come first served basis, funding to offset the costs of special event insurance and City permits for block parties.

II. PROCEDURE

- A. Submit a completed Minor Special Event application with a sketch or map of proposed event site, and signatures of applicant and two additional consenting neighbors, to the Police Department. The applicant must be a resident of the City and live on the street on which the party is being held. The Police Department will distribute the permit application to Public Works and to the City Manager for review and approval. The application should be submitted to the City at least 30 days in advance of the event.
- B. Each application must meet the following criteria:
 1. The event, as proposed, can function safely.
 2. The event will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic.
 3. Street closures, when approved, must be done in a safe manner that will allow emergency access for ambulance, fire or police vehicles.
- C. After internal review by City Departments and approval by the City Manager, the event permit may be issued.
- D. If it appears that the event may endanger public safety, cause undue interference, or impair emergency services, the City of Capitola reserves the right to deny the permit. The applicant has the right to appeal such denial to the City Council by making written

request to the office of the City Manager, and the payment of the Special Event Appeal Fee.

- E. Appeals may be made to the City Council and will be placed on the agenda within 30 days if possible.
- F. To qualify for a grant to assist with paying the premium for liability insurance or City permits for a block party the following criteria must be met:
 - 1. As part of the application for the Special Event Permit, the applicant must request a grant for the special event insurance premium and/or City permits
 - 2. The grant request for the Special Event Permit insurance premium shall not be more than \$400.00, which amount shall be indexed to the San Francisco/Oakland CPI, using the month that will allow the new amount to be effective by July 1 of each year.
 - 3. City Council has appropriated funds for the liability insurance premium grand program as part of the annual budget process. Such funds shall not exceed \$2,500 indexed to inflation.
 - 4. The grants for the liability insurance premium are awarded on a first come, first served basis and money remains in the Council appropriation.
 - 5. Not more than two grants per calendar year per block shall be awarded.

This policy is approved and authorized by:

Jaime Goldstein
City Manager



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: PRESENTATION TO THE CITY COUNCIL FROM THE CAPITOLA VILLAGE
BUSINESS IMPROVEMENT ASSOCIATION REGARDING A-FRAME SIGNS

RECOMMENDED ACTION: Receive information on an “A frame sign” proposal from the Capitola Village Business Improvement Association. Provide direction to City Staff regarding revisions to the City’s Sign Ordinance and provide direction regarding code enforcement.

BACKGROUND:

On November 22, 2011 the City Council held a public hearing to consider revisions to the current sign regulations to have a one year trial period for sandwich board signs in Capitola Village. The action taken by the Council at that meeting was as follows:

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to direct staff to return with this ordinance, taking into account council comments to look at restrictions that would include signs not on public sidewalks, signs in good repair, a standard design, and have that brought back to the council for further review. The ordinance should encompass all commercial districts, not just the Village. Mayor Norton suggested a friendly amendment to the motion to include having the Art & Cultural Commission look into a master sign design. Council Member Termini said that would be the next step once a sign ordinance is brought back. (Minutes from the 11/22/11 Council meeting.)

Tonight’s agenda item is not to consider a new sign ordinance but is in response to a request from the BIA to be on the City Council’s agenda.

If the Council decides to continue to move forward with a sign ordinance revision to allow “A-Frame signs” the process will require Staff to prepare a new draft ordinance which could go to the Planning Commission on March 1 for their consideration and recommendation to the City Council. The draft ordinance would then return to the City Council on March 22. Staff would then prepare an amendment of the City’s Coastal Land Use Plan to be submitted to the Coastal Commission for approval. Coastal Commission consideration would most likely be some time in June or July.

The City has recently expanded the job of the Building Inspector from half time to full time to assist with various code enforcement issues within the City. The Community Development Department would like to start a sign enforcement program. Active sign enforcement has not been done for several years and this has resulted in a proliferation of illegal signs. Sign enforcement programs typically result in the Council receiving lots of complaints from concerned business owners. These tend to be escalate during economic downturns.

The sign enforcement program is proposed to begin on 41st Avenue area starting the week of February 14. The first contact with a business that has an illegal sign will be in person. Staff will make an attempted to talk to either the business owner or manager and explain why their sign does not conform to the City's sign ordinance. The City will give the business 72 hours to remove the illegal sign. If the sign has not been removed within that time frame, we will mail and attempt to hand deliver letters telling the businesses that a formal code enforcement case has been started and outline the process and the possible fines. Each case will be handled individually.

The Building Inspector will devote 8 hours per week to sign code enforcement. At the point that we have contacted all of the violators in the Community Commercial Zoning District (41st Avenue and Bay Avenue), the Building Inspector will start contacting businesses in Central Village Zoning District and the Neighborhood Commercial Zoning District. The programs overall goal is to eliminate signs which are the most visible to the community before going after other violations.

ATTACHMENTS:

1. Email request from the BIA
2. Minutes from November 22, 2011
3. Copy of the ordinance and staff report presented on November 22, 2011.

**Report Prepared By: Susan Westman
Interim Community Development Director**

**Reviewed and Forwarded
By City Manager: _____**

ATTACHMENT 1

>
On Jan 20, 2012, at 2:41 PM, Karl Heiman (Karlheiman@cruzio.com) wrote:

Hello Susan,

>
> On behalf of the Capitola Village BIA can you please add us to the agenda of the February 9th Capitola City Council meeting?
>
> We would like to discuss a proposal for a sign ordinance modification.
>
> If there is anything else you need please let me know.
>
> Thanks for your help on this matter.
>
> Best regards,
>
> Karl Heiman
> Mr. Toots Coffeehouse

MINUTE EXCERPT

CITY OF CAPITOLA
CITY COUNCIL/REDEVELOPMENT AGENCY

November 22, 2011
Capitola, California

4. PUBLIC HEARINGS

B. Public Hearing to Consider an Ordinance Amending the Capitola Municipal Code to allow Sandwich Board Signs [1st Reading]. Presentation: Community Development Department. [720-50]

Interim Community Development Director Westman summarized the written agenda report pertaining to the proposed ordinance that would allow sandwich board signs for a one- year period, which would begin upon approval by the Coastal Commission. She informed the council that the Planning Commission considered the proposed ordinance but recommended that the City Council continue this matter for review by the General Plan Advisory Committee. The Planning Commission expressed concerns that such signs would pose a hazard and be a visual blight, among other things. She then responded to questions of council members pertaining to what benefits approving of the ordinance would have on businesses, whether they would be stationary, and clarification regarding size. .

Mayor Norton opened the public hearing at 8:31 p.m.

The following people spoke in **opposition** to the proposed ordinance, citing concerns about ADA compliance, inability to effectively enforce illegal signs, eyesores, pedestrian hazards, and potential liability:

Gayle Ortiz, Planning Commissioner, Capitola resident and business owner

Matt Arthur, Capitola resident and business owner in the Village

A woman (unable to hear her name; also spoke under Oral Communications) expressed concern about restricting pedestrians with signs on the sidewalk. She believes sidewalks should be kept pedestrian friendly.

Terry Campion said the sidewalks are already cluttered. As a business owner, he does not believe in cluttering the Village. He said a compromise might work.

The following people spoke in **favor** of the proposed ordinance and giving businesses the ability to have an opportunity to try sandwich board signs before completion of the General Plan:

Gary Wetsel, President of the Capitola Village and Wharf Business Improvement Area, Capitola resident and business owner

Michael Levine, real estate broker located in the Trestle building

Justyna Zimkowski, owner of Vanity by the Sea, located in the Mercantile

4. B. PUBLIC HEARINGS (continued)

Carin Hanna, owner of the Craft Gallery, offered her support for the proposed ordinance allowing sandwich board signs for a trial period. She suggested a committee be formed to review and tighten up the guidelines.

Molly Ording, Monterey Avenue resident, suggested a compromise: that being an easel, such as the one in front of Mr. Toot's. She suggested designing one that is unique for the Village.

Ed Bottorff, Capitola resident, agreed with Molly Ording's suggested compromise for an easel, rather than a sandwich board sign.

Mayor Norton closed the public hearing at 9:07 p.m.

There was considerable Council discussion regarding the proposed ordinance to allow sandwich board signs.

Council Member Termini said he would be in favor of sandwich board signs if they were allowed in all commercial areas and not allowed on the public sidewalks. He commented on an email he received from Mr. Houskins, who suggested a standardized sign. Perhaps the Village should have a master sign program like large shopping area. Council Member Termini also would like to hear from the Chief of Police, Public Works and Planning Departments that enforcement will take place.

Council Member Harlan is sympathetic with the businesses in the Village; however, she cannot support sandwich board signs on the sidewalks, as enforcement would be difficult.

Council Member Storey is not opposed to more signage; however, he is concerned about pedestrian access. He would support the Capitola Village and Wharf Business Improvement Area working with the Planning Commission and the Art & Cultural Commission in developing a unified theme sign program. He does not support the ordinance as written.

Council Member Nicol shares the sentiments of his colleagues, and he does not want Capitola to look like Venice Beach. Perhaps the Capitola Village and Wharf Business Improvement Area and/or the Art & Cultural Commission could come back with a themed sign program that might work.

Mayor Norton is concerned about the potential proliferation of signs and suggested having the Art & Cultural Commission consider this.

Interim Community Development Director Westman said the current Municipal Code allows for a business to have a blade sign/projecting sign. She suggested that staff could look at other sign options within the current ordinance.

Considerable Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to direct staff to return with this ordinance, taking into account council comments to look at restrictions that would include signs not on public sidewalks, signs in good repair, a standard design, and have that brought back to the council for further review. The ordinance should encompass all commercial districts, not just the Village.

4. B. PUBLIC HEARINGS (Continued)

Mayor Norton suggested a friendly amendment to the motion to include having the Art & Cultural Commission look into a master sign design. Council Member Termini said that would be the next step once a sign ordinance is brought back.

Interim Community Development Director Westman said staff would like the flexibility of trying to work out the sign issue, so far as the zoning ordinance is concerned. She also suggested that once the Council has come up with some concrete ideas that have merit and approval, then the signage matter could go to the Art & Cultural Commission.

Interim Community Development Director Westman asked for clarification from the Council regarding her understanding of the Council's direction, which is that staff will work with the merchants to try and come up with a sign program that is going to help them identify certain features or business activities where they could use a sandwich board or a temporary sign. Her understanding is that the council would like staff to sit down with the merchants and come up with creative ideas.

Council Member Termini said staff is to review standard sandwich board signs, off the public sidewalk and in all commercial areas.

Mayor Norton said staff should set a time limit, and he also believes there should be a maximum number of sign permits allowed. He suggested setting a limit of, say, 20 sandwich board signs in the first year. Mayor Norton asked if the council could set a cap on the number of sandwich board signs. City Attorney Barisone said he believes the council could set a limit during the trial period, as long as there was not any preference given. Mayor Norton said it could be first come, first served.

The motion carried with Council Member Harlan voting no.

Following the vote on the motion, Interim Community Development Director Westman informed the Council that she wants to get direction from the council about sign enforcement. She wants to make sure the Council is comfortable with the planning staff going out and being proactive in enforcing all illegal signs. Mayor Norton said he does not want to put any more work on the Planning staff. Council Member Termini commented on using the planning staff for enforcement and wondered if the police could take this on.

Mayor Norton asked if the city has policing power and whether we have the ability to remove illegal signs. City Attorney Barisone believes the city's code allows it, although he would need to confirm that after looking at the code.



CITY COUNCIL AGENDA REPORT

MEETING OF NOVEMBER 22, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: NOVEMBER 18, 2011

SUBJECT: PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE MUNICIPAL CODE PERTAINING TO SANDWICH BOARD SIGNS [1ST READING]

Recommended Action: That the City Council conduct a public hearing and review the proposed Ordinance Amending Section 17.57.040 D. of the Capitola Municipal Code pertaining to Prohibited Signs, and Adding Sections 17.57.020 B. 4. and 17.57.060 F. to the Municipal Code pertaining to the use of Sandwich Board Signs in the Central Village and Neighborhood Commercial Zoning Districts. If approved, a motion to pass the proposed ordinance to a second reading would be in order.

BACKGROUND

The City's current sign ordinance specifically prohibits sandwich board signs in Capitola. In September 2011, the Community Development Department responded to several complaints about the placement of sandwich board signs in the Village. Staff initiated an enforcement effort throughout Capitola. Over a dozen merchants were sent Courtesy Notices throughout the Village area and to 41st Avenue merchants.

Following the distribution of Courtesy Notices, the Capitola Village and Wharf Business Improvement Area (BIA) approached the City with a request to develop a program to allow sandwich board signs under certain conditions. The prior Community Development Director, Derek Johnson, met with BIA representatives and discussed a draft ordinance. The draft being presented allows for sandwich board signs in the Central Village and Neighborhood Commercial Zoning Districts for a one year trial period. Sandwich board signs would not be allowed in the Community Commercial Zoning District.

The draft ordinance was considered by the Planning Commission on November 3, 2011. The Planning Commission recommended to the City Council by a 3-1 vote that this change to the ordinance be delayed pending the completion of a comprehensive sign ordinance review scheduled in 2013 as part of the General Plan Update.

During the Planning Commission's discussion there were three main areas of concern expressed. Those were:

1. The Commissioners expressed concern the sandwich board signs would be a hazard and a liability because they were going to be located on the public sidewalk.

2. The Commissioners expressed concern about the visual impacts of having sandwich board signs in the Village particularly if a number of businesses took advantage of the new ordinance.
3. The Commissioners were uncomfortable with the Community Development Director issuing over-the-counter sandwich board sign permits. Most other signs require Planning Commission review through the Design Review process. The Commission also recommended that, if the City were to allow sandwich board signs, a process should be established to make certain all other signage on the property is in conformation with the City's sign regulation before a sandwich board sign permit is issued.

DISCUSSION

Before you tonight is the ordinance which was presented to the Planning Commission. The intent of that ordinance is to temporarily allow sandwich board signs within the Neighborhood Commercial and Central Village Zone Districts for a one-year period. The ordinance would establish the requirements and standards of these signs. This was presented to the Planning Commission as a temporary 12 month trial program. At the end of the first 12 months, the City Council could extend the program as is, adopt a modified version of the ordinance, or take no action at which point the temporary program would end and the ordinance would no longer be in effect.

In order to try and address some of the issues which were raised by the Planning Commission and the public there are a few additional items which the Council may want to consider when reviewing the ordinance.

1. The Commission expressed concern that the sign would be a hazard and a liability to the City because they were going to be located on the public sidewalk.

The current City ordinances do not allow for the placement of sandwich board signs on the public sidewalk. While the Public Works Director has determined these signs would not require an encroachment permit, the City Council will need to amend Section 9.40 of the municipal code which currently prohibits sign placement upon any City street, path or right-of-way. If the Council moves forward with this sandwich board sign ordinance, a revision of Section 9.40 will be provided for Council consideration on December 8, 2011. The revision of Section 9.40 would be a language change to add an exemption for sandwich board signs approved by the City of Capitola.

The permitting process could require that property owners who place a sandwich board sign on the public sidewalk to indemnify or hold harmless the City but realistically this will not stop someone from including the City in a law suit if one is filed. There could be additional restrictions placed on the location of the sandwich board signs beyond the proposed requirement for a 48 inch level path of travel, but this would be difficult to enforce without spending extensive staff time monitoring the placement of the sign. The Council could consider only allowing the signs on private property which greatly reduces the number of businesses which could take advantage of the ordinance but would allow businesses which have an entry area to place a sign on their property and eliminate the concerns of the signs being on the public sidewalk.

2. The Commission expressed concern about the visual impacts of having sandwich board signs in the village particularly if a number of businesses took advantage of the new ordinance.

Zoning regulations are constantly debated and rewritten to try to deal with the issue of visual impacts. It is impossible to write regulations which satisfy everyone's concerns about visual impact. The ordinance as written will establish standards for the construction of the sandwich board signs and prohibits them from having any lights, balloons, flags or other attachments. Dilapidated sandwich board signs shall be replaced at the discretion of the Community Development Director. None of these requirements will likely be satisfactory if one views sandwich board signs themselves as inherently unsightly, regardless of their design.

As the ordinance is currently written it would allow any business in the village to have a sandwich board sign. While it is doubtful all business would take advantage of the new ordinance it could result in as many as 50 signs.

3. The Commissioners were uncomfortable with the Community Development Director issuing over the counter sandwich board sign permits. Most other signs require Planning Commission review through the Design Review process. They also wanted to make certain all other signage on the property is in conformation with the City's sign regulations before a sandwich board sign permit is issued.

The draft ordinance currently allows for sandwich board sign permits to be issued over the counter by the Community Development Director. Most signs are approved by the Planning Commission as part of an application. If the Council felt there should be more review by the Planning Commission the ordinance could easily be revised to have the Community Development Director issue the over the counter permit with notification to the Planning Commission who would be authorized to appeal the permit and then place it on the Planning Commission's agenda for review. If the Commission was concerned about a particular sandwich board sign it would then give them the opportunity to consider the sign. This process would not require a lot of additional staff work but would add to the time line for issuing the permits.

All sandwich board signs would require a new permit and would be subject to design standards outlined in the ordinance. All existing signs would need to be in compliance, should the ordinance be adopted, non-compliant signs would be subject to code enforcement. The ordinance provides that a sandwich board sign shall be no larger than 24 inches in width and 42 inches in height when standing. Multiple business locations can have a larger sign if used by multiple tenants.

Another issue discussed at the Planning Commission was a concern about sign content. As you are aware from recent court cases, the City is legally precluded from regulating the content of most signs but can regulate a sign's location, sign and materials.

Should the City Council approve the proposed sign ordinance amendment, the Local Coastal Plan would need to be modified and an amendment submitted to the Coastal Commission for consideration.

CEQA REVIEW

Two sections of the California Environmental Quality Act apply to the proposed amendments, which would temporarily allow sandwich board signs in the Central Village and Neighborhood Commercial Zone Districts. Section 15311(a) of the CEQA Guidelines consists of the construction, or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to on-premises signs.

Section 15061 (b) (3) provides that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Sign placement in an existing urban environment will not have a significant impact on the environment. Allowing sandwich board signs in the Central Village and Neighborhood Commercial Zone Districts would be insignificant as it is already a built out environment with urban amenities and would have a minimal impact on visual resources and the environment.

FISCAL IMPACT

None

ATTACHMENTS

1. Draft Ordinance (Revised after Planning Commission meeting)
2. Sandwich Board Sign Ordinance presented to the Planning Commission.
3. Section 9.40 of the Municipal Code
4. Excerpt from 11/3/11 Planning Commission Draft Minutes

Report Prepared By: Susan Westman, Interim Community Development Director

**Reviewed and Forwarded
by the City Manager _____**



Item #: 6.B.

CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: CONSIDERATION OF CONTINUING ORDINANCE PLACING
MORATORIUM ON PG&E SMARTMETERS

RECOMMENDED ACTION:

Consider adoption, by 4/5 vote, an urgency ordinance continuing the imposition of a temporary moratorium on the installation of PG&E SmartMeters and related equipment in, along, across, upon, under and over the public streets and other places within the City of Capitola until December 31, 2012.

BACKGROUND:

On February 10, 2011 the City Council adopted Urgency Ordinance No. 952 imposing a temporary moratorium on the installation of SmartMeters by PG&E within the City of Capitola. This Urgency Ordinance expired on December 31, 2011.

DISCUSSION:

The adoption of the urgency ordinance at the City Council hearing in February 2011 included a provision that would end the moratorium if PG&E provided an opt-out plan and alternative options for customers who do not wish to service by a wireless SmartMeter. PG&E subsequently submitted a program to the California Public Utilities Commission (CPUC) detailing such an opt-out plan and this plan was approved by the CPUC on February 1, 2012. Under this opt-out plan, customers wanting to opt-out must pay an initial set up charge of \$75 as well as \$10 monthly fees. Reduced fees are available for income-qualified customers.

Multiple governmental agencies have opposed PG&E's SmartMeter Program. Despite these objections PG&E has continued SmartMeter installation throughout their service area. PG&E has maintained that they are regulated by the CPUC which has exclusive authority over this matter and CPUC has taken the position that local ordinances have no bearing on the PG&E SmartMeter Program and that the local laws are pre-empted by State law. If the Council chooses to enforce a moratorium, City enforcement would entail an application to the court for an order directing PG&E to cease and desist SmartMeter installation in the City during the pendency of the moratorium. It is questionable, given the preemption issue mentioned above, whether the court would grant such an application. Previously the Council has given direction to staff to not enforce the moratorium, in essence making adoption of the ordinance a statement to the CPUC and PG&E that should be addressing the concerns of the public.

The County of Santa Cruz, who had adopted a similar moratorium ordinance in 2011, and recently approved another moratorium ordinance for 2012. A copy of their staff report, ordinance and a report from the County Health Officer are included in Attachment 2.

CEQA Findings:

The adoption of an Urgency Ordinance is not subject to CEQA pursuant to Section 15060(c)(2) – the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT:

To date the City has not taken any enforcement action based on the 2011 Urgency Ordinance. Should the Council seek to begin active enforcement, staff would need to estimate the legal and program fees.

ATTACHMENTS

1. Draft Ordinance
2. County of Santa Cruz Agenda Item and Draft Ordinance dated January 24, 2012

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

**Reviewed and Forwarded
By City Manager: _____**

DRAFT

ORDINANCE NO. _____

ATTACHMENT 1

**AN UNCODIFIED ORDINANCE OF THE CITY OF CAPITOLA
ADOPTED AS AN URGENCY MEASURE IMPOSING A TEMPORARY
MORATORIUM ON THE INSTALLATION OF PG&E SMARTMETERS AND
RELATED EQUIPMENT IN, ALONG, ACROSS, UPON, UNDER AND
OVER THE PUBLIC STREETS AND OTHER PLACES WITHIN THE
CITY OF CAPITOLA**

The City Council of the City of Capitola finds as follows:

WHEREAS, on February 10, 2011 the City Council of the City of Capitola adopted an urgency ordinance imposing a temporary moratorium on the installation of PG&E smartmeters in the City of Capitola which expired on December 31, 2011; and

WHEREAS, since the adoption of said ordinance, PG&E has continued to implement its smartmeter program within the City of Capitola (City); and

WHEREAS, the City through its police powers granted by Article XI of the California Constitution, retains broad discretion to legislate for public purposes and for the general welfare, including but not limited to matters of public health, safety and consumer protection; and

WHEREAS, the City has a franchise agreement with PG&E that has been in effect since April 18, 1949; and

WHEREAS, in addition, the City retains authority under Article XII, Section 8 of the Constitution to grant franchises for public utilities, and pursuant to California Public Utilities Code section 6203, "may in such a franchise impose such other and additional terms and conditions.. " whether governmental or contractual, as in the judgment of the legislative body are to the public interest;" and

WHEREAS, Public Utilities Code section 2902 reserves the City's right to supervise and regulate public utilities in matters affecting the health, convenience and safety of the general public, "such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets, and the speed of common carriers operating within the limits of the municipal corporation;" and

WHEREAS, the City has demanded that PG&E develop a opt-out plan for those customers who do not want to be serviced by a smartmeter; and

WHEREAS, PG&E did propose such a opt-out plan to the California Public Utilities Commission (CPUC) on March 24, 2011; and

WHEREAS, at its regularly scheduled meeting on February 1, 2012 the CPUC approved a opt out plan; and

WHEREAS, until such time as all potential risks to the health, safety and welfare of City

residents have been addressed, the City Council wishes to renew the smartmeter moratorium by adopting a new moratorium on the installation of PG&E SmartMeters and related equipment within the City of Capitola. The moratorium period will allow the legislative process referenced above to be completed and for additional information to be collected and analyzed regarding potential problems with these SmartMeters; and

WHEREAS, there is a current and immediate threat to public health, safety and welfare because, without this urgency ordinance, PG&E SmartMeters or supporting equipment will continue to be installed or constructed or modified in the City and will unwillingly subject residents of Capitola to the privacy, security, health, accuracy and consumer fraud risks of the unproven SmartMeter technology; and

WHEREAS, the City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction or installation of any facilities and, in fact, imposes greater restrictions on such construction and installation in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

WHEREAS, there is no feasible alternative to satisfactorily study the potential impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency moratorium ordinance; and

WHEREAS, based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from the SmartMeter technology; therefore it is appropriate to adopt a temporary moratorium that would remain in effect from the date of its adoption through December 31, 2012, unless the City Council acts to repeal it prior to that date.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Capitola as follows:

Section 1. Moratorium. From and after the effective date of this Ordinance, no PG&E SmartMeter may be installed in or on any home, apartment, condominium or business of any type within the City of Capitola, and no equipment related to PG&E SmartMeters may be installed in, on, under, or above any public street or public right of way within the City of Capitola.

Section 2. Violations of this moratorium may be charged as infractions or misdemeanors as set forth in Chapter 4.04 of the Capitola Municipal Code. In addition, violations shall be deemed public nuisances, with enforcement and abatement by injunction or any other remedy authorized by law.

Section 3. The City Council finds and determines that: (a) there is a current and immediate threat to the public peace, health, or safety; (b) this moratorium must be

imposed in order to protect and preserve the public interest, health, safety, comfort and convenience and to preserve the public welfare; and (c) it is necessary to preserve the public health and safety of all residents or landowners adjacent to such uses as are affected by this interim ordinance as well as to protect all of the citizens of the City of Capitola by preserving and improving the aesthetic and economic conditions of the City.

Section 4. If any provision of this interim ordinance is held to be unconstitutional, it is the intent of the City Council that such portions of such ordinance shall be severable from the remainder and the remainder be given full force and effect.

Section 5. This interim ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) - the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c)(3) - the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 6. Effective Dates. This ordinance shall take effect immediately based on the findings by the City Council that this ordinance is necessary for the protection of the public health, safety, and general welfare. This ordinance shall be in full force and effect from the date of its adoption by the City Council through December 31, 2012 at which time it's terms and provision shall expire and no longer remain in effect.

This ordinance was passed and adopted on the 9th day of February, 2012, as an Urgency Ordinance to be effective immediately, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DISQUALIFIED:

APPROVED:

Michael Termini, Mayor

ATTEST:

Susan Sneddon, City Clerk



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

January 18, 2012

AGENDA: January 24, 2012

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

SmartMeter Moratorium

Dear Members of the Board:

On December 13, 2011, your Board directed this office to return today with a report on issues associated with the current SmartMeter moratorium ordinance, and information on the possible extension of the moratorium for an additional year. Your Board also directed the Public Health Officer to return with an analysis of the research on the health effects of SmartMeters, and directed County Counsel to return with a report regarding the legality of a public utility refusing service to customers who are willing to pay for service and are willing to have an analog meter.

As your Board is aware, the California Public Utility Commission is considering PG&E's application for modification to PG&E's SmartMeter proposal to include an option for residential customers who do not wish to have a wireless SmartMeter. The item was scheduled on the January 12, 2012 agenda, but the commission anticipates that a vote on the proposal will not happen prior to February 1, 2012.

Moratorium Ordinance

Your Board has heard significant amounts of testimony regarding SmartMeters and concerns about their possible impact on health, questions about their accuracy, their inability to recover real-time data, privacy concerns, and the lack of safety standards for chronic long-term exposure to electromagnetic frequency radiation. In addition, PG&E has not presented studies to support their primary justification that the SmartMeter program will encourage customers to more effectively manage their utilization of electricity.

Given the broad concern about SmartMeter technology and your Board's desire to go on record, this office and County Counsel believe that notwithstanding the enforcement challenges, that it is in the best interest of public health, safety, and welfare for your Board to adopt the attached ordinance (Attachment A) implementing a temporary moratorium on the installation of SmartMeters in or on any home, apartment, condominium or business within the unincorporated area of the County. The purpose of the moratorium is to allow additional time to educate the CPUC about these concerns and allow time for adequate study of the impacts resulting from the SmartMeter technology.

PG&E, asserting that local governments do not have jurisdiction on the installation of the meters, has ignored the previous Santa Cruz County ordinance as well as similar ordinances adopted in other jurisdictions. PG&E believes that only the California Public Utilities Commission (CPUC) has the authority to stop installation of the meters. Elected representatives, including the Board of Supervisors of Marin County, have acknowledged the limits of their ordinances to actually stop the installation of the meters. However, jurisdictions have adopted their ordinances with statements that such ordinances play an important role by informing the CPUC of significant community concerns.

Health Officer Report

The Public Health Officer's report is provided as Attachment B. The report discusses the health risks associated with SmartMeters, the scientific reports and actions the public might take to mitigate potential harm.

PG&E Shutoff Update

At the December 13, 2011, meeting, your Board questioned the PG&E representative about the utility company's decision to shut off power to the homes of residents who removed their SmartMeters. Subsequent to that meeting, PG&E restored power to those residences with the intent of charging them based on past electrical bills.

Petition

At your January 10, 2012 meeting, your Board was presented with a petition to the California Public Utilities Commission regarding PG&E SmartMeter Opt-out Application, (Petition A.11-03-014). The petition provides the opportunity for local elected officials to urge the Commission to continue Petition A.11-03-014 for further public hearings. The petition is provided as Attachment C. It is recommended that your Board direct the Chair to sign the petition on behalf of the Board and submit it to the PUC.

IT IS THEREFORE RECOMMENDED THAT YOUR BOARD:

- (1) Direct the Chair to send a letter to the PUC calling for independent testing and monitoring of SmartMeters in place to determine duty cycles and frequency, especially in the following circumstances
 - Where both gas and electric meters are located closely together
 - Where there is a bank of SmartMeters such as on a multi-family residential building or apartment building
 - Where there is a collector meter on a home that serves the home, plus as many as 5000 other residential units in the area
 - Where a SmartMeter on a home acts as a relay for other local neighborhood meters

- (2) Direct the Chair to send a letter to the PUC and PG&E allowing any Santa Cruz County resident to request removal of a previously installed SmartMeter and the replacement with an analog meter
- (3) Accept and file the report from the Public Health Officer
- (4) Direct the Chair to sign the petition to the California Public Utilities Commission on behalf of the Board urging the Commission to delay consideration of a preliminary decision on PG&E's SmartMeter application until further public hearing and input are completed, and
- (5) Adopt the attached ordinance imposing a temporary moratorium on the installation of SmartMeters within the unincorporated area of Santa Cruz County and direct the Clerk of the Board to place the ordinance on the February 7, 2012 agenda for final consideration.

Very truly yours,



SUSAN A. MAURIELLO
County Administrative Officer
Attachments:

- A. Proposed Ordinance
- B. Report from Public Health Officer
- C. Petition to CPUC

cc: PG&E
California Public Utilities Commission

ORDINANCE NO. _____

**AN UNCODIFIED ORDINANCE OF THE COUNTY OF SANTA CRUZ
IMPOSING A TEMPORARY MORATORIUM ON THE INSTALLATION
OF SMARTMETERS AND RELATED EQUIPMENT IN, ALONG,
ACROSS, UPON, UNDER AND OVER THE PUBLIC STREETS AND
OTHER PLACES WITHIN THE UNINCORPORATED AREA OF SANTA
CRUZ COUNTY**

The Board of Supervisors of the County of Santa Cruz find as follows:

WHEREAS, the County of Santa Cruz (the "County"), through its police powers granted by Article XI of the California Constitution, retains broad discretion to legislate for public purposes and for the general welfare, including but not limited to matters of public health, safety and consumer protection; and

WHEREAS, the County of Santa Cruz has a franchise agreement with PG&E that has been in effect since 1955; and

WHEREAS, in addition, the County retains authority under Article XII, Section 8 of the Constitution to grant franchises for public utilities, and pursuant to California Public Utilities Code section 6203, "may in such a franchise impose such other and additional terms and conditions..., whether governmental or contractual in character, as in the judgment of the legislative body are to the public interest;" and

WHEREAS, Public Utilities Code section 2902 reserves the County's right to supervise and regulate public utilities in matters affecting the health, convenience and safety of the general public, "such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets, and the speed of common carriers operating within the limits of the municipal corporation;" and

WHEREAS, Pacific Gas & Electric Company ("PG&E") is now installing SmartMeters in Central and Northern California and is installing these meters within the County of Santa Cruz; and

WHEREAS, concerns about the impact and accuracy of SmartMeters have been raised nationwide, leading the Maryland Public Service Commission to deny permission on June 21, 2010 for the deployment of SmartMeters in that state. The State of Hawaii Public Utility Commission also recently declined to adopt a smart grid system in that state. The CPUC currently has pending before it a petition from the City and County of San Francisco, and other municipalities, seeking to delay

the implementation of SmartMeters until the questions about their accuracy can be evaluated; and

WHEREAS, major problems and deficiencies with SmartMeters in California have been brought to the attention of the Board of Supervisors of the County of Santa Cruz, including PG&E's confirmation that SmartMeters have provided incorrect readings costing ratepayers untold thousands of dollars in overcharges and PG&E's records outlined "risks" and "issues" including an ongoing inability to recover real-time data because of faulty hardware originating with PG&E vendors; and

WHEREAS, the ebb and flow of gas and electricity into homes discloses detailed information about private details of daily life. Energy usage data, measured moment by moment, allows the reconstruction of a household's activities: when people wake up, when they come home, when they go on vacation, and even when they take a hot bath. SmartMeters represent a new form of technology that relays detailed hitherto confidential information reflecting the times and amounts of the use of electrical power without adequately protecting that data from being accessed by unauthorized persons or entities and as such pose an unreasonable intrusion of utility customers' privacy rights and security interests. Indeed, the fact that the CPUC has not established safeguards for privacy in its regulatory approvals may violate the principles set forth by the U.S. Supreme Court in *Kyllo v. United States* (2001), 533 U.S. 27; and

WHEREAS, significant health questions have been raised concerning the increased electromagnetic frequency radiation (EMF) emitted by the wireless technology in SmartMeters, which will be in every house, apartment and business, thereby adding additional human-made EMF to our environment around the clock to the already existing EMF from utility poles, individual meters and telephone poles; and

WHEREAS, FCC safety standards do not exist for chronic long-term exposure to EMF or from multiple sources, and reported adverse health effects from electromagnetic pollution include sleep disorders, irritability, short term memory loss, headaches, anxiety, nausea, DNA breaks, abnormal cell growth, cancer, premature aging, etc. Because of untested technology, international scientists, environmental agencies, advocacy groups and doctors are calling for the use of caution in wireless technologies; and

WHEREAS, the primary justification given for the SmartMeters program is the assertion that it will encourage customers to move some of their electricity usage from daytime to evening hours; however, PG&E has conducted no actual pilot projects to determine whether this assumption is in fact correct. Non-transmitting time-of-day meters are already available for customers who desire

them, and enhanced customer education is a viable non-technological alternative to encourage electricity use time shifting. Further, some engineers and energy conservation experts believe that the SmartMeters program--in totality--could well actually increase total electricity consumption and therefore the carbon footprint; and

WHEREAS, this Board of Supervisors sent a letter to the CPUC on September 15, 2010 expressing concern about reports that SmartMeter technology was interfering with the proper functioning of common household devices and requesting a response from the CPUC; and

WHEREAS, there has been no response by the CPUC to the letter sent by the Board of Supervisors; and

WHEREAS, because the potential risks to the health, safety and welfare of County residents are so great, the Board of Supervisors wishes to adopt a moratorium on the installation of SmartMeters and related equipment within the unincorporated area of the County of Santa Cruz. The moratorium period will allow the Council on Science and Technology and legislative process referenced above to be completed and for additional information to be collected and analyzed regarding potential problems with SmartMeters; and

WHEREAS, there is a current and immediate threat to public health, safety and welfare because, without this urgency ordinance, SmartMeters or supporting equipment will be installed or constructed or modified in the County without PG&E's complying with the CPUC process for consultation with the local jurisdiction, the County's Code requirements, and subjecting residents of Santa Cruz County to the privacy, security, health, accuracy and consumer fraud risks of the unproven SmartMeter technology; and

WHEREAS, the Board of Supervisors hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction or installation of any facilities and, in fact, imposes greater restrictions on such construction and installation in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

WHEREAS, there is no feasible alternative to satisfactorily study the potential impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency moratorium ordinance; and

WHEREAS, based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from the SmartMeter technology; therefore it is appropriate to adopt a temporary moratorium that would remain in effect from the date of its adoption until December 31, 2012, unless your Board acts to repeal it prior to that date.

NOW, THEREFORE BE IT ORDAINED by the Board of Supervisors of the County of Santa Cruz as follows:

SECTION I

Moratorium. From and after the effective date of this Ordinance, no SmartMeter may be installed in or on any home, apartment, condominium or business of any type within the unincorporated area of the County of Santa Cruz, and no equipment related to SmartMeters may be installed in, on, under, or above any public street or public right of way within the unincorporated area of the County of Santa Cruz.

SECTION II

Violations of the Moratorium may be charged as infractions or misdemeanors as set forth in Chapter 1.12 of the Santa Cruz County Code. In addition, violations may be deemed public nuisances, with enforcement by injunction or any other remedy authorized by law.

SECTION III

This Board of Supervisors finds and determines that: (a) there is a current and immediate threat to the public peace, health, or safety; (b) the moratorium must be imposed in order to protect and preserve the public interest, health, safety, comfort and convenience and to preserve the public welfare; and (c) it is necessary to preserve the public health and safety of all residents or landowners adjacent to such uses as are affected by this interim ordinance as well as to protect all of the citizens of Santa Cruz County by preserving and improving the aesthetic and economic conditions of the County.

SECTION IV

If any provision of this interim ordinance is held to be unconstitutional, it is the intent of the Board of Supervisors that such portions of such ordinance are severable from the remainder and the remainder is given full force and effect.

SECTION V

This interim ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c) (2) – the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c) (3) – the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION VI

This ordinance shall take effect on the 31st day after the date of final passage.


PASSED AND ADOPTED THIS _____ day of _____, 2012, by the Board of Supervisors of the County of Santa Cruz by the following vote:

- AYES: SUPERVISORS
- NOES: SUPERVISORS
- ABSENT: SUPERVISORS
- ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:



County Counsel



County of Santa Cruz 0257

HEALTH SERVICES AGENCY

POST OFFICE BOX 962, 1060 EMELINE AVE., SANTA CRUZ, CA 95061-0962
 TELEPHONE: (831) 454-4114 FAX: (831) 454-5049 TDD: (831) 454-4123

Poki Stewart Namkung, M.D., M.P.H.
Health Officer
Public Health Division

Memorandum

Date: January 13, 2012
 To: Santa Cruz County Board of Supervisors
 From: Poki Stewart Namkung, M.D., M.P.H. *PON*
 Health Officer
 Subject: Health Risks Associated With SmartMeters

Overview

On December 13, 2011, Santa Cruz County Board of Supervisors directed the Public Health Officer to return on January 24, 2012, with an analysis of the research on the health effects of SmartMeters.

Background

In order to analyze the potential health risks associated with SmartMeters, the following questions should be asked:

- 1) What is the SmartMeter system and what is the potential radiation exposure from the system?
- 2) What scientific evidence exists about the potential health risks associated with SmartMeters?
- 3) Are there actions that the public might take to mitigate any potential harm from SmartMeters?

SmartMeters are a new type of electrical meter that will measure consumer energy usage and send the information back to the utility by a wireless signal in the form of pulsed frequencies within the 800 MHz to 2400MHz range, contained in the microwave portion of the electromagnetic spectrum. SmartMeters are considered part of 'smart grid' technology that includes: a) a mesh network or series of pole-mounted wireless antennas at the neighborhood level to collect and transmit wireless information from all SmartMeters in that area back to the utility; b) collector meters, which are a special type of SmartMeter that collects the radiofrequency or microwave radiation signals from many surrounding

buildings (500-5000 homes or buildings) and sends the information back to the utility; and c) proposed for the future, a power transmitter to measure the energy use of individual appliances (e.g. washing machines, clothes dryers, dishwasher, etc) and send information via wireless radio frequency signal back to the SmartMeter. The primary rationale for SmartMeters and grid networks is to more accurately monitor and direct energy usage.

The public health issue of concern in regard to SmartMeters is the involuntary exposure of individuals and households to electromagnetic field (EMF) radiation. EMFs are everywhere, coming from both natural and man-made sources. The three broad classes of EMF are:

- extremely low frequency, ELF (from the sun or powerlines)
- radio frequency, RF (from communication devices, wireless devices, and SmartMeters)
- extremely high frequency, known as ionizing radiation (x-rays and gamma rays)

Much of this exposure is beyond our control and is a matter of personal choice; however, public exposure to RF fields is growing exponentially due to the proliferation of cell phones, and wireless fidelity (Wi-Fi) technology. To understand the relationship between EMF from SmartMeters and other sources, it is helpful to view the electromagnetic spectrum:

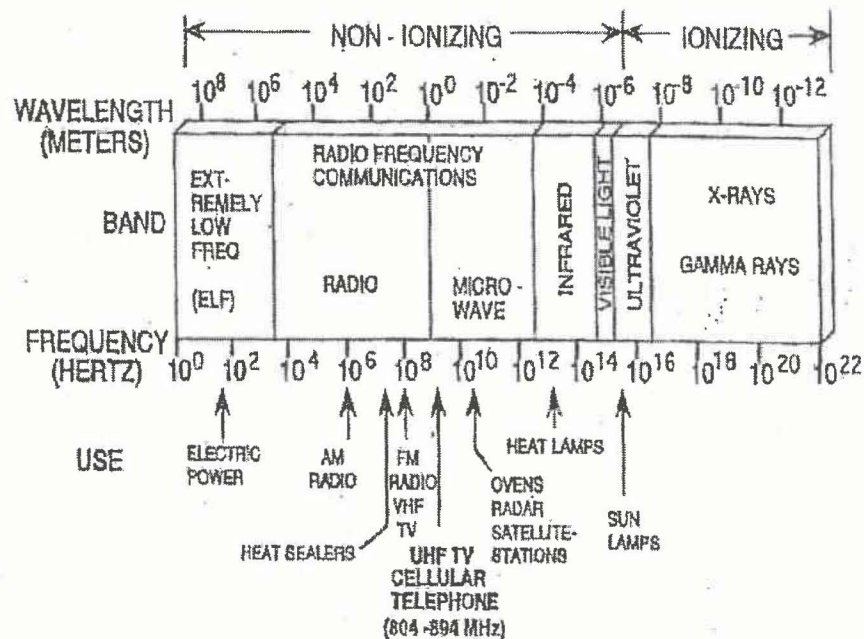


Fig. 1: The electromagnetic spectrum, showing the relations between ELF and RF fields, wavelength and frequency, and the ionizing and non-ionizing portions of the spectrum.

The Federal Communications Commission (FCC) has adopted limits for Maximum Permissible Exposure (MPE) that are based on exposure guidelines published by the National Council on Radiation Protection and Measurements (NCRP). The limits vary with

the frequency of the electromagnetic radiation and are expressed in units of microwatts per centimeter squared. A SmartMeter contains two antennas whose combined time-averaged public safety limit of exposure is $655\mu\text{W}/\text{cm}^2$ (Sage, 2011). According to the California Council on Science and Technology (CCST) Report (2011), within distances of three to ten feet, SmartMeters would not exceed this limit. However, CCST did not account for the frequency of transmissions, reflection factors, banks of SmartMeters firing simultaneously, and distances closer than three feet. There are numerous situations in which the distance between the SmartMeters and humans is less than three feet on an ongoing basis, e.g. a SmartMeter mounted on the external wall to a bedroom with the bed placed adjacent to that mounting next to the internal wall. That distance is estimated to be one foot. The CCST Report also states that SmartMeters will generally transmit data once every four hours, and once the grid is fully functional, may transmit "more frequently." It has been aptly demonstrated by computer modeling and real measurement of existing meters that SmartMeters emit frequencies almost continuously, day and night, seven days a week. Furthermore, it is not possible to program them to not operate at 100% of a duty cycle (continuously) and therefore it should not be possible to state that SmartMeters do not exceed the time-averaged exposure limit. Additionally, exposure is additive and consumers may have already increased their exposures to radiofrequency radiation in the home through the voluntary use of wireless devices such as cell and cordless phones, personal digital assistants (PDAs), routers for internet access, home security systems, wireless baby surveillance (baby monitors) and other emerging devices. It would be impossible to know how close a consumer might be to their limit, making safety a uncertainty with the installation of a mandatory SmartMeter.

This report will focus on the documented health risks of EMF in general, the relevance of that data to SmartMeters exposure, the established guidelines for RF safety to the public at large, and then provide recommendations to ameliorate the risk to the public's health.

Evidence-based Health Risks of EMFs

There is no scientific literature on the health risks of SmartMeters in particular as they are a new technology. However, there is a large body of research on the health risks of EMFs. Much of the data is concentrated on cell phone usage and as SmartMeters occupy the same energy spectrum as cell phones and depending on conditions, can exceed the whole body radiation exposure of cell phones (see Attachment B1, Figure 4). In terms of health risks, the causal factor under study is RF radiation whether it be from cell phones, Wi-Fi routers, cordless phones, or SmartMeters. Therefore all available, peer-reviewed, scientific research data can be extrapolated to apply to SmartMeters, taking into consideration the magnitude and the intensity of the exposure.

Since the mid-1990's the use of cellular and wireless devices has increased exponentially exposing the public to massively increased levels of RF. There is however, debate regarding the health risks posed to the public given these increased levels of radiation. It must be noted that there is little basic science funding for this type of research and it is largely funded by industry. An intriguing divide, noted by Genuis, 2011 is that most

research carried out by independent non-government or non-industry affiliated researchers suggests potentially serious effects from many non-ionizing radiation exposures; most research carried out by independent non-government or non-industry affiliated researchers suggests potentially serious effects from many non-ionizing radiation exposures research funded by industry and some governments seems to cast doubt on the potential for harm. Elements of the controversy stem from inability to replicate findings consistently in laboratory animal studies. However, analysis of many of the conflicting studies is not valid as the methodology used is not comparable. Despite this controversy, evidence is accumulating on the results of exposure to RF at non-thermal levels including increased permeability of the blood-brain barrier in the head (Eberhardt, 2008), harmful effects on sperm, double strand breaks in DNA which could lead to cancer genesis (Phillips, 2011), stress gene activation indicating an exposure to a toxin (Blank, 2011), and alterations in brain glucose metabolism (Volkow, 2011).

In terms of meta-analyzed epidemiological studies, all case-control epidemiological studies covering >10 years of cell phone use have reported an increased risk of brain tumors from the use of mobile phones (Hallberg, 2011). Other studies have pointed to an increasing risk of acoustic neuroma, salivary gland tumors, and eye cancer after several years of cell phone use and the tumors occur predominantly on the same side of the head as the phone is used. The analysis of brain cancer statistics since the mid 20th century in several countries reveals that brain tumor formation has a long latency time, an average of over 30 years to develop from initial damage.(Hallberg, 2011). Therefore using studies such as the Interphone Study which looked at shorter latency periods for the development of specific brain cancers will result in inconclusive data.

Another potential health risk related to EMF exposure, whose legitimacy as a phenomenon remains contentious, is electromagnetic hypersensitivity (EHS). In the 1950's, various centers in Eastern Europe began to describe and treat thousands of workers, generally employed in jobs involving microwave transmission. The afflicted individuals often presented with symptoms such as headaches, weakness, sleep disturbance, emotional instability, dizziness, memory impairment, fatigue, and heart palpitations. Clinical research to verify the physiological nature of this condition did not begin in earnest until the 1990's and found that the EMF involved was usually within the non-ionizing range of the electromagnetic spectrum. In the early 2000's, estimates of the occurrence of EHS began to swell with studies estimating the prevalence of this condition to be about 1.5% of the population of Sweden (Hilleert et al., 2002), 3.2% in California (Levallios et al., 2002), and 8% in Germany (infas Institut für angewandte Sozialwissenschaft GmbH, 2003).

In 2004, WHO declared EHS "a phenomenon where individuals experience adverse health effect while using or being in the vicinity of devices emanating electric, magnetic, or electromagnetic fields (EMFs)...Whatever its cause, EHS is a real and sometimes debilitating problem for the affected persons (Mild et al., 2004)."

Currently, research has demonstrated objective evidence to support the EHS diagnosis, defining pathophysiological mechanisms including immune dysregulation in vitro, with

increased production of selected cytokines and disruption and dysregulation of catecholamine physiology (Genuis, 2011).

Until recently, the diagnosis of EHS has not received much support from the medical community due to lack of objective evidence. In an effort to determine the legitimacy of EHS as a neurological disorder, however, a collection of scientists and physicians recently conducted a double-blinded research study that concluded that "EMF hypersensitivity can occur as a bona fide environmentally-inducible neurological syndrome (McCarty et al., 2011).

Safety Guidelines

The guidelines currently used by the FCC were adopted in 1996, are thermally based, and are believed to protect against injury that may be caused by acute exposures that result in tissue heating or electric shock. FCC guidelines have a much lower certainty of safety than standards. Meeting the current FCC guidelines only assures that one should not have heat damage from SmartMeter exposure. It says nothing about safety from the risk of many chronic diseases that the public is most concerned about such as cancer, miscarriage, birth defects, semen quality, autoimmune diseases, etc. Therefore, when it comes to nonthermal effects of RF, FCC guidelines are irrelevant and cannot be used for any claims of SmartMeter safety unless heat damage is involved (Li, 2011).

There are no current, relevant public safety standards for pulsed RF involving chronic exposure of the public, nor of sensitive populations, nor of people with metal and medical implants that can be affected both by localized heating and by electromagnetic interference (EMI) for medical wireless implanted devices. Many other countries (9) have significantly lower RF/MW exposure standards ranging from 0.001 to 50 $\mu\text{W}/\text{cm}^2$ as compared with the US guideline of 200-1000 $\mu\text{W}/\text{cm}^2$. Note that these recommended levels are considerably lower than the approximately 600 $\mu\text{W}/\text{cm}^2$. (time-averaged) allowed for the RFR from SmartMeters operating in the low 900 MHz band mandated by the FCC based on only thermal consideration.

In summary, there is no scientific data to determine if there is a safe RF exposure level regarding its non-thermal effects. The question for governmental agencies is that given the uncertainty of safety, the evidence of existing and potential harm, should we err on the side of safety and take the precautionary avoidance measures? The two unique features of SmartMeter exposure are: 1) universal exposure thus far because of mandatory installation ensuring that virtually every household is exposed; 2) involuntary exposure whether one has a SmartMeter on their home or not due to the already ubiquitous saturation of installation in Santa Cruz County. Governmental agencies for protecting public health and safety should be much more vigilant towards involuntary environmental exposures because governmental agencies are the only defense against such involuntary exposure. Examples of actions that the public might take to limit exposure to electromagnetic radiation can be found in Attachment B2.

References:

- Balmori, A. "Electromagnetic Pollution from Phone Masts. Effects of Wildlife." Pathophysiology (2009).
- Blackman, C. "Cell Phone Radiation: Evidence from ELF and RF studies supporting more inclusive risk identification assessment,." Pathophysiology (2009): doi: 10.1016.
- . "Cell Phone Radiation: Evidence from ELF and RF Studies Supporting More Inclusive Risk Identification Assessment." Pathophysiology (2009).
- Blank, M, Goodman R. "Electromagnetic field stress living cells." Pathophysiology (2009): doi: 10.1016.
- Blank, M. "Prefice." Pathophysiology (2009): doi10.1016.
- Carpenter, D. and Sage, C. "BioInitiative Report: A Rationale for a Biologically-based Public Exposure Standard for Electromagnetic Fields." (2007).
- Carpenter, David O. "Electromagnetic Fields and Cancer: The Cost of Doing Nothing." (2009).
- Carpenter, David O. " Report on the CCST document "Health Impacts of Radiofrequency from Smart Meters"." (n.d.).
- Carpenter, David O. Sage Cindy. "Setting Prudent Public Health Policy for Electromagnetic Field Exposures." Reviews on Environmental Health (2008): Vol. 23 No.2 .
- Consultants, Sage Associates - Environmental. "Assesments of Radiofrequency Microwave Radiation Emmissions from SmartMeters." (2011).
- Davanipour, E. Sobel. "Long Term Exposure to magnetic fields and the risks of Alzheimer's disease and breast cancer." Pathophysiology (2009): doi: 10.1016.
- De-Kun Li, MD PhD MPH. "Repsonse to CCST." Written Testimony (2009).
- Genuis SJ, Lipp CT. "Electromagnetic Sensitivity: Fact or Fiction?" Sci total Environ (2011): doi: 10.1016.
- Goldworthy, Andrew. "The Biological Effect of Weak Electronmagnetic Fields." (2007).
- Hallberg O, and Morgan J. "The Potential Impact of Mobile Phone Use on trends in Brain and CNS Tumors." Neuro and Neurophysiology (2011).
- Hallberg, O et. al.,. "Apparent decreases in Swedish Public Health indicators after 1997-Are they due to improved diagnostic or environmental factors?" Pathophysiology (2009): doi: 10.1016.
- Hankin, Norbert EPA. "Response to Janet Newton EMR Network re: Radiofrequency Guidelines." (2002).
- Hardell, L. et al.,. "Epidemiological evedence for an association between use of wireless phones and tumor diseases." Pathophysiology (2009): doi: 10.1016.
- Hillert, L et al.,. "Prevalence of self-reported hypersensitivity to electric or magnetic fields in a population-based questionnaire survey." Scab J Work Environ Health 28 (2002): 33-41.

- Hirsch, Daniel. "Comments on the Draft Report by the Council on Science and Technology "Health Impacts of Radio frequency from Smart Meters"." (2011).
- Hondou, Tsuyoshi. "Passive exposure to Mobile Phones: Enhancement of Intensity by Reflection." (2006).
- Huttunen, P. et al.,. "FM-radio and TV tower signals can cause spontaneous hand movements near moving RF reflector." Pathophysiology (2009): doi: 10.1016.
- Infas. "Study on concern and anxiety of the general public with respect to the possible risks due to high frequency electromagnetic fields used." (2004).
- Johannsson, Ollie Professor Dept of Neuroscience, Karolinska Institute Stockholm, Sweden. "Commentary." (2011).
- Khurana, Vini G. et al.,. "Cell phones and brain tumors: A review including the long-term epidemiologic data." Science Direct, Surgical Direct, Surgical Neurology (2009).
- Kreutzer, Rick CDPH. "Technical Commentary on CCST Report: Health Impact on Radio Frequencies from SmartMeters." (2011).
- Kundi, M., Hutter MP. "Mobile Phone base stations-Effects on wellbeing and health." Pathophysiology (2009): doi:10.1016.
- Lai, Henry Dept. of Bioengineering Univ. Of Washington. "Biological Effects of Radiofrequency Radion." (2002).
- Levallois, P and et al. "Study of self-reported hypersensitivity to electromagnetic fields in California." Environ Health Perspect (2002): 110 (Suppl 4); 619-23.
- Levis, Angelo G. et al. "Mobile phones and head tumors. The discrepancies in cause-effect relationships in the epidemiological studies-how do they arise?" Environmental Health (2011).
- Lotz, W. Gregory. "Letter to Richard Tell in support of RF exposure guidelines." (n.d.): 1999.
- Maret, Dr. Karl. "Commentary on the CCST report " Health Impacts of Radio Frequency from Smart Meters"." (2011).
- Mauer, Sandy EMF Network. "PG&E SmartMeters violate FCC RF Exposure Compliance Rates." (2010).
- McCarty, DE et al.,. "Electromagnetic hypersensitivity: Evidence for a novel neurological syndrome." Int. J Neurosci (2011).
- Mekaya, MA et al., Dept of Biophysics University Ankara, Turkey. "Pulse modulated 900 Mhz radiation induces hypothyroidism and apoptosis in thyroid cells: a light, electron microscopy and immunohistochemical study." (2010).
- Mild, Kjell Hansson and Emilie van Dventer Paolo Ravazzani editors Mike Repacholi. "Electromagnetic Hypersensitivity - Proceedings International Workshop of EMF Hypersensitivity Prague, Czech Republic ." (2004).
- Neutra, Dr. Raymond Richard. "Commentary." (2011).
- Organization, World Health. "IARC Classifies radiofrequency electromagnetic fields as possible carcinogenic to humans." (2011).

Organization, World Health. "Electromagnetic fields and public health: Base stations and wireless technologies." Fact Sheet 304 Accessed on January 31, 2011 (2006):

<http://www.who.int/mediacentre/factsheets/fs304/enIndex/Html>.

—. "Electromagnetic fields and public health: Electromagnetic hypersensitivity." Fact Sheet No. 296 (2011):

<http://who.who.int/mediacentre/factsheets/fs296/index.html>.

—. "Interphone study reports on mobile phone use and brain cancer." (2010).

Peevey, Michael. "Ruling and Scoping Memo to PUC: Opt out program and its cost." (2011).

Phillips J.L. et al. "Electromagnetic fields and DNA damage." Pathophysiology (2009): doi: 10.1016.

Pourlis, A.F. " Reproductive and developmental effects of EMF in vertebrate models." Pathophysiology (2009): doi: 10.1016.

Sage, C and Carpenter D. O. "Public health implications of wireless technologies." Pathophysiology (2011): 16: 233-246.

Schüz, Joachim et., al. "Cellular Phones and the Risks of Glioma and Meningioma." American Journal of Epidemiology (2006): doi: 10.1093 .

Supervisors, Santa Cruz county Board of. "Temporary Moratorium on the Installation of SmartMeters." (2011).

Techology, California Council on Science and. "Health Impact of Radio Frequency Exposure from Smart Meters." (2011).

Tell, richard. "Summary Discussion of RF Fields and the PG&E SmartMeter System (2005 report and 2008 report)." (2009).

Volkow, N. D et al.,. "Effects of cell phone radiofrequency signal exposure on brain glucose metabolism." JAMA (2011): 305:808-13.

Yakemenko, I et al.,. "Long Term Exposure to Microwaves Provokes Cancer Growth: Evidences from Radar and Mobile Communications systems." Experiemental Oncology (2011).

Figure 4 from Hirsch; 2011

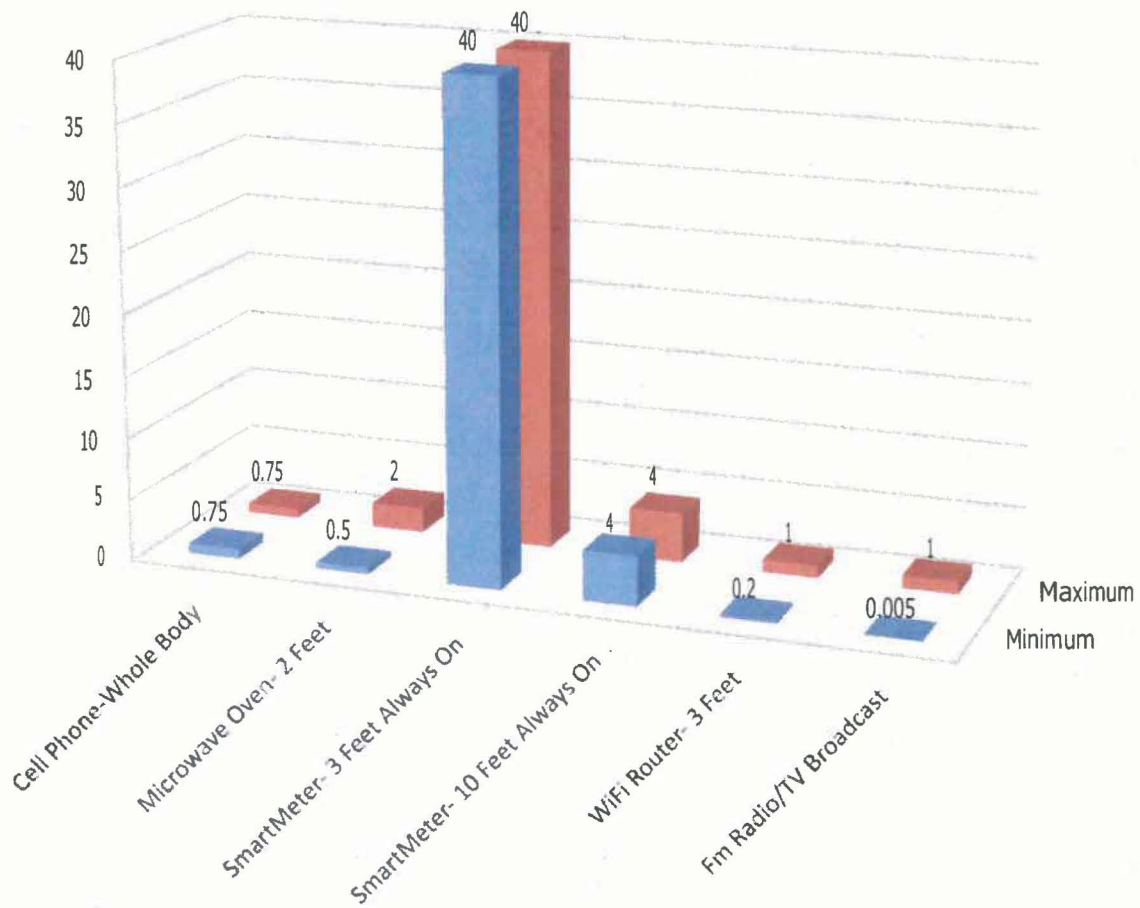


Figure 4. Comparison of Radio-Frequency Levels to the Whole Body from Various Sources in μ W/cm² over time [corrected for assumed duty cycle and whole body exposure extrapolated from EPRI/CCST SmartMeter estimated levels at 3 feet].

Examples of strategies to reduce electromagnetic radiation.

(Genuis SJ, 2011)

Sources of adverse EMR	Considerations to reduce EMR exposure
Cell phones and cordless phones	<ul style="list-style-type: none"> • Minimize use of cell and cordless phones and use speaker phones when possible • Leave cell or cordless phone away from the body rather than in pocket or attached at the hip.
Wireless internet	<ul style="list-style-type: none"> • Use wired internet • Turn off the internet router when not in use (e.g. night-time) • Use power line network kits to achieve internet access by using existing wiring and avoiding wireless emissions.
Computers releasing high EMR	<ul style="list-style-type: none"> • Limit the amount of time spent working on a computer • Avoid setting a laptop computer on the lap • Increase the distance from the transformer. • Stay a reasonable distance away from the computer
Handheld electronics (electric toothbrush, hair dryer, Smart phone, electronic tablets, etc.)	<ul style="list-style-type: none"> • Limit the use of electronics and/or revert to using power-free devices • Turn devices off before going to sleep • Minimize electronics in bedrooms
Fluorescent lights	<ul style="list-style-type: none"> • Consider using alternate lighting such as incandescent (Uncertainty exists about the safety of LED lights) • Rely on natural sunlight for reading
Household power	<ul style="list-style-type: none"> • Measure levels of EMR and modify exposures as possible • Avoid sleeping near sites of elevated EMR • Filters can be used to mitigate dirty power
High voltage power lines substations, transmission towers, and emitters (cell phone tower, radar, etc.)	<ul style="list-style-type: none"> • Consider relocating to an area not in close proximity to high voltage power lines • Maintain considerable distance from emitters • Consider forms of shielding (shielding paints; grounded metal sheets)
Utility neutral-to-ground bonded to water pipes	<ul style="list-style-type: none"> • Increase size of neutral-wire to substation and install dielectric coupling in water pipe.

Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

We the undersigned elected officials urge the Commission to delay consideration of President Peevey's preliminary decision until further public hearing and input are completed. The decision, which calls for charging fees to customers who elect to opt out of the SmartMeter program, conflicts with local planning authority, does not protect the health or safety of all residents and imposes a prejudicial financial burden on ratepayers who chose to opt out of the program. We therefore urge the Commission to continue consideration of this matter until further public hearings are completed to ensure the due process rights of all stakeholders.

The order does not provide an empirical basis for the amount of the fees to be charged to opt out customers nor does it consider the net financial impact of PG&E's latest proposal to permit customer retention of analogue meters. Hence the order effectively eliminates a full and fair hearing process for these contested issues of fact to be considered and resolved.

Historically, telecommunications carriers throughout this state have complied with local planning codes which provide notice to residents as to the construction of transmission facilities. Pacific Gas and Electric Company ignored such codes in the deployment of the Smart Meter telecommunications network. Currently many of our jurisdictions have passed ordinances which impose a moratorium on wireless SmartMeters and have petitioned to opt out on a jurisdictional basis. The current order is silent on these issues and effectively discards them without consideration.

The decision also ignores the longstanding controversy and concern about the health impacts associated with electro-magnetic fields. A 1998 California Department of Health Services study commissioned by the California Public Utility Commission itself found that 3.2% of Californians reported hypersensitivity to electro-magnetic fields. A May 2011 study released by the World Health Organization/International Agency for Research on Cancer reclassified RF radiation of the type emitted by wireless equipment throughout the Smart Meter system as "possibly carcinogenic" to humans. President Peevey's order effectively imposes a different rate on many utility customers who need to avoid exposure in violation of California Public Utilities Code section 453(b) which states in pertinent part that "No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, medical condition, marital status or change in marital status, occupation..."

President Peevey's decision does not address these concerns nor does it the financial viability of wired equipment alternatives. In so doing, it eliminates a much anticipated public hearing process.

For all of the foregoing reasons, we respectfully urge the Commission to continue Petition A.11-03-014 matter for further hearings.

Signature

Jurisdiction

Signature

Jurisdiction

Signature

Jurisdiction

Signature

Jurisdiction

Signature

Jurisdiction

Signature

Jurisdiction

From: Mark Stone [BDS050@co.santa-cruz.ca.us]
Sent: Monday, January 09, 2012 1:30 PM
To: Maureen McCarty
Subject: FW: smart meter opt-out letter and moratorium on smart meters

From: theodora kerry[SMTP:THEKERRY@COMCAST.NET]
Sent: Monday, January 09, 2012 1:30:14 PM
To: Mark Stone
Subject: re: smart meter opt-out letter and moratorium on smart meters
Auto forwarded by a Rule

This letter is directed to the whole Board of Supervisors, and, as such, should be included in the public record.

Dear Chairperson Stone,

Having attended the board meeting on Dec. 13, and witnessed the Board's active interrogation of the P.G.&E. rep's woeful defense of her employer's shutting off of electricity to customers who dared to protect their health and that of their children by removing their smart meters, I'm very disappointed to read the agenda for tomorrow's meeting only to find that the expected follow-through re: smart meters was no where to be found. While you did approve a letter to the CPUC expressing your opposition to opt-out charges, many of us need you to go further and protect our right to analog meters, as many health problems have been linked to smart meters that have their wireless component turned off. Despite PG&E's crying "public safety concerns", the analog meters have proven to be safe for decades, unlike the recently installed smart meters which have already been linked to health problems, fires, and overcharging. Unfortunately, the CPUC is supposed to decide this issue as early as Jan.12, leaving you no time to write a stronger letter to the CPUC given that the issue is not on the agenda. While I applaud the strong stance you took with the PG&E's rep at the last meeting, that in itself does little to protect us, your constituents. Even the smart meter moratorium as been little more than window dressing as the Sheriff continues to use his power to protect PG&E contractors, instead of the local citizenry. I reiterate my call for you, the Board of Supervisors, to use your power of the purse strings to make it clear to the Sheriff that he is expected to support the moratorium/citizens, not the profiteering corporations.

Regardless of what you eventually decide, you, like the rest of us, are equally at the mercy of these meters. What you allow to be done unto us by PG&E is also being done unto you.

Theodora Kerry
Santa Cruz, CA 95060



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: FINAL REPORT ON THE RISPIN PROPERTY HAZARD ABATEMENT
AND APPROVAL OF NOTICE OF COMPLETION

RECOMMENDED ACTION: By motion take the following actions:

1. Accept this Final Report on the hazard abatement work at the Rispin Mansion; and
2. Accept the Rispin Hazard Abatement work performed by Garden City Construction as complete at a final cost of \$540,355 and authorize the Director of Public Works to release the contract retention of \$54,035 in 35 days following the recordation of the attached Notice of Completion.

BACKGROUND:

On March 10, 2011, the City Council adopted Resolution No. 3859 declaring that an emergency condition exists as a result of the receipt of an Order to Abate Hazardous Conditions at the Rispin Mansion Property. Working under this declared emergency, the City issued several contracts and immediately began addressing these conditions. This work is now complete and the hazards associated with the building and immediately adjacent grounds have been repaired.

DISCUSSION:

The abatement work on the mansion building included the following.

1. Clean up of vegetation and debris from site;
2. All miscellaneous pieces of historical property we collected and stored in the garage;
3. Structural stabilization of the exterior walls by rebuilding fire damaged main floor and bracing upper levels;
4. In fill of doorways, windows, vents with vandal proof structural systems and heavy duty security doors;
5. Reconstruction of the roof including replacement of fire damaged roof trusses;
6. Installation of security fencing and guardrails around the mansion;
7. Abandonment of the pre-existing well;
8. Stabilization of the well house, including security fencing around entire structure;
9. Painting both the mansion and well house.

Construction work on this project was done under time and material contracts. The primary contractor was Garden City Construction whose final contract cost of \$540,355 came in \$17,245 under the originally estimated amount of \$557,600. A full breakdown of all the construction and consultant project costs is included in Attachment 2.

While additional work on the Rispin property had been planned for this year it has been delayed due to the loss of funding with the dissolution of the Capitola Redevelopment Agency. The dissolution of the RDA also raises the question of title ownership of the Rispin property. This question will need to be resolved over the next few months before any additional work on the property is completed.

The remaining work on the property, to complete the project, includes the following:

1. CEQA review and permitting
2. Reconstruction of the main exterior stairway;
3. Construction of ADA pathways tying the differing levels of the site together, including access from the Rispin/Peery pathway;
4. Lighting throughout the property;
5. Wharf Road Wall improvements;
6. Landscaping;
7. Fountain Restoration;
8. Driveway grading;
9. Rispin/Peery Pathway lighting.

Construction costs for these remaining elements are estimated at \$500,000 to \$700,000. Fund for the remaining work will either come from RDA Successor Agency EOPS payments, future grant programs, or future General Fund appropriations.

The following time schedule for completion of the project can be anticipated. The start of CEQA review and the phases that follow are dependent on funding availability.

- | | |
|-------------------------------|-------------------|
| • Property deed clarification | March – June 2012 |
| • CEQA review | 3 months |
| • Final Design and permitting | 2-3 months |
| • Construction | 6 months |

FISCAL IMPACT:

The original budget for the hazard abatement project was \$650,000. The total final project costs were \$648,850.

ATTACHMENTS

1. Notice of Completion
2. Final Project Cost Summary

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

**Reviewed and Forwarded
By City Manager: _____**

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Capitola
Public Works Department
Attn: Steven Jesberg
420 Capitola Avenue
Capitola, California 95010

SPACE ABOVE THIS LINE FOR RECORDER'S USE

THIS INSTRUMENT IS BEING RECORDED FOR THE BENEFIT OF THE CITY OF CAPITOLA.
NO RECORDING FEE IS REQUIRED PURSUANT TO GOVERNMENT CODE §27383.

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN that the City of Capitola, owner of the property hereinafter described, whose address is 420 Capitola Avenue, Capitola, California, has caused a work of improvements more particularly described as follows:

PROJECT NAME: Rispin Mansion Hazard Elimination Project

PROJECT DESCRIPTION: Stabilization and protection of historic structure

to be constructed on property more particularly described as follows:

DESCRIPTION:

ADDRESS: 2000 Wharf Road, Capitola CA 95010

APN: 035-371-01

The work of the improvement was completed by:

CONTRACTOR: Garden City Construction, Inc

ADDRESS: 618 S. First Street, San Jose, CA 95113

The work of the improvements was actually completed on the 4th day of November 2011, and accepted by the City Council of said City on the 9th day of February 2012

Signature of City Official: _____

The undersigned certifies that he is an officer of the City of Capitola, that he has read the foregoing Notice of Completion and knows the content thereof; and that the same is true of his own knowledge, except as to those matters which are therein stated on information or belief, and as to those matters that he believes to be true. I certify under penalty of perjury that the foregoing is true and correct. Executed at the City of Capitola, County of Santa Cruz, State of California.

Steven E. Jesberg
Director of Public Works

Signed: _____

Date: _____

Final Project Cost Summary

Project: Rispin Hazard Abatement
Date: Jan-12

Contractor	Original Contract Amount	Final Contract Amount	Difference
Garden City Construction Inc. Jim Salata	\$ 557,600	\$ 540,355.00	\$ (17,245.00)
Project Management Bryan Kerko	\$ 25,000	\$ 32,156.25	\$ 7,156.25
Environmental Review Central Coast Bat Research Group Paul Heady	\$ 2,400	\$ 2,400.00	\$ -
Biotic Monitoring Biotic Resources Group Kathy Lyons	\$ 15,000	\$ 1,762.95	\$ (13,237.05)
Landscape Architect Arnone + Associates Mike Arnone	\$ 5,000	\$ 652.50	\$ (4,347.50)
Historic Architect Thacher & Thompson Tom Thacher	\$ 10,000	\$ 14,231.04	\$ 4,231.04
Structural Engineer Biggs Cardoso Mark Cardoso	\$ 30,000	\$ 40,122.36	\$ 10,122.36
Civil Engineer Akers & Associates Joe Akers	\$ 5,000	\$ 16,053.95	\$ 11,053.95
Structural Plan Check Kutzmann & Associates, Inc. Patricia Kutzmann	\$ -	\$ 1,116.25	\$ 1,116.25
Totals	\$ 650,000	\$ 648,850.30	\$ (1,149.70)



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: CITY MANAGER'S DEPARTMENT

SUBJECT: COMMUNITY GRANT PROGRAM FY12-13

RECOMMENDED ACTION:

- 1) Determine if the City Council would like to consider revising the funding methodology for Community Grants in the future, and
- 2) Determine whether or not to allow a new agency or organization to apply for the existing community grant program for FY12-13.

BACKGROUND:

The City of Capitola Community Grant program provides funding for 35 agencies/organizations. The total amount of the current community grant program is \$275,000, although only half that amount was appropriated this fiscal year due to the City's fiscal position and significant flood related expenses.

In recent years the City Council has discussed revising the Community Grants funding methodology. Several local cities and the County have undertaken a comprehensive review of their programs to devise a methodology to be reflective of community and council goals, to decrease administrative expenses, and to discourage the applicants from relying on a the cities as a permanent source of funding. The County and the City of Watsonville have been working to revise their programs but have not implemented any revisions. City of Santa Cruz has revised their program effective this fiscal year. City of Scotts Valley has not considered revising their program.

DISCUSSION:

Staff has researched several community foundation programs throughout the immediate area. That research, coupled with the work already completed by the County and the City of Santa Cruz, may help establish a conceptual framework by which the City Council can begin to develop a new methodology for awarding grants and evaluating outcomes.

Allocating limited resources is an important, but not the sole function of the community grants program. The Council could identify and prioritize funding goals through a process of evaluating community needs and then awarding community grants to those organizations that propose projects to fulfill those goals over a multi-year term.

The outcome would be to develop a funding methodology to be potentially more reflective of the community and City Council goals. Staff, if so directed, could work with a subcommittee composed of Council and community members to develop a proposal which the Council could adopt and attempt to implement for FY12-13.

If the Council chooses not to implement a new program in FY12-13, the Council will still need to make a determination as to whether or not to allow a new agency or organization to apply for a community grant for FY12-13. The opportunity to determine the actual amount of grant funding will be during budget deliberations.

The current funding for the FY11-12 Community Grant program was awarded to the applicants for a total amount of \$275,000. The Council withheld payment of 50% of the awarded amount of funding to the grantees pending the reimbursement of a minimum of \$500,000 from the City's insurance provider or the State for damages relating to the failed storm drain pipe in the Pacific Cove Mobile Home Park. The City has been denied coverage from the insurance provider, and will most likely not receive any assistance from the State or any other source.

FISCAL IMPACT: Unknown

ATTACHMENT: None

Report Prepared By: Lisa G. Murphy
Administrative Services Director

Reviewed and Forwarded
By City Manager: _____



Item #: 6.E.

CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: PUBLIC HEARING REGARDING POSSIBLE ACTIVITIES TO BE FUNDED WITH
2012 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

RECOMMENDED ACTION:

- 1) Hold the required public hearing for the purpose of considering public input and recommendations regarding uses and activities to be included in any 2012 Community Development Block Grant (CDBG) applications submitted by the City; and
- 2) Direct staff to return with an application for a housing rehabilitation program grant under the Community Development CDBG Allocation

BACKGROUND:

Each year, the City of Capitola is eligible to apply for grant funding from the State's Department of Housing and Community Development (HCD) CDBG Program to assist with affordable housing and community development programs. The State of California CDBG Program allocates federal CDBG funds, on a competitive basis, to small cities and counties who do not receive "entitlement" CDBG funds directly from HUD. The primary national objective for the CDBG Program is the development of viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for persons of low or moderate-income.

On January 9, 2012 HCD published a combined "Notice of Funding Availability" (NOFA) with a deadline to submit applications to HCD of April 6, 2012. Under this NOFA approximately \$48,500,000 will be available. The NOFA applies to the CDBG Community Development, CDBG Economic Development, Colonia and Native American allocations. Typical activities funded under these allocations include: business assistance projects and programs; Micro-enterprise assistance programs; housing rehabilitation programs and projects; homeownership assistance programs; housing acquisition projects; public infrastructure projects; public facilities projects; public services programs; and planning and technical assistance grants.

Eligible cities and counties may submit applications for CDBG funds under this NOFA. It is estimated that up to \$2,000,000 may be applied for per jurisdiction. The Economic Development "Over-the-Counter" (OTC) Allocation requires a separate application with a maximum limit of \$3,000,000 per year. This current NOFA also includes the Native American and Colonia's Allocations. The Native American Allocation is only for areas with a high concentration of low-income Native American residents, who are not part of a federally recognized Native American Indian tribe or Rancheria. The Colonia's funding is only for designated communities within 150 miles of the Mexican-American border.

Eligible activities paid for with state CDBG funds must meet one or more of the three national objectives listed in CDBG federal statutes as follows: Benefit to low income households or persons; elimination of slums and blight; or meeting urgent community development need.

DISCUSSION

Prior to submitting funding applications, the CDBG program requires two public hearings be held to provide opportunities for citizen participation. This public hearing is intended to serve as the first Pre-Application hearing for the 2011-2012 calendar year. A notice of this public hearing was published in the Santa Cruz Sentinel on Monday January 30,2012. A second public hearing is required prior to submitting any applications to the State HCD, which will include the consideration of a resolution by the City Council authorizing the submittal of the application(s).

In accordance with CDBG program regulations, the first Pre-Application public hearing must be held when the City is in the process of deciding which local projects or activities it may wish to assist with CDBG funding. This hearing seeks to identify the best use of CDBG funds.

Invitation for Written Comments

Members of the public are encouraged to submit written comments regarding the City’s CDBG activities, either on those activities proposed by staff or proposed by the writer of the comments. Comments may be submitted to David Foster, Housing & Program Manager, at 420 Capitola Avenue, Capitola, CA 95010 or can be sent by e-mail to dfoster@ci.capitola.ca.us. For additional information you can also reach David Foster at 475-7300 ext. 215. All comments received will be considered in the preparation of a final CDBG proposal which will be brought back to Council for final consideration and approval.

State CDBG grant funding application proposed by staff

Community Development: Staff is recommending that the Council provide direction to hold a second public hearing and to prepare a Community Development Allocation grant application for the continued operation of the City’s Housing Rehabilitation Program. The City has experienced staff and a successful track record in managing this program and would score well in the application.

Un-scored Set Aside: If the City is awarded funding under the Community Development, or any other activity area, up to \$100,000 in additional funding is then made available for an Un-scored Set Aside Activity. The Set Aside may be any eligible activity other than Planning and Technical Assistance (PTA). A Public Improvement or Public Facilities Activity that would not typically score well by itself in a CDBG proposal might be an appropriate use under this un-scored Set Aside portion of the proposal.

ATTACHMENTS

None

FISCAL IMPACT

There is no fiscal impact to the recommendations in this report.

Report Prepared By: David Foster

**Approved by: Susan Westman
Interim Community Development Director**

**Reviewed and Forwarded
By City Manager: _____**



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 6, 2012

FROM: CITY MANAGER DEPARTMENT

SUBJECT: CONSIDERATION OF A CONTRACT WITH GUMBINER & ESKRIDGE
LLP IN AN AMOUNT NOT TO EXCEED \$20,000 FOR LEGAL SERVICES.

RECOMMENDED ACTION:

- 1) Authorize the City Manager to execute the Professional Services Agreement with Gumbiner & Eskridge, LLP in an amount not to exceed \$20,000 for legal services related to insurance claims and the storm drain pipe failure in Pacific Cove Mobile Home Park, and
- 2) Adopt a resolution amending the Fiscal Year 2011-2012 General Fund Budget by transferring \$20,000 from the Emergency Reserve Fund to City Attorney Contract Services Account to fund the Legal Services contract.

BACKGROUND:

In March of 2011 an underground storm drain that transmits water from Noble Gulch Creek between Bay Avenue and Capitola Avenue failed. The failure caused flooding in the Pacific Cove Mobile Home Park, City facilities, and portions of Capitola Village. The pipeline failure daylighted approximately 100' feet of Noble Gulch Creek and caused significant damage to Pacific Cove Mobile Home Park, City Hall and the Police Department. The failure of the pipe caused over \$1.3 million in damages to City facilities and the Park.

The City belongs to the Monterey Bay Area Self Insurance Authority (MBASIA) joint powers authority, which covers the City's liability and workers compensation insurance. In addition the City purchases additional property protection insurance through Lexington Insurance Company. The City is insured by Lexington for claims up to \$25,000,000, with a \$10,000 deductible per occurrence. The City has submitted a claim for all damages related to the pipeline failure but has been denied coverage by Lexington. Lexington claims the property damage the City sustained from the pipe failure was due to a "flood" and therefore since the City does not have flood insurance, is not covered by the insurance.

Staff is recommending retaining the firm of Gumbiner & Eskridge, LLP, an expert in this field, for legal assistance to recover funds from Lexington.

FISCAL IMPACT:

The cost of this \$20,000 contract is proposed to be funded from the Emergency Reserves; therefore a budget amendment is necessary.

ATTACHMENTS:

1. City Council Draft Resolution
2. Legal Services Agreement

Report Prepared By: Lisa Murphy
Administrative Services Director

Reviewed and Forwarded
City City Manager: _____

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING THE FISCAL YEAR 2011-2012 GENERAL FUND BUDGET BY TRANSFERRING
\$20,000 FROM THE EMERGENCY RESERVES FUND TO THE
CITY ATTORNEY DEPARTMENT CONTRACT SERVICES ACCOUNT TO FUND A LEGAL
SERVICES CONTRACT RELATING TO CITY PROPERTY INSURANCE COVERAGE**

WHEREAS, in March of 2011 an underground storm drain that transmits water from Noble Gulch Creek between Bay Avenue and Capitola Avenue failed during a significant rain storm, inundating the Pacific Cove Mobile Home Park, City facilities and portions of Capitola Village with water; and

WHEREAS, the City sustained significant property damage to City Hall, the Police Department and the Pacific Cove Mobile Home Park in excess of \$1.3 million dollars due to the rupture of the storm drain pipe; and

WHEREAS, the City is insured by Lexington for claims up to \$25,000,000, with a \$10,000 deductable per occurrence; and

WHEREAS, Lexington Insurance Company has denied the City insurance coverage from the damage because they claim the damage was caused by a "flood" for which the City does not have insurance coverage. The City believes this interpretation is not correct, therefore will retain expert legal counsel to assist the City in this matter.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that the FY2011-2012 General Fund Budget shall be amended to transfer \$20,000 from the Emergency Reserves Account to the City Attorney Department Contract Services Account for legal services relating to the recovery of property insurance from Lexington Insurance Company.

BE IT FURTHER RESOLVED that the Finance Director is directed to record these changes into the City's accounting records in accordance with appropriate accounting practices.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 6th day of February, 2012, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Michael Termini, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

LEGAL SERVICES AGREEMENT

1. **Identification of Parties.** This agreement is made between the City of Capitola (“Client”) and **Gumbiner & Eskridge LLP** (“Attorneys”).

2. **Legal Services to be Provided.** Attorneys are being retained to represent Client with respect to insurance claims arising out of damage to Client’s covered property on or about March 24, 2011, which claims have thus far been denied by Client’s insurer. This agreement covers representation up to, but not including, litigation. Attorneys and Client recognize that litigation would require further approval by the City Council.

3. **Responsibilities of Attorneys and Client.** Attorneys will perform the legal services called for under this agreement, keep Client informed of progress and developments and respond promptly to Client’s inquiries and communications. Client will be truthful and cooperative with Attorneys; keep Attorneys reasonably informed of developments which might bear on the subject of the retention, referred to in paragraph 2, above, and of Client’s address, telephone number and whereabouts; and make any monthly payments to Attorneys for fees, costs or expenses incurred and owing during the prior month within 15 days of mailing of the monthly bill or statement.

Attorneys also make no representations or guarantees as to: (1) any possible outcome of the claim and/or litigation; (2) the time that might be required to resolve the claim and/or litigation; or, (3) the amount of costs or fees that might be required to accomplish resolution of the claim and/or litigation.

4. **Attorneys Fees.** Client hereby grants Attorneys a lien on any and all claims or causes of action that are the subject of the representation under this Agreement. The lien will be for any sums owing to Attorneys at the conclusion of services performed. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. The effect of such a lien is that Attorneys may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Attorneys have been discharged before the end of the case. Because a lien may affect Client’s property rights, Client may seek the advice of an independent lawyer of Client’s choice before agreeing to such a lien. By initialing this paragraph, Client represents and agrees that Client has had a reasonable opportunity to consult such an independent lawyer and – whether or not Client has chosen to consult such an independent lawyer – Client agrees that Attorneys will have a lien as specified above.

_____ Clients Initial Here

_____ Attorneys Initial Here

The current applicable rates are as follows: Joel Gumbiner and/or Jack Eskridge - \$400/hour; senior associates or senior affiliated attorneys- \$350-400; Junior associates - \$225 to \$300/hour; law clerks - \$75-95/hour; complex word and computer processing and document assembly - \$85/hour; paralegals \$100-175/hour. The minimum time charged for any particular activity will be one quarter of one hour.

Attorneys will charge for all services rendered on behalf of Client by any of the above personnel without limitation. Travel and telephone time are billed at the same rate as other services. When two (or more) of Attorneys' personnel are engaged in working on the matter at the same time, such as in conferences between them, the time of each will be charged at his or her hourly rate. Time for travel to and from any Bay Area Court is at a flat rate of ½ hour each way.

If, while this Agreement is in effect, Attorneys increase the hourly rates being charged to Client for attorneys' fees, that increase may be applied to fees incurred under this agreement, but only with respect to services provided 45 days or more after written notice of the increase is mailed to Client. None of the hourly rates quoted herein will be raised within the first 12 months from the date of execution of this fee agreement. If Client chooses not to consent to the increased rates, Client may terminate Attorneys' services under this Agreement by written notice effective when received by Attorneys, provided Client executes and returns a substitution-of-attorneys form immediately for the litigation, if any, referred to in Paragraph 2, above.

The attorneys may in their discretion employ investigators, consultants or experts whose fees shall be chargeable as costs and expenses.

No payment made by anyone other than Client on account of Attorneys' fee, costs or expenses, whether by Court order, settlement or otherwise, shall reduce or alter Client's obligations to pay Attorneys according to the terms and conditions hereof. Attorneys fee will not exceed \$20,000 without the prior written authorization of the City Manager.

5. **Costs.** Client will pay all costs and expenses in connection with Attorneys' representation of Client under this Agreement. Costs will be paid from Client retainer account or from a cost retainer account by Attorneys and invoiced to Client on a monthly basis. Costs include, but are not limited to, court filing fees, court reporter/deposition costs, mediation/arbitration fees, expert fees, investigator's fees, travel expenses (travel by Business Class or equivalent) all telephone charges, messenger service charges and postage, printing and photocopying charges.

6. **Deposit for Fees and Costs/Retainer.** Client shall promptly provide to Attorneys an initial deposit of \$3,000, which is to be applied against Attorneys' fees and costs and expenses incurred. **This retainer will be held in an interest-bearing trust account with any interest from said funds being paid directly to the California State Bar as required by California Business and Professions Code §6211.** Of this amount, any portion not applied to Attorneys' fees or costs at the termination of the legal services under this Agreement will be refunded to Client. Client authorizes Attorneys to withdraw the principal from the trust account to pay Attorneys' fees and costs as they are incurred on behalf of Client.

Client will replenish said retainer on a monthly basis in order to maintain an operating balance at least equal to the initial deposit.

7. **Electronic Communications.** Attorneys may use email, cell phones and faxes to communicate with Client. Client gives permission for attorney to communicate with Client through any of these methods. Fax number to be used to communicate with Clients is _____ . Special instructions when fax communications are sent include _____ [Clients: Please place any specific instructions if necessary for the transmission of facsimiles. If none, please write None on the line above and initial.]

8. **Statements.** Attorneys will send Client monthly statements indicating Attorneys' fees and costs and expenses incurred and status of retainer account. If no Attorneys' fees or costs or expenses are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month. Interest will be charged on any unpaid balance as allowed by law, at a rate of 12% *per annum* (one percent per month). Interest on unpaid balance will be charged after the 15th day from mailing of invoice to Client.

9. **Notification of Potential Conflict of Interest.** Client understands that Attorneys may be representing the County of Santa Cruz with respect to its first party insurance coverage for the County's damaged property with its first party insurer(s). Attorneys will not be representing County of Santa Cruz with respect to any pending or future litigation, but only on insurance coverage matters. Attorneys see no actual conflict of interest in such representation, and do not anticipate any. However, Attorneys are informing Client about such representation in the interest of full disclosure. Should it ever appear to Attorneys that there exists any actual conflict of interest in such representation, Attorneys will immediately bring such conflict to the

attention of Client.

10. **LLP.** Gumbiner & Eskridge LLP is a Limited Liability Partnership. This form of business may affect your rights should a future dispute arise between you and us. Client is advised to inquire with other counsel, if desired, as to the impact, if any, of this form of business upon error or omission by Attorneys prior to executing this Agreement.

11. **Effective Date of Agreement.** The effective date of this Agreement will be the date when it is executed by the last of the parties listed below to do so.

The foregoing is accepted and agreed to by:

Dated: February __, 2012.

CLIENT
By: CITY OF CAPITOLA

Jamie Goldstein,
City Manager

Dated: February 3, 2012.

GUMBINER & ESKRIDGE LLP



Joel P. Gumbiner



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ADOPT PRELIMINARY ADMINISTRATIVE BUDGET FOR THE CITY OF CAPITOLA, AS
CAPITOLA HOUSING SUCCESSOR

RECOMMENDED ACTION: By motion, that the City Council, as Directors of the “City of Capitola, as Capitola Housing Successor (CHS) adopt an administrative budget for operation of the Housing Successor for the period February 1, 2012 through June 30, 2012.

BACKGROUND:

As part of the transition for the dissolution of redevelopment agencies brought about by adoption of ABX1 26, successor agencies of the redevelopment agencies are required to prepare a Required Obligations Payment Schedule (ROPS) by March 1, 2012 and provide it for review and certification by external auditors (County auditor or designee) as to accuracy and approval by the Oversight Board. The ROPS is to include an administrative budget to identify the costs necessary for and associated with carrying out the remaining obligations of the City of Capitola, as Successor Agency to the former Capitola Redevelopment Agency (CAPSAFRDA). Ultimately, an administrative budget is required for the time period required to divest CAPSAFRDA of its assets as directed by the Capitola Oversight Board (COB) and wind down all other affairs of the former RDA. In addition, legislation is unclear as to the application of remaining funds to the administrative activities and requirements of the Housing Successor, as the successor to the former Low and Moderate Income Housing activities of the RDA.

In addition to maintaining the new CHS accounting records, realigning legal agreements with the newly formed successor, and providing detailed documentation and administrative and technical support to the COB, Santa Cruz County Auditor-Controller, and the Capitola City Council, the CHS is required to establish a separate Trust to receive and distribute loan payments, receipts, and uses of funds. These activities are anticipated to include time from the City Manager’s Department, Community Development, and Finance, along with specific expenditures such as legal consultation, additional City audit services, additional banking and check fees, and other supplies.

There will also be an administrative budget for the CAPSAFRDA separate from this budget. It is submitted to, and approved separately, by the CAPSAFRDA and also included on the EOPS. It is anticipated that any funds remaining after the CAPSAFRDA administrative costs are reimbursed can be used to pay approved Capitola Housing Successor administrative costs.

DISCUSSION:

Successor Agencies have been formed to and are required to dispose of the former RDA’s assets or properties “expeditiously and in a manner aimed at maximizing value” and wind down any other affairs of the Agency. Pass through responsibility will shift entirely to the Santa Cruz County Auditor-Controller

2-09-12 AGENDA REPORT: PRELIMINARY ADMINISTRATIVE BUDGET, CAPITOLA HOUSING SUCCESSOR

and the CAPSAFRDA will receive property tax to the extent required to carry out its remaining approved ROPS obligations rather than tax increment. Housing assets will transfer to the City of Capitola, as Capitola Housing Successor.

Health & Safety Code 34171 (b) provides that “Administrative cost allowance’ means an amount that, subject to the approval of the oversight board, is payable from property tax revenues up to 5 percent of the property tax allocated to the successor agency for the 2011-12 fiscal year and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars (\$250,000) for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax.” Due to the size of the City and former Redevelopment Agency, the minimum \$250,000 is the starting point for all administrative reimbursements.

Per Health & Safety Code 34177 (a)(3)(l) reimbursement for administrative costs are to be submitted to the County Auditor, included on the applicable 6 month ROPS with the source of funding identified, and approved by the oversight board.

Based on interpretations from the California Redevelopment Association technical committees, it is anticipated that the \$250,000 will be prorated to just over \$104,000 for the February, 2012 – June, 2012 time period for fiscal 2011-12. Moneys allocated by the County Auditor-Controller and available in the Trust Fund are to be utilized in the following order, as funding provides: to pay approved pass throughs (Santa Cruz County Auditor-Controller has retained this responsibility and associated funding), to pay the certified and approved Enforceable Obligations of the former redevelopment agency, to pay administrative costs under the administrative budget approved by the Capitola Oversight Board (COB), and provide any remaining balance in the Trust Fund to school entities and other local taxing entities as property taxes.

Prior to March 1, the CAPSAFRDA will prepare a revised Recognized Obligation Payment Schedule (ROPS) to be certified by the County. The EOPS and ROPS will be matching documents and will be amended for the substitution of the formal detailed administrative budget. The first ROPS becomes effective May 1, 2012 and applies through the end of fiscal 2011-12. Independent County certification, approval from the Oversight Board, and submittal to the State are all required by April 15, 2012. Subsequent ROPS will require the same approval process and will be required twice a year.

FISCAL IMPACT:

Adoption of the current administrative budget will allow the City of Capitola, as Capitola Housing Successor to receive certification and approval in order to provide the City of Capitola with reimbursement for staff time and other expenditures related to completing the transition to the Housing Successor and the activity related to maintaining the existing housing activity, to the extent approved and available. Due to the approval of two external bodies, other applications of the funds, and potentially limited funds, the final cost to the City is not immediately known. The City of Capitola will absorb any unreimbursed costs of operating the CAPSAFRDA, the Capitola Housing Successor and completing the RDA dissolution, as well as any disapproved actions that have already taken place or any disapproved commitments that the City deems necessary to complete.

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The preliminary administrative budget for the CAPSAFRDA totals \$252,000, composed of \$220,000 of staff time reimbursement, including overhead reimbursement to the City, \$20,000 in legal fees, \$7,000 in audit fees, and \$5,000 in other banking costs and fees, and other supplies. Capitola Housing Successor

preliminary administrative budget \$186,000 consisting of \$166,000 in anticipated staff time and \$20,000 in additional required expenditures.

ATTACHMENTS

Administrative Budget, City of Capitola, as Capitola Housing Successor

Report Prepared By: Susan Westman
Interim Community Development Director/
Deputy Executive Director and
Lonnie Wagner
Finance Department

Reviewed and Forwarded
By City Manager/Executive Director _____

Capitola, Housing Successor
Preliminary Administrative Budget

ATTACHMENT 1

	Capitola RDA	Capitola Housing Successor					Total - 5 Months February, 2012 - June, 2012	Fiscal Year 2011-12 Total
	YTD July, 2011 - January, 2012	February, 2012	March, 2012	April, 2012	May, 2012	June, 2012		
Staff time								
Elected Officials	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SA Exec Dir	17,550	2,700	2,700	2,700	2,700	2,700	13,500	31,050
SA Deputy Dir	50,120	2,925	2,925	2,925	2,925	2,925	14,625	64,745
Planning staff	32,625	5,000	5,000	2,500	3,750	2,500	18,750	51,375
Finance staff	-	6,600	4,400	2,200	3,300	2,200	18,700	18,700
Other	-	-	-	-	-	-	-	-
	<u>\$ 100,295</u>	<u>\$ 17,225</u>	<u>\$ 15,025</u>	<u>\$ 10,325</u>	<u>\$ 12,675</u>	<u>\$ 10,325</u>	<u>\$ 65,575</u>	<u>\$ 165,870</u>
Legal counsel	\$ 9,990	\$ 1,000	\$ 1,000	\$ 2,000	\$ 2,000	\$ 1,000	\$ 7,000	\$ 16,990
Independent Audit	564	-	-	-	936	-	936	1,500
Supplies	85	500	500	100	100	100	1,300	1,385
Bank fees	-	50	50	50	50	50	250	250
Other fees	-	-	-	-	200	-	200	200
	<u>\$ 10,639</u>	<u>\$ 1,550</u>	<u>\$ 1,550</u>	<u>\$ 2,150</u>	<u>\$ 3,286</u>	<u>\$ 1,150</u>	<u>\$ 9,686</u>	<u>\$ 20,325</u>
TOTAL	<u>\$ 110,934</u>	<u>\$ 18,775</u>	<u>\$ 16,575</u>	<u>\$ 12,475</u>	<u>\$ 15,961</u>	<u>\$ 11,475</u>	<u>\$ 75,261</u>	<u>\$ 186,195</u>

	Capitola RDA	Capitola Housing Successor					Total - 5 Months February, 2012 - June, 2012
	Memo: hourly rate, incl. City overhead	February, 2012	March, 2012	April, 2012	May, 2012	June, 2012	
Staff hours							
Elected Officials	\$ -	-	-	-	-	-	-
SA Exec Dir	\$ 225	12	12	12	12	12	60
SA Deputy Dir	\$ 195	15	15	15	15	15	75
Planning staff	\$ 125	40	40	20	30	20	150
Finance staff	\$ 110	60	40	20	30	20	170
Other	\$ -	-	-	-	-	-	-
	<u>\$ 655</u>	<u>127</u>	<u>107</u>	<u>67</u>	<u>87</u>	<u>67</u>	<u>455</u>



CITY COUNCIL AGENDA REPORT

MEETING OF FEBRUARY 9, 2012

FROM: CITY MANAGER'S DEPARTMENT

SUBJECT: CONSIDERATION OF AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR WEBSITE DESIGN AND HOSTING SERVICES TO REDESIGN THE CITY WEBSITE.

RECOMMENDED ACTION:

1. Authorize the City Manager to issue a request for proposal for website design and hosting services to redesign the City website; and
2. Authorize the appropriation of \$30,000 in the Fiscal Year 2011-2012 budget from the Information Technology fund balance and allocating \$30,000 to contract services for the City's website design.

BACKGROUND:

The City of Capitola website was designed in 2002. Since the original design, changes have been made within the limited framework of the existing website which has made it difficult to access necessary information. The existing website does not meet the communication needs of citizens, business and others interacting with the City.

DISCUSSION:

The City Council's adopted budget principles for Fiscal Year 2011-2012 included a goal to maintain a transparent efficient government by ensuring programs are in place for greater public access to city officials, financial reports, data and other important City information. To implement that goal, the Council allocated funding from the Information Technology Fund for a website upgrade.

The City of Capitola website is the primary electronic interface with its citizens and those doing business with the City. The current website design and architecture does not provide a user friendly way for finding and accessing important City information. In order to facilitate a more intuitive and robust capabilities, the website will need to be completely redesigned.

Staff is recommending the formation of a Selection Committee to evaluate the needs of the City Departments, the community and the business. The committee would be composed of representative from each department and if so desired, the City Council may appoint up to two of its members to serve on the Committee.

FISCAL IMPACT:

The fiscal impact to the City in Fiscal Year 2011-2012 will be a onetime cost of \$30,000, funded from the fund balance in the Information Technology budget which has an unallocated fund balance of \$170,000. In addition to the one time amount, the City already has budgeted \$4,000 per year for ongoing website hosting costs.

ATTACHMENTS:

1. Website Re-design, Implementation and Hosting Request for Proposal.

Report Prepared By: Larry Laurent
Information Systems Specialist

Reviewed and Forwarded
By City Manager: _____

**REQUEST FOR PROPOSALS
FOR THE CITY OF CAPITOLA**



**WEBSITE RE-DESIGN,
IMPLEMENTATION AND HOSTING**

City of Capitola
420 Capitola Avenue
Capitola, CA 95010

ISSUE DATE:
February 10, 2012

DEADLINE FOR SUBMISSION:
March 11, 2012

CONTACT:
Larry Laurent
Information Systems Specialist

RFP Circulation Date: February 10, 2012
Submission Deadline: March 11, 2012

Purpose:

The City of Capitola is issuing this Request for Proposals (“RFP”) to firms or individuals interested in providing website design, implementation and hosting services to completely overhaul the City website. The City seeks to create a dynamic website that is designed and organized in a manner that allows viewers with limited computer experience to easily find and access information. The website should act as a tool for the City to highlight the community, its assets and attractions to visitors and potential residents and businesses, is easy to update and modify, and is able to incorporate component add-ons in the future such as GIS and online payments. Ease of use, effective content management tools (CMS), access to design and maintenance support systems, and improved public outreach tools are central to the goals that the City of Capitola has set in this project.

Background

Capitola is a coastal village tucked in a river valley in Santa Cruz County on the Monterey Bay. Located an hour away from San Jose and an hour and a half from San Francisco, Capitola enjoys a active population full of tradition and an interesting history.

The current City of Capitola website dates from 2002 and the City’s ability to fully manage its functionality and design is not possible. The following are a list existing City websites

- City’s Primary Website <http://www.ci.capitola.ca.us>
- City Recreation Department <http://www.capitolarecreation.com>
- City Historical Museum <http://www.capitolamuseum.org>
- City General Plan Project <http://www.plancapitola.com/index.htm>

Tentative Key Dates

February 10, 2012	RFP Release Date
March 2, 2012	Final Date for Clarifying Questions
March 11, 2012	Proposal Due Date
March 27, 2012	Tentative Interview Date
April 12, 2012	Contract award by City Council

Preliminary Scope of Work

A final scope of work will be developed with the City and the respondent submitting the selected proposal (“The Contractor”) at the time of selection. The following acts only as a preliminary scope to generally communicate the City’s expectations. The City wants to completely redesign its website so that residents, businesses, and visitors, both current and potential, can easily navigate and access information, communicate with the City through surveys and online comment submissions, and download City forms. The Contractor and City will work together to plan and organize information on the site, which most likely will include

planning sessions, regular meetings, and continued communication throughout the duration of the website design project.

Proposals for redesign of the website should include or account for, but not be limited to, the following:

1. Design a unique, attractive website to completely fulfill all City requirements either in this RFP or in discussions with the City following selection of a Contractor.
2. Design a self supporting, consistent, user-friendly navigation framework for the City website that is understandable to users on all levels.
3. Design a unique home page for the City website. Design should be simple and allow users to easily access relevant information.
4. Design templates for all pages within the site. All pages must be consistent, look professional, and enhance the image of the City.
5. Contractor should maintain timely and regular communication with the City during the development process.
6. Assist with the development of web page content so information is organized and easy to access as well as the entire site has a uniform, consistent format.
7. Aid the City in transitioning to the new website including: staff training and the production of a guide book or instructions on changing/updating the website. The City intends to utilize a content management system to update the website.
8. The primary purpose of the website is as a communication tool between the City and outside stakeholders.

It is expected that the completed website will include each of the following components:

- Integration with social networking websites, allowing us to selectively update our Facebook and Twitter pages as staff updates the website.
- Mobile device compatibility for website content.
- Tablet/Touchscreen device compatibility for all website content.
- A search function that allows the user to search the entire site
- A site map
- A live calendar with a listing of important dates and community events, which can be divided according to department or category
- The ability to create multiple separate calendars and news pages based on category and/or department
- The ability to easily post emergency notices on the website homepage
- The ability to create different but duplicate instances of a page in multiple areas of the website navigation.
- Automatically generated RSS feeds
- The ability to download applications necessary to view information (ex: Adobe Acrobat Reader)
- The ability to conduct online polls and surveys with responses in multiple formats including but not limited to: multiple choice, text and “check all that apply”

- A way for site visitors to submit comments online and have the comments directed to the appropriate City official. Residents would be able to report problems, ask questions, submit comments, voice concerns, etc. and based on the subject, the comment would generate an email to the appropriate City staff member.
- A way for residents to automatically add or delete an email address from a mass email distribution list. This email distribution list should be available in database form for staff to access.
- The ability for users to complete various forms online.

Requirements

All proposals must include the following to be considered in the selection process

Website Requirements

1. The site must be unique, look professional, and uniformly represent the City in interaction with residents, businesses, and visitors both current and potential.
2. Design for each page must be consistent throughout the site.
3. Each page must be sized as to allow printing or contain a printer friendly version.
4. The site should be designed to be accessible by viewers with limited computer knowledge and should avoid using technology that may not be compliant with some browsers. In the event such technology is used, the site should provide alternate means for accessing the information.
5. The site design must be as compliant with Section 508 and Americans with Disabilities Act guidelines as reasonably possible. See rules and an example at www.ada.gov/websites2_prnt.pdf.
6. The website should provide translation services.
7. The site must be easy to update by non-technical City staff.
8. Security for modifying website must be granular so as to allow or disallow access to individual pages or entire sections.
9. The website should allow for easy linking and embedding of third party systems the city may be using (i.e. Adobe Flash Video, Google Maps)
10. The site must include the ability to service multiple domain names.
11. City IT department would like full and unlimited access to the website code
12. Website management system should allow for City to be able to post unlimited amount of content at no extra cost to City.

Hosting Requirements

1. The hosting service must provide access via CMS 24x7, with a minimum uptime of 99.9%. Maintenance windows must be clearly defined.
2. The hosting service must be located in the United States.
3. The hosting service must have built-in redundancies for both the website and the network.
4. The hosting service must have sufficient bandwidth to meet it hosting obligations.

Optional Services

In addition to the requirements, if your proposed solution includes the following components, please provide information and pricing

1. Live and on-demand video
2. Citizens Request Tracking or 311 services
3. Credit Card Processing Services
4. Recreation Class and Facility reservation
5. Geographic Information Services
6. Building and Permitting Services

Technical Requirements

All tools used to create, manage and update the website must be fully compatible with Microsoft Operating Systems.

Qualifications

Selection of a proposal for contract will be at the sole judgment of the City. Only those respondents meeting the following conditions, however, will be considered:

- Respondent must demonstrate past success with website development.
- Respondent must have developed at least fifteen (15) websites with at least (3) specifically for municipalities.
- Respondent must provide references for at least three (3) organizations. References must be organizations for which the respondent has developed a website that is currently in use.

Fee and Award of Contract

Proposal should include a total not-to-exceed contract proposal amount. Please be very explicit in listing and describing any services or items not covered in the proposal fee amount. Proposal fee should be broken down to include major fee categories.

Upon selection, final contract amount will be subject to negotiation to determine exact scope of services to be provided and final contract fee amount and a contract outlining all relevant terms shall be executed by both parties. Selection does not guarantee award of the contract. In the event the Contractor and the City fail to agree to a contract, the City will choose from remaining respondents or put out another Request for Proposals.

The City reserves the right, at its sole discretion, to cancel or modify the RFP in part or in its entirety.

The City will not reimburse respondents for any costs incurred in the preparation or submission

of the proposal. All proposals are made at the sole cost of the Respondent. Proposed fee should not include or consider the costs incurred in preparation of the proposal.

Submission of proposal

Proposals should be received at the electronically before March 11, 2012 at 11:59 p.m. Late proposals will not be accepted. Proposals should be submitted electronically via email to llaurent@ci.capitola.ca.us. You will receive confirmation that your proposal was received, if you do not receive confirmation, please contact Larry Laurent at 831-475-7300 x 206.

Proposals are to be sent electronically and are to include the following:

- A timeline indicating expected completion time of key steps and of the entire project from execution of contract agreement. Key steps should be briefly described.
- Response to respondent questions
- Reference sheet
- Bid sheet with detailed fee breakdown

Proposals containing additional information or missing any contents listed in the RFP will be accepted. Please provide explanation as to why submitted proposal deviates from that described in the RFP.

The City reserves the right to request additional information from any respondent after submission of proposal including but not limited to: additional design templates, clarification of submitted materials, and/or interviews or to allow for corrections of misinformation or omitted information.

The City reserves the right to change proposal submission requirements and to change the due date at any point during the RFP process, upon notification of all firms and individuals who have expressed to the City the intent to submit a proposal.

It is the goal of the City to design a website that best meets the needs of residents, businesses, visitors, staff, and other stakeholders. Improvements or suggestions to any condition in the RFP are welcome and should be explained in the bid. Requirements are somewhat flexible and could be altered given a better idea or method.

By submitting the proposal the Respondent relinquishes all rights to submitted proposals or the ideas contained therein, and the City reserves the right to retain all submitted proposals and to use any ideas in any proposal submitted, regardless of whether or not the proposal is selected. All material submitted in response to the RFP shall become property of the City and will not be returned.

Prior to the execution of the agreement between the City and the Contractor, the contents of each proposal will remain confidential, to the extent permitted by law, and not made available to anyone except those involved in the selection process.

VI. Clarifications

Any questions about requirements or any other instruction contained within the RFP or relating to the RFP should be directed to Larry Laurent, Information Systems Specialist. Questions must be made by email to llorent@ci.capitola.ca.us.

Any clarifications made in response to questions will be made available to all potential respondents who request such information. Anyone planning to submit a proposal should contact the City contact listed above to convey such intent.

VII. Selection Process

Selection of proposals will be at the sole judgment of the City. The City will consider all parts of the proposal collectively, but place an emphasis on template design, prior experience, and cost in the selection process.

The selection process may include an interview session tentatively scheduled for March 27, 2012. The City will select the respondent that in the sole judgment of the City best satisfies the requirements in the RFP and the expectations of the City and can do so at the best value to the City. Selection may not be the proposal with the lowest cost. Respondents may not contest for any reason the selection of the City.

Selection does not guarantee a contract. After selection, the Contractor and City will discuss and agree on final scope of work and final contract amount and terms of the Contract. If the Contractor and City fail to reach an agreement, the City is free to select from remaining available respondents, cancel the RFP, or issue an additional Request for Proposals.

VII. Contract and Completed Website

The Contract between the Contractor and the City will include provisions indicating compensation schedule and timeline for completion of and transition to the new website. The City will retain the right of approval for any and all work done in designing the website. It is the expectation and desire of the City to transition to the new website as soon as possible. The contract will be for the design and implementation of the City website and will include no guarantee or intent to contract for future services.

Upon completion of the contract all content, site design, site templates, and any other item or idea used in the completed website or contained therein will become property of the City. Contractor will relinquish all rights to the website and the City will have sole control over website design, content, and appearance.

VIII. Insurance Requirements

The City requires respondents to hold the following insurance coverage:

\$1 million General Liability Coverage

\$1 million Professional Liability Coverage, also called Errors and Omissions