

# City of Capitola Agenda

Mayor: Stephanie Harlan  
Vice Mayor: Sam Storey  
Council Members: Ed Bottorff  
Dennis Norton  
Michael Termini  
Treasurer: Kym DeWitt



## CAPITOLA CITY COUNCIL REGULAR MEETING

THURSDAY, MARCH 14, 2013

CITY HALL COUNCIL CHAMBERS  
420 CAPITOLA AVENUE, CAPITOLA, CA 95010

### 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 LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager  
Employee Organizations: Capitola Police Officers Association and  
Capitola Police Captains.

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

1. City of Capitola, et al. Lexington Insurance Company [United States District Court, Northern District of California, Case No. 5:12-CV-03428-LHK].

#### **CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code § 54956.8)**

Property: 201 Monterey Ave., Capitola; APN 035-18-506  
Agency Negotiator: City Manager  
Negotiating Parties: City of Capitola and Jim Reding  
Under Negotiation: Property Negotiations

#### **CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION**

##### **Significant Exposure to litigation pursuant to subdivision (b) of Govt. Code §54956.9**

1. County of Santa Cruz — Property Tax Administrative Fee Dispute.

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

*All matters listed on the Regular Meeting of the Capitola City Council Agenda shall be considered as Public Hearings.*

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

Council Members Dennis Norton, Sam Storey, Ed Bottorff, Michael Termini and Mayor Stephanie Harlan

**2. PRESENTATIONS**

**3. REPORT ON CLOSED SESSION**

**4. ADDITIONS AND DELETIONS TO AGENDA**

**5. PUBLIC COMMENTS**

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

**6. COUNCIL/STAFF ANNOUNCEMENTS**

**7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS**

A. Consideration of an appointment to the Advisory Council on the Area on Aging.

**8. CONSENT CALENDAR**

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

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

A. Consideration of approving the City Council Minutes of the Regular Meetings of January 24, 2013 and February 14, 2013.

RECOMMENDED ACTION:

Approve Minutes.

B. Receive Planning Commission Action Minutes for the Regular Meeting of March 7, 2013.

RECOMMENDED ACTION:

Receive Minutes.

## CAPITOLA CITY COUNCIL – Thursday, March 14, 2013

- C. Consideration of amending the City's Financial Management Administrative Policy to increase the contingency and emergency reserves to 15% and 10% respectively of general fund budgeted expenditures.

RECOMMENDED ACTION:

Approve the amended Policy.

- D. Consideration of a project to remove and dispose mobile home coaches and related debris from the Pacific Cove Mobile Home Park; approval of plans, specifications, and estimate of costs; and authorize the Public Works Director to advertise for bids, setting the bid opening date for April 10, 2013.

RECOMMENDED ACTION:

Approve the plans, specifications; an estimate of costs of \$99,700; and authorization to advertise for bids.

### 9. GENERAL GOVERNMENT/PUBLIC HEARINGS

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

- A. Review of the draft Land Use Element and revised schedule for the City's General Plan Update.

RECOMMENDED ACTION:

Receive information and provide direction.

- B. Discussion regarding City Council Abstentions.

RECOMMENDED ACTION:

Consider directing staff regarding the preparation of either an administrative policy, or an Ordinance regarding when and how Councilmembers may abstain from voting.

### 10. COUNCIL/STAFF COMMUNICATIONS

### 11. 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.*

### 12. ADDITIONAL MATERIALS

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

- A. 8.D.

DETAILS:

Project to remove and dispose mobile home coaches and related debris from the Pacific Cove Mobile Home Park.

- B. 9.A.

DETAILS:

Draft Land Use Element and revised schedule for the Ccity's General Plan Update.

### 13. ADJOURNMENT

Adjourn to the next Regular Meeting of the City Council on Thursday, March 28, 2013 at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

## **CAPITOLA CITY COUNCIL – Thursday, March 14, 2013**

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

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

**Agenda and Agenda Packet Materials:** The City Council Agenda and the complete agenda packet are available on the Internet at the City’s website: [www.ci.capitola.ca.us](http://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](http://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

In Recognition of and Appreciation to

### Janet Glazer

*WHEREAS, Janet Glazer was a long-time volunteer with Project SCOUT, which has been providing free tax assistance for 30 years to senior citizens, individuals with a disability, and low-income residents in our community; and*

*WHEREAS, Project SCOUT brought in more than \$1.5 million in tax refunds to those individuals last year alone; and*

*WHEREAS, Janet not only volunteered as a tax preparer but also dependably served on the Project SCOUT Board of Directors for many years; and*

*WHEREAS, Janet was instrumental in facilitating the 2003 merger between Project SCOUT and the Seniors Council, providing long-term stability to the Project SCOUT operations; and*

*WHEREAS, programs of the Seniors Council facilitate over 250,000 hours of volunteer service; and*

*WHEREAS, the Internal Revenue Service computes the value of those volunteer hours at over \$5.7 million; and*

*WHEREAS, Janet joined the Seniors Council Board of Directors in 2003 and has ably contributed to the coordination of the Seniors Council volunteers for over a decade; and*

*WHEREAS, Janet donated her fiscal expertise to the Seniors Council Board by serving on the Finance Committee; and*

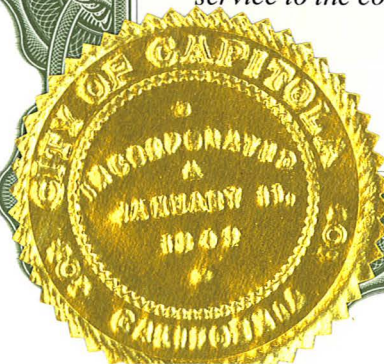
*WHEREAS, Janet also acted as the liaison between the Seniors Council Board and the Area Agency on Aging Advisory Council; and*

*WHEREAS, Janet's patient, intelligent support made her a loyal volunteer and valued resident of Capitola for 15 years,*

*NOW, THEREFORE, I, Stephanie Harlan, Mayor for the City of Capitola, on behalf of the entire City Council, do hereby acknowledge and extend appreciation to Janet Glazer for her service to the community.*

  
Stephanie Harlan, Mayor

Signed and sealed this 14th day of March 2013.



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## CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 14, 2012

FROM: OFFICE OF THE CITY CLERK

SUBJECT: APPROVAL OF THE CITY COUNCIL MEETING MINUTES OF THE REGULAR MEETINGS OF JANUARY 24, 2013 AND FEBRUARY 14, 2013

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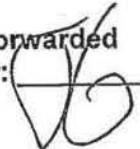
**RECOMMENDED ACTION:** Approve the subject minutes as submitted.

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

**ATTACHMENTS**

1. January 24, 2013 Regular City Council Minutes;
2. February 14, 2013 Regular City Council Minutes;

Report Prepared By: Susan Sneddon, CMC  
City Clerk

Reviewed and Forwarded  
By City Manager: 

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**CAPITOLA CITY COUNCIL  
REGULAR MEETING ACTION SUMMARY  
JANUARY 24, 2013 - 7:00 PM**

**CLOSED SESSION – 5:30 PM  
CITY MANAGER’S OFFICE**

**CALL TO ORDER**

Mayor Harlan called the meeting to order at 5:30 PM and announced the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager  
Employee Organizations: Capitola Police Officers Association and Capitola Police Captains.

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

1. City of Capitola, et al. vs. Lexington Insurance Company [United States District Court, Northern District of California, Case No. 5:12-cv-03428-LHK];
2. Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case No. CV 172804];
3. Katie Saldana vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV 172324];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba; The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV 173642];
6. American Alternative Insurance Corporation; Central Fire Protection District of Santa Cruz County vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV173926];
7. California Capital Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV173552];
8. Trustees of the John T. Kawahara and Barbara J. Kawahara Revocable Trust vs City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV175216];
9. Schroedel et al. vs. the City of Capitola, et al. [Santa Cruz Superior Court Case No. CV 175684].
10. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV 173228].

**CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Govt. Code §54956.9:

1. County of Santa Cruz regarding the Noble Gulch pipe failure;
2. County of Santa Cruz — Property Tax Administrative Fee Dispute;

**CAPITOLA CITY COUNCIL ACTION MINUTES – January 24, 2013**

3. State of California – California State Department of Finance regarding pro-rated share of interest on City/Redevelopment Agency loans.

**LIABILITY CLAIMS** (Govt. Code §54956.95)

Claimant: Joseph Hughes  
Claimant: Liberty Mutual; subrogee of Elizabeth Boyens  
Agency claimed against: City of Capitola

Mayor Harlan noted that there was no one in the audience; therefore, the City Council recessed at 5:35 p.m. to the City Manager's Office.

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

**1. ROLL CALL**

PRESENT: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan  
ABSENT: None

**2. PRESENTATIONS**

- A. Presentation by Monica Martinez, Homeless Services Center Executive Director. [330-30]

**Presentation was received.**

**3. REPORT ON CLOSED SESSION**

City Attorney Barisone announced that no reportable action was taken during the special and regular closed sessions. [520-25]

**4. ADDITIONS AND DELETIONS TO AGENDA**

Mayor Harlan stated that Item 9.A. will be continued for a procedural reason.

Mayor Termini requested that a discussion regarding modifications to the City's Planned Development District in the Capitola Municipal Code (Section 17.39) be agendaized for a future City Council Meeting.

City Manager Goldstein noted that Item 9.A. will go back to a Planning Commission meeting in March 2013.

City Attorney Barisone stated that any changes to the City's Planned Development District in the Capitola Municipal Code (Section 17.39) will need to first be reviewed by the Planning Commission prior to coming to the City Council.

**5. PUBLIC COMMENTS**

Bart Davidson requested clarification regarding an amendment to the Planned Development District in the Capitola Municipal Code.

Charles Huddleston provided support for Item 9.A. regarding the 1575 38<sup>th</sup> Avenue Planned Development Rezoning Project.

## CAPITOLA CITY COUNCIL ACTION MINUTES – January 24, 2013

Marilyn Garrett, local resident, spoke against wireless radiation.

Nels Westman, Capitola Village Residents Association (CVRA) member, presented a CVRA communication regarding the General Plan Advisory Committee. He stated additional time is needed to allow for more public comment regarding the City's General Plan Update.

Lewis Feinman, CVRA member, provided comments regarding the City's General Plan Update process.

## 6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Norton, Santa Cruz County Regional Transportation City representative, provided an update regarding the Highway 1 Construction Project.

Public Works Director Jesberg presented slides showing completed work at the Noble Gulch Pipeline Repair Project.

## 7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

Note: Appointments were made under General Government/Public Hearings Item 9.E.

## 8. CONSENT CALENDAR

Council Member Norton requested that Item 8.B. be pulled for discussion.

- A. Receive Planning Commission Action Minutes for the Regular Meeting of January 17, 2013. [740-50]
- B. Approval of City Check Register Reports dated December 7, 2012; December 14, 2012; December 21, 2012; January 4, 2013; and January 11, 2013. [300-10]
- C. Consideration of denying liability claims and forward to the City's liability insurance carrier: (1) Joseph Hughes for an undetermined amount; and (2) Liberty Mutual; subrogee of Elizabeth Boyens in the amount of \$965.54. [Claims Binder]
- D. Receive the Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2012. [310-20]
- E. Consideration of authorizing the City Manager to recruit and hire a Maintenance Worker I/II position in the Public Works Department. [650-05]

**ACTION**      **Motion made by Council Member Termini, seconded by Council Member Norton, to approve the Consent Calendar with the exception of Item 8.B. The motion was passed unanimously.**

**The City Council took separate action on the following Consent Calendar item (Item 8.B.):**

Approval of City Check Register Reports dated December 7, 2012; December 14, 2012; December 21, 2012; January 4, 2013; and January 11, 2013.

**ACTION** Motion made by Council Member Termini, seconded by Council Member Bottorff, to approve Item 8.B. The motion was passed unanimously.

**9. GENERAL GOVERNMENT/PUBLIC HEARINGS**

- A. 1575 38<sup>th</sup> Avenue #12-028 (APN: 034-181-17) [730-10]  
Planned Development Rezoning, Conditional Use Permit, and Design Permit to demolish a commercial salvage yard (Capitola Freight and Salvage) and construct a three-story, 23-unit residential senior housing project in the CN (Neighborhood Commercial) Zoning District. Environmental Determination: Mitigated Negative Declaration. Property Owner: Maureen A. Romac, filed 3/2/12. Representative: Steve Thomas

**This item is continued to a future City Council meeting.**

- B. Community Based Health and Human Services Providers Program Fiscal Year 2013/2014 application acceptance. [330-30]

Council Member Storey stated that, due to a conflict of interest, he will recuse himself from participating on Item 9.B, because he is the CEO of Community Bridges which is a recipient of the City of Capitola Community Programs. Voting on this item would be a conflict of interest. He left the dias.

Will O'Sullivan, Human Care Alliance representative, stated concerns regarding allowing new agencies to apply for the existing Community Based Health and Human Services Providers Program for Fiscal Year 2013-2014.

**ACTION** Motion made by Council Member Termini, seconded by Council Member Norton, to allow a new agency or organization to apply for the existing Community Based Health and Human Services Providers Program for Fiscal Year 2013-2014. The motion carried with the following vote: **AYES: Council Members Norton, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: Council Member Storey.**

Council Member Storey returned to the dias.

- C. Consideration of authorizing the City Manager to enter into a contract with Aha! Consulting to update the City's website. [160-80]

There was Council direction to staff to contact other local government agencies to find out if they use a pre-built web system; if such a system exists, staff may choose a similar system at a lower cost to the City.

**ACTION** Motion made by Council Member Termini, seconded by Council Member Norton, to authorize the City Manager to enter into a one-year agreement with Aha! Consulting in the amount not to exceed \$4,000 for web hosting/design services and for staff to contact other local government agencies to find out if a lower cost options exists. The motion carried unanimously with the following vote: **AYES: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: None.**

- D. Consideration of a recommendation by the Capitola Art & Culture Commission regarding whether or not to accept the proposed public art donation from Troy "TJ" Welch for additional sea wall tiles. [1010-60]

## CAPITOLA CITY COUNCIL ACTION MINUTES – January 24, 2013

TJ Welch, local resident, provided support for the proposed public art donation.

**ACTION** Motion made by Council Member Termini seconded by Council Member Norton, to approve the acceptance of the proposed public art donation from Troy “TJ” Welch for additional sea wall tiles. The motion carried unanimously with the following vote: **AYES: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: None.**

- E. Consideration of appointments to the Advisory Council on the Area on Aging, Traffic and Parking Commission, and the General Plan Advisory Committee (GPAC) and discussion regarding organizational structure of the Commission on the Environment (COE). [110-10]

Mayor Harlan stated that appointments to the Advisory Council on the Area on Aging and the Traffic and Parking Commission will be continued.

General Plan Coordinator Westman suggested that Jacques Bertrand, the former Finance Advisory Committee representative on the GPAC, be re-appointed to the GPAC to maintain continuity.

**ACTION** Motion made by Council Member Termini, seconded by Mayor Harlan, to appoint Ed Newman as the Upper and Lower Village representative, and re-appoint Jacques Bertrand to the GPAC. The motion carried unanimously with the following vote: **AYES: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: None.**

**ACTION** Motion made by Council Member Termini seconded by Mayor Harlan, to suspend the COE for a period of six months to one year; to encourage COE members and citizens to meet privately to draft a COE restructuring plan; and to keep Kristin Sullivan, COE member, as a GPAC member. The motion carried unanimously with the following vote: **AYES: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: None.**

10. **COUNCIL/STAFF COMMUNICATIONS** (None provided)
11. **CITY COUNCIL/TREASURER COMMENTS/COMMITTEE REPORTS** (None provided)
12. **ADJOURNMENT**

Mayor Harlan adjourned the meeting at 9:20 p.m. to the next Regular Meeting of the City Council on Thursday, February 14, 2013, at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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Stephanie Harlan, Mayor

ATTEST:

\_\_\_\_\_  
Liz Nichols, Deputy City Clerk

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**CAPITOLA CITY COUNCIL  
REGULAR MEETING MINUTES  
THURSDAY, FEBRUARY 14, 2013 - 7:00 PM**

**CLOSED SESSION – 6:00 PM  
CITY MANAGER'S OFFICE**

**CALL TO ORDER**

Mayor Harlan called the meeting to order at 6:00 PM and announced the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager  
Employee Organizations: Capitola Police Officers Association and Capitola Police Captains.

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

1. City of Capitola, et al. vs. Lexington Insurance Company [United States District Court, Northern District of California, Case No. 5:12-cv-03428-LHK];
2. Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case No. CV 172804];
3. Katie Saldana vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV 172324];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba; The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV 173642];
6. American Alternative Insurance Corporation; Central Fire Protection District of Santa Cruz County vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV173926];
7. California Capital Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV173552];
8. Trustees of the John T. Kawahara and Barbara J. Kawahara Revocable Trust vs City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV175216];
9. Schroedel et al. vs. the City of Capitola, et al. [Santa Cruz Superior Court Case No. CV 175684];
10. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case No. CV 173228].

**CAPITOLA CITY COUNCIL MEETING MINUTES - Thursday, February 14, 2013**

**CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code § 54956.8)**

Property: 401 Capitola Ave., Capitola; APN 035-13-111  
Agency Negotiator: City Manager  
Negotiating Parties: City of Capitola and property owner  
Under Negotiation: Property Negotiations

**CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION  
Significant Exposure to litigation pursuant to subdivision (b) of Govt. Code  
§54956.9**

1. County of Santa Cruz regarding the Noble Gulch pipe failure;
2. County of Santa Cruz — Property Tax Administrative Fee Dispute;
3. State of California – California State Department of Finance regarding pro-rated share of interest on City/Redevelopment Agency loans.

**LIABILITY CLAIMS (Govt. Code §54956.95)**

Claimant: Rae Ellen Leonard  
Agency claimed against: City of Capitola.

Mayor Harlan noted that there was no one in the audience; therefore, the City Council recessed at 6:05 p.m. to the City Manager's Office.

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

**1. ROLL CALL**

PRESENT: Council Members Michael Termini, Dennis Norton, Sam Storey, Ed Bottorff  
and Mayor Stephanie Harlan  
ABSENT: None

**2. PRESENTATIONS**

- A. Human Care Alliance presentation of Good Neighbor Award to representatives of the Capitola Village Residents Association for a donation received. [120-40]

**Capitola Village Residents Association presented the award.**

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

City Attorney Barisone stated that Administrative Services Director Murphy and City Manager Goldstein provided a status report and received instruction from Council regarding Capitola Police Officers' Association and Capitola Police Captains' labor negotiations; there was no reportable action. The Council received a status report regarding City of Capitola, et al. vs. Lexington Insurance Company; however, no reportable action was taken. Mr. Barisone stated that Mayor Harlan will be reporting on the following settlement agreements with the City arising out of the March 2011 pipe failure incident:

1. Kevin Calvert, D.D.S. and Pamela Calvert
2. Katie Saldana
3. Truck Insurance
4. David Ross; Carousel Taffy Morro Bay, Inc.;



5. American Alternative Insurance Corporation;
6. California Capital Insurance Company
7. Trustees of the John T. Kawahara and Barbara J. Kawahara Revocable Trust

Mr. Barisone stated that a status report was provided to Council regarding Schroedel, et al. vs. the City of Capitola, et al.; there was no reportable action. The Council discussed the real property negotiations regarding property located at 401 Capitola Ave., Capitola. Council Members Norton and Bottorff were disqualified from participating due to conflicts of interest, and both were not present for the discussion; no reportable action was taken. The Council received a status report of potential litigation with the County of Santa Cruz regarding the Noble Gulch pipe failure and the Property Tax Administrative Fee Dispute; there was no reportable action. Mr. Barisone stated the the Council considered initiating litigation with the State of California – California State Department of Finance regarding pro-rated share of interest on City/Redevelopment Agency loans; there was no reportable action. Finally, the Council received a report regarding the Rae Ellen Leonard tort claim, which is on the Council's regular meeting Consent Calender this evening; no reportable action was taken in closed session.

Mayor Harlan summarized the settlement agreements listed above.

**4. ADDITIONS AND DELETIONS TO AGENDA (None provided)**

**5. PUBLIC COMMENTS**

Marilyn Garrett spoke against wireless technology.

Jerry Totes, Community Against Gun Violence (CAVG), introduced the newly formed CAVG organization with the mission to fight the growing problem of gun violence in our local and national communities.

**6. COUNCIL/STAFF ANNOUNCEMENTS**

Council Member Termini announced the Santa Cruz public libraries reading program.

Council Member Norton provided information about the Santa Cruz County Regional Transportation Commission (SCCRTC) recent meeting. He stated that the SCCRTC hired an engineer to supervise the construction of the Santa Cruz rail line bridge retrofit project.

**7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS**

- A. City Council appointment to the Traffic and Parking Commission. [110-10]

Mayor Harlan recommended appointing Steven Ross to the Traffic & Parking Committee, and Danielle Uharriet to the Oversight Board to be the representative for the employees of the former redevelopment agency. Mayor Harlan stated that the appointment for the Seniors Council will be continued.

**CAPITOLA CITY COUNCIL MEETING MINUTES - Thursday, February 14, 2013**

**ACTION**            **Motion made by Council Member Storey, and seconded by Council Member Norton, to appoint Steven Ross to the Traffic & Parking Committee, and Danielle Uharriet to the Oversight Board.**

**8.        CONSENT CALENDAR**

- A.        Consideration of approving the City Council Minutes of the Regular Meetings of September 27, 2012; October 25, 2012; November 8, 2012; November 20, 2012; December 13, 2012; and January 10, 2013. In addition, consideration of approving the City Council Minutes of the December 5, 2012, and the January 3, 2013, Special Meetings, and the City Council Minutes of the October 11, 2012, Regular Meeting and Special Closed Session.
- B.        Receive Planning Commission Action Minutes for the Regular Meeting of February 7, 2013. [740-50]
- C.        Consideration of the Notice of Completion for the Noble Gulch Pipeline Repair Project. [900-20/500-10 A/C: Ebert Corporation]
- D.        Consideration of denying liability claim of Rae Ellen Leonard for an undetermined amount and forwarding it to the City's liability insurance carrier. [Claims Binder]

**ACTION**            **Motion made by Council Member Norton, seconded by Council Member Termini, to approve the Consent Calendar. The motion was approved with the exception of Council Member Bottorff abstaining from Item 8.A.**

**9.        GENERAL GOVERNMENT/PUBLIC HEARINGS**

- A.        Discussion and consideration of modifications of the City of Capitola Zoning Ordinance, Chapter 17.39 - Planned Development. [730-85]

**ACTION**            **Motion made by Council Member Termini, seconded by Council Member Norton, to agendize the first reading of a Planned Development Ordinance to allow the Planning Commission's decision regarding a Planned Development to be appealable to the City Council.**

**ACTION**            **Motion made by Council Member Termini, seconded by Council Member Norton, to direct the City Attorney to draft an urgency for the February 28, 2013, City Council Meeting to limit the number of gun retailers in the City. The motion unanimously carried with the following vote: AYES: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: None.**

**Motion made by Council Member Norton, seconded by Council Member Storey, to consider an Ordinance prohibiting gun shows within the City limits; to continue investigating the possibilities of a gun turn-in or buy-back program; to establish a gun-free zone within 1,000 feet of schools pursuant to federal and state laws; to explore potential land-use changes that would prohibit or limit the sale of guns and ammunition; to consider requiring existing gun owners to complete a background check prior to purchasing ammunition. The motion unanimously carried with the following vote: AYES: Council Members Norton, Storey, Bottorff, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN:**

None.

Richard Emigh, local resident, asked if gun sales within twenty feet of a school entrance would be subject to arrest.

**ACTION** Motion made by Council Member Norton and seconded by Council Member Termini to approve the introduction of an Ordinance amending Sections 8.38 of the Capitola Municipal Code pertaining to smoking regulations and to waive the first reading.

D. Discussion and consideration of a St. Patrick's Day Special Event. [1050-70]

**ACTION** Motion made by Council Member Bottorff, seconded by Mayor Harlan, to deny the proposal to have a City-sponsored St. Patrick's Day Special Event. The motion was carried with the following vote: **AYES: Council Members Storey, Bottorff, and Mayor Harlan. NOES: Council Members Termini and Norton. ABSENT: None. ABSTAIN: None.**

E. 835 BAY AVENUE #12-161 (APN: 035-011-03, 035-381-01)  
One year review of a temporary Conditional Use Permit to permanently permit a model manufactured home in conjunction with an existing manufactured home sales business (Ideal Homes), in addition to a Sign Permit for a new monument sign in the CC (Community Commercial) Zoning District. Environmental Détermination: Categorical Exemption.  
Property Owner: Redtree Properties, owner/filed: 12/31/12. Representative: Richard Emigh. [730-10]

Council Member Termini stated that, due to a conflict of interest, he will recuse himself from participating on this item because his company (Triad Electric) has provided services to Ideal Homes over the past 24 months. Council Member Termini left the Council Chambers and did not return to the meeting.

Richard Emigh, Representative, provided comments for the Council to approve a conditional use permit.

John Barrs, Owner of Ideal Homes, provided comments regarding the proposed signage.

Motion by Council Member Bottorff, seconded by Council Member Storey, to approve a Conditional Use Permit for the future and not to bring it back to review annually only if there are problems. The motion failed with the following vote: **AYES: Council Members Storey and Bottorff. NOES: Council Member Norton and Mayor Harlan. ABSENT: None. ABSTAIN: Council Member Termini.**

**ACTION** Motion by Council Member Norton, seconded by Council Member Storey, to approve a temporary Conditional Use Permit to be reviewed in two years, and if any sign ordinance violation does occur, the Conditional Use Permit is revoked. The motion was carried with the following vote: **AYES: Council Members Norton, Storey, and Bottorff. NOES: Mayor Harlan. ABSENT: None. ABSTAIN: Council Member Termini**

Motion by Council Member Storey, seconded by Council Member Norton, to allow a sign permit for a new monument sign in the CC (Community Commercial) Zoning District at the Ideal Home Office or on the parcel (APN: 035-011-03, 035-381-01) after the removal of the existing Ideal Homes sign located at their office. The use permit and monument sign permit shall be good for two years from the date of approval. The motion was carried with the following vote: AYES: Council Members Norton, Storey, and Bottorff. NOES: Mayor Harlan. ABSENT: None. ABSTAIN: Council Member Termini.

10. COUNCIL/STAFF COMMUNICATIONS

City Manager Goldstein acknowledged Senior Planner Bane, who has accepted a position with the City of Santa Cruz. In addition, he stated that a staff taskforce is being formed to assist with the development of the City's website provided by Aha! Consulting; Council Member Termini has offered to be a member of the taskforce.

11. CITY COUNCIL/TREASURER COMMENTS/COMMITTEE REPORTS (None provided)

12. ADDITIONAL MATERIALS (None provided)

13. ADJOURNMENT

Mayor Harlan adjourned the meeting at 10:10 p.m. to the next Special Meeting of the City Council on Thursday, February 21, 2013, at 6:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

\_\_\_\_\_  
Stephanie Harlan, Mayor

ATTEST:

\_\_\_\_\_, CMC  
Susan Sneddon, City Clerk



**ACTION SUMMARY**  
**CAPITOLA PLANNING COMMISSION MEETING**  
**THURSDAY, MARCH 7, 2013**  
**7:00 P.M. – CITY HALL COUNCIL CHAMBERS**

1. **ROLL CALL AND PLEDGE OF ALLEGIANCE**
2. **ORAL COMMUNICATIONS**
  - A. **Additions and Deletions to Agenda-NONE**
  - B. **Public Comments-NONE**
  - C. **Commission Comments-NONE**
  - D. **Staff Comments-NONE**
3. **APPROVAL OF MINUTES**
  - A. **February 7, 2013 Regular Planning Commission Meeting**  
**ACTION Passed 3-0 2 abstain**
4. **CONSENT CALENDAR**
  - A. **NOBLE GULCH SEWER IMPROVEMENT PROJECT # 13-013**

Coastal Permit to abandon a sewer line currently located in Noble Gulch Creek, and to replace the line with approximately 6,600 linear feet of 12" sewer pipeline realigned through portions of Brookvale Terrace Mobile Home Park and city public streets, including Kennedy Drive, Rosedale Avenue, Carl Lane, Bay Avenue, and Monterey Avenue.  
Environmental Determination: Mitigated Negative Declaration  
This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.  
Applicant: Santa Cruz County Sanitation District, filed 1/25/13  
**ACTION Passed 5-0**
  - B. **1330 47<sup>th</sup> AVENUE # 13-014 APN: 034-066-13**

Coastal Permit and Design Permit to construct a new two-story single-family house in the R-1 (Single-Family Residence) Zoning District.  
Environmental Determination: Categorical Exemption  
This project requires a Coastal Permit which is not appealable to the California Coastal Commission.  
Owner: Gary Lindeke, filed: 1/25/13  
Applicant: Michael Wittwer  
**ACTION Passed 5-0**
5. **PUBLIC HEARINGS**
  - A. **4200 AUTO PLAZA DRIVE #13-020 APN: 034-141-30, 31**

Design Permit, Conditional Use Permit, and a Sign Program as part of a project to demolish an existing car dealership building and construct a new car dealership building, including a service building, carwash, and parking lot improvements in the CC (Community Commercial) Zoning District.  
Environmental Determination: Categorical Exemption

## Item #: 8.B. Planning Commission Minutes.pdf

CAPITOLA PLANNING COMMISSION ACTION SUMMARY – Thursday, March 7, 2013

Property Owner: Charles Canfield, filed 2/6/13  
Representative: Toyota of Santa Cruz

**ACTION Passed 5-0**

**B. 426 CAPITOLA AVENUE #13-019 APN: 035-141-33**

Certification of a Negative Declaration, Coastal Development Permit, Architectural and Site Review and a Conditional Use Permit for approval of a temporary parking lot in the MHE (Mobile Home Exclusive) Zoning District.

This project requires a Coastal Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Negative Declaration

Property Owner: City of Capitola, filed: 1/30/13

**ACTION Passed 3-0 2 recused**

**C. AMENDMENT TO CAPITOLA MUNICIPAL CODE CHAPTER 17.39 PERTAINING TO PLANNED DEVELOPMENT DISTRICT REGULATIONS**

The Planning Commission will consider a Coastal Plan and Ordinance Amendment to the Capitola Municipal Code Chapter 17.39 amending Sections 17.39.020, 17.39.030, 17.39.040, 17.39.050, 17.39.060 and 17.39.080 of the Capitola Municipal Code and adding Section 17.39.110 to the Capitola Municipal Code pertaining to Planned Development District Regulations.

This project requires an amendment to the City's Local Coastal Plan.

Environmental Determination: Categorical Exemption

Applicant: City of Capitola

Representative: Susan Westman

**ACTION Passed 5-0**

**6. DIRECTOR'S REPORT**

**7. COMMISSION COMMUNICATIONS**

**8. ADJOURNMENT**

The Planning Commission adjourned to a Regular Meeting of the Planning Commission to be held on Thursday, April 4, 2013 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



# CITY COUNCIL AGENDA REPORT

## MEETING OF MARCH 14, 2013

**FROM:** OFFICE OF THE CITY MANAGER AND FINANCE DEPARTMENT  
**SUBJECT:** PROPOSED AMENDMENTS TO FISCAL POLICY TO INCREASE THE CONTINGENCY AND EMERGENCY RESERVES TO 15% AND 10% RESPECTIVELY OF GENERAL FUND BUDGETED EXPENDITURES

**RECOMMENDED ACTION:** Approve amendments to the City's Financial Management Policies to increase the policy funding level of the Contingency Reserve to 15%, and the Emergency Reserve to 10%, of budgeted General Fund expenditures.

**BACKGROUND:** In 2000 the City adopted Financial Management policies, which established a 5% Contingency and a 10% Emergency Reserve Fund. The Contingency Reserve was established to provide a prudent level of financial resources to protect against temporary revenue shortfalls or unanticipated operating costs, and/or to meet short-term cash flow requirements. The Emergency Reserve was intended to protect against significant one-time costs, which might arise from major unpredictable emergency events.

**DISCUSSION:** In the City's 2012 Benchmark Report, Capitola ranked last among the seven benchmark cities with the lowest total levels of reserves. Due to the volatile nature of the City's primary revenue sources, and the increased delay in the receipts of several major revenues each year, staff recommends increasing the Contingency Reserves from 10% to 15%.

As the 2001 pipe failure demonstrated, our community is not immune to natural disasters. In fact, Capitola may be more susceptible to natural disasters than many communities because we are located in an active geologic region, adjacent to the ocean, and have a major creek and highway within the City limits. Staff recommends increasing the policy funding level for the Emergency Reserves from 5% to 10%.

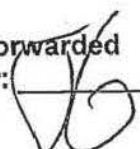
Fund	Current Funding	Current Policy Level	Proposed Policy Funding Level	Deficit to Proposed Policy Funding Level
Contingency	\$1. mil	10% - \$1.2 mil	15% - \$1.8 mil	\$0.8 mil
Emergency	\$0.5 mil	5% - \$0.6 mil	10% - \$1.2 mil	\$0.7 mil
<b>Total</b>	<b>\$1.5 mil</b>	<b>15% - \$1.8 mil</b>	<b>25% - \$3.0 mil</b>	<b>\$1.5 mil</b>

**FISCAL IMPACT:** While the proposed policy amendment will leave the City's reserve accounts underfunded in the near term, increasing the City's reserve accounts to a total of 25% of General Fund operating expenditures will improve the City's long term fiscal stability, and increase our resiliency to natural disasters. The City has demonstrated a clear pattern of reestablishing its reserve accounts after the 2011 disaster. At its low point at the end of Fiscal Year 2011/2012, the combined balance of the two accounts was \$561,000; as of today the City has approved increasing the combined reserve balance to \$1.5 million and is on track to fully fund the new target reserve levels by 2017.

**ATTACHMENTS:**

1. Draft Financial Management Policies

**Report Prepared By:** Tori Hannah, Finance Director

**Reviewed and Forwarded By City Manager:** 

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## ADMINISTRATIVE POLICY

Number: III-3

Issued: June 8, 2000

Jurisdiction: City Council**FINANCIAL MANAGEMENT POLICIES**POLICY

The following financial policies (herein, the "Policies") were developed in an effort to assist the City of Capitola with the management of its operating and capital budgeting processes and to standardize and rationalize the issuance of debt by the City. Regular, updated policies are an important tool to insure the prudent use of the City's resources to meet its commitments, to provide needed services to the citizens of Capitola, and to maintain sound financial management practices. These Policies are therefore guidelines for general use, and allow for exceptions in extraordinary conditions. The Policies will have served their intended purpose if they stimulate an open debate about the City's operating and capital budget processes, existing and/ or proposed debt position, and they lead to informed decision-making by the City Council. In order to use the Policies properly, they should be applied in the context of the community's overall objectives and goals.

The Policies are divided into three sections: Capital Budgeting and Reserves, Operating Budgeting and Reserves, and Other Policies.

**A. CAPITAL BUDGETING AND RESERVES; ISSUANCE OF DEBT:****1. CAPITAL PLANNING -IN GENERAL:**

To enhance creditworthiness and prudent financial management, the City of Capitola is committed to systematic capital planning, intergovernmental cooperation and coordination, and long-term financial planning, and implementation over a two-year period. Evidence of this commitment to systematic capital planning will be demonstrated through adoption of an annual review of the City's five-year capital improvement budget.

**2. USE OF LONG-TERM FINANCING METHODS:**

Major capital improvements or acquisitions valued over \$250,000 may be made using long-term financing, methods, rather than out of operating revenue. The prioritization of capital projects eligible for debt financing is accomplished through a "needs assessments" undertaken in the formulation and development of the City's five-year capital improvement budget.

**3. FISCAL ANALYSIS:**

The City will require each capital appropriation request to include a fiscal analysis that identifies the amount of funds requested, the source of funds requested and the impact of the request on existing revenues and operations.

**4. ASSET LIFE:**

The City will consider long-term financing for the acquisition, maintenance, replacement, or expansion of physical assets (including land) only if they have a

useful life of at least five years. City debt will not be issued for periods exceeding the useful life or average useful lives of the project or projects to be financed.

5. CAPITAL FINANCING -IN GENERAL:

The City will rely first on internally generated funds and/or grants and contributions from other government sources to finance its capital improvement needs. Capital improvements will be financed through user fees, service charges, assessments, special taxes or developer exactions so long as the benefits the City will derive from such improvements can be attributed to the users of the improvements. Moreover, the City will specifically consider the costs associated with any borrowing in order to determine that the above funding sources are adequate to service the proposed debt. Accordingly, the Policies assume that development fees will be set at a level that is sufficient at all times to insure that new development pays its fair share of the cost of constructing new facilities in the community.

Debt will be issued for a capital improvement project only in the case of emergency or when it is an appropriate means to achieve an equitable allocation of costs between current and future beneficiaries as determined by the City Council. Debt shall not, in general, be used for projects solely because insufficient funds are budgeted at the time of acquisition or construction. Debt will only be undertaken when the City believes that project revenues or specific resources will be available and sufficient to service the debt over its life. Debt financing will not be considered appropriate for any recurring purpose such as operating or maintenance costs.

The City will evaluate the use of debt in-Lieu of "pay-as-you-go" financing based on the following criteria:

*Factors Favoring "Pay-as-you-Go" Financing:*

1. current fund balances or project revenues are adequate to fund the project;
2. existing or proposed debt levels would have a deleterious effect on the City's credit rating;
3. credit market conditions are unstable or present extraordinary difficulty in marketing the proposed debt.

*Factors Favoring Use of Debt:*

1. revenues are deemed to be stable & reliable enough to support the proposed debt at investment grade ratings;
2. the nature of the financed project will support investment grade ratings;
3. credit market conditions present favorable interest rates and demand for financing such as the City's;
4. the project being financed is mandated by the state or federal government and resources are insufficient or unavailable;
5. the project being financed is immediately required to meet or relieve capacity needs and current resources are insufficient or unavailable;
6. the estimated useful life of the asset to be financed is greater than 5 years.

6. GENERAL OBLIGATION DEBT:

General obligation bonds provide the lowest borrowing costs for major public assets. The use of a general obligation pledge usually eliminates the need for a bond reserve and due to its high credit quality and the ability to levy a tax to repay it, produces borrowing terms and costs unavailable through other methods. Moreover, since the source of repayment of a general obligation bond is from proceeds of specific taxes, the City's operating funds and its operating position are not impacted by the issuance of general obligation bonds. Though the use of the term "general obligation bond" implies that the City's "full faith and credit" would be pledged to the repayment of the bond, the bond is actually repaid from an ad valorem tax on real property. Accordingly, the general obligation bond is more properly described as a "unlimited tax" bond.

Because of the absence of a limitation on the rate and amount of the tax that might be levied to pay a general obligation bond, state law and prudent finance practice require the submission of such a proposed debt to the electorate. Article XIII of the California Constitution requires that general obligation bonds be submitted to the voters for approval and that the issuance of such bonds be approved by a two-thirds vote.

Ad valorem property taxes affect various classes of taxpayers differently. Since the enactment of Proposition 13 in 1978, the increases in assessed value of real property have been limited for established property owners. This has the effect of disproportionately burdening newer property owners, who may have less wealth or taxpaying capacity than older, more established property owners. Moreover, business property owners, whose property turns over less frequently than residential property often benefit as a result of this phenomenon.

Cities in California may issue general obligation bonds only for the purpose of acquiring, improving or constructing real property. Accordingly, it shall be the City's policy to issue general obligation bonds only for such purposes and then only when the acquisition, improvement, or construction of the proposed real property will provide benefits to the community, in significant amounts, to both users and non-users of the facility.

7. USE OF OTHER DEBT, INCLUDING REVENUE BONDS, CERTIFICATES OF PARTICIPATION OR FINANCING LEASES.

Before issuing revenue debt or financing leases, the City will determine that the proposed facility is both necessary and desirable, and that no other financing method is practical to finance it. The City may use revenue debt or financing leases for those projects which are not sufficiently popular to obtain a two-thirds vote for the issuance of general obligation bonds or which must be financed at a time, or in a manner which do not permit the use of general obligation bonds. The City shall only use revenue debt or financing leases: if the project to be financed will generate

positive net revenues after debt service; or, if the project will significantly reduce City operating costs; or, if an equal or greater amount of non-City matching funds will be lost if City's revenue or financing lease funds are not applied in a timely manner; or, in the case of a financing lease, if the project to be financed is less than \$250,000; or, if the project to be financed provides essential City services or would so advance core City policy objectives that its value overrides the value of obtaining voter approval.

B. OPERATING BUDGETING AND RESERVES

1. TWO YEAR OPERATING BUDGET.

The City will maintain a long-range fiscal perspective through the use of a two-year operating budget and a five-year capital improvement budget.

2. BALANCED OPERATING BUDGET.

The City will maintain a balanced operating budget for all governmental funds with on-going revenues equal to or greater than on-going expenditures and debt service. This policy requires that in any given fiscal year we do not budget proposed expenditures in excess of the revenue we expect to receive in the same time frame.

3. "ONE-TIME" REVENUE.

The City will use "one-time" revenues, including fund balance carry-forwards, to fund nonrecurring expenditures. "One time" revenues cannot be relied on in future budget periods and should be used to stabilize existing revenues, retire early debt or for capital purchases.

4. NORMAL REVENUE INFLATION WILL GO TO PAY NORMAL INFLATION EXPENSES.

The City will assume that normal revenue inflation will go to pay normal inflation expenses. Any new or expanded programs will be required to identify funding sources. If normal revenue inflation does not keep up with expense inflation, expenses will be decreased or a new revenue source will be found. If revenues grow at a rate faster than expense inflation, expanded service levels may be considered.

5. CONTINGENCY APPROPRIATION.

For each fiscal year, the final adopted General Fund budget shall contain a funded Contingency Appropriation equal to ~~ten percent (10%)~~ 15% of General Fund Expenditures. The City shall implement a strategy to reach the required funding level in no more than five fiscal years. The Contingency Appropriation " will provide a prudent level of financial resources to protect against temporary revenue shortfalls or unanticipated operating costs, and/or to meet short-term cash flow requirements. "

6. EMERGENCY RESERVES.

To protect against significant one-time costs, which might arise from major unpredictable emergency events, in addition to the Contingency Appropriation, the

City shall maintain a funded emergency reserve equal to ~~five percent (510%)~~ of General Fund budgeted expenditures.

7. REVENUE DIVERSIFICATION.

The City will endeavor to maintain a diversified and stable revenue base to minimize the effects of economic fluctuations on revenue generation and to protect it from short-term fluctuations in any revenue source.

8. REVENUE PROJECTIONS.

The City will prepare multi-year projections of revenues and other resources in order to understand the level of funding available for services and capital acquisition. The revenue projections will assist the City in understanding of revenue sensitivity to changes in assumptions and to controllable factors such as changes to tax rates or fees. The revenue projection will be for a period of at least two years into the future to evaluate how revenues may change over time, to isolate non-reoccurring revenues and to understand the impact of revenue growth. The major assumptions used in the revenue projection will be documented and identified and different scenarios may be developed to enable City Council to choose a preferred scenario.

9. EXPENDITURE PROJECTIONS.

The City will prepare multi-year projections of expenditures for each fund and for existing and proposed new programs. The expenditure projections will assist the City in determining whether projected expenditure levels can be sustained, whether new programs are affordable, and whether a program's current and future costs are acceptable compared to program benefits and projected revenue availability. The expenditure projections will be for a period of at least two years into the future to evaluate how expenditures may change over time. All expenditure projections should identify service level assumptions and key issues that may affect actual expenditures.

10. DEVELOPMENT FEES

The City's development process costs and related administrative expenses should be offset by development fees to the greatest extent possible. Fees will be reviewed and updated on an on-going basis to ensure that they keep pace with changes in the actual costs of service delivery as well as changes in the methods or levels of service delivery.

C. OTHER POLICIES

1. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

The City will comply with all the requirements of Generally Accepted Accounting Principles. The City will always conduct its financial affairs and maintain its records in accordance with GAAP as established by the Government Accounting Standards Board, so as to maintain accuracy and public confidence in its financial reporting systems.

2. COUNCIL ACTION TO BE A SCHEDULED BUSINESS ITEM, NOT CONSENT CALENDAR.

For all debt sales, the City will require that the action taken by the City Council to incur the debt will be taken as a scheduled business item, and at a regular or special City Council meeting, consistent with state law. Generally, it shall be the City's policy to submit the proposed debt issuance to the City Council in a study session wherever possible prior to submittal to the full City Council as an action item at a regular or special meeting.

3. INTERNAL BORROWINGS

Provided sufficient resources are available, liquidity will not be impaired, and a defined source of repayment is available, the City will favor internal over external borrowings to achieve short-term liquidity. In accordance with the City Council Resolution #2683, the Finance Director will initiate and the City Manager will approve inter-fund borrowings, except for year-end accounting entries that create temporary inter-fund loans for the financial statement presentation purposes, and the City Manager will report such borrowings to the Council at its next regular meeting. Interest on inter-fund loans will be recorded only when necessitated by state or federal program requirements, or other contractual or legal obligations.

4. EMPLOYEE COMPENSATION

The City will continue to pay competitive market level compensation to our employees to ensure that the City has the ability to attract and retain well-qualified personnel while ensuring that the City's compensation practices are competitive and consistent with those of comparable employers.

This policy is approved and authorized by:

---

Richard Hill  
City Manager



## CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 14, 2013

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: CONSIDERATION OF A PROJECT TO REMOVE AND DISPOSE MOBILE HOME COACHES AND RELATED DEBRIS FROM THE PACIFIC COVE MOBILE HOME PARK; APPROVAL OF PLANS, SPECIFICATIONS, AND ESTIMATE OF COSTS; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ADVERTISE FOR BIDS, SETTING THE BID OPENING DATE FOR APRIL 10, 2013.

**RECOMMENDED ACTION:** Take the following actions:

1. Approve the plans, specifications, and estimate of costs for the removal and disposal of mobile home coaches and related debris from the Pacific Cove Mobile Home Park at an estimated cost of \$99,700; and
2. Authorize the Public Works Director to advertise for bids, setting the bid opening date for April 10, 2013.

**BACKGROUND:** Since the closure of the Pacific Cove Mobile Home Park in 2012 the City has been working to clear the park of the mobile home coaches. The City has sold 18 coaches in the park and they have now been removed. The City is keeping one coach in the park for use as office and storage space for the Police Department; leaving 20 coaches on site that now need removal. In compliance with the Monterey Bay Unified Air Pollution Control District (MBUAPCD) requirements for asbestos, testing has been completed. The city has awarded a contract for asbestos abatement in six coaches with work to be completed prior to demolition.

**DISCUSSION:** The plans and specification (Attachment 1) have been prepared for advertising this project. The estimated cost is \$99,700 (Attachment 2). Bids will be received on April 10, 2013.

**FISCAL IMPACT:** Funding for this project has been appropriated in the funds borrowed for the closure of the park. This fund currently has a balance of \$421,618. Based on the City's recently revised purchasing policy, if the bids come in under the estimated cost, the City Manager is authorized to award a contract to the lower qualified bidder. If the bids are higher than the estimate, staff will return with an analysis of the bids and recommendations.

**ATTACHMENTS:**

1. Specification packet
2. Plan Sheets
3. Estimate of costs

Report Prepared By: Steven Jesberg  
Public Works Director

Reviewed and Forwarded  
By City Manager:

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# CITY OF CAPITOLA

## PROJECT PLANS AND SPECIFICATIONS

FOR

### Removal and Disposal of Mobile Home Coaches and Related Debris from the Pacific Cove Mobile Home Park

For use in conjunction with the State of California, Department of  
Transportation Standard Specifications dated May 2006, and  
Standard Plans dated May 2006.

**BIDS DUE: Wednesday, April 10, 2013 at 11:00 a.m.**



**CITY OF CAPITOLA  
420 CAPITOLA AVE.  
CAPITOLA, CA 95010  
(831) 475-7300 - Phone  
(831) 479-8879 – Fax**

**-29-**

**DO NOT REMOVE FROM SPECIFICATION PACKET**  
CITY OF CAPITOLA  
SANTA CRUZ COUNTY, CALIFORNIA  
BID PROPOSAL  
FOR

**Removal and Disposal of Mobile Home Coaches and Related Debris  
from the Pacific Cove Mobile Home Park**

The undersigned, as bidder, declares that all the contract documents herein contained have been thoroughly examined, that this bid proposal is made without collusion with any other person, firm or corporation and that all laws and ordinances relating to the interest of public officers in this contract have been complied with in every respect.

Bidder proposes and agrees, if this bid proposal is accepted, that Bidder will contract with the City of Capitola, Santa Cruz County, California, in the form of the copy of the agreement herein contained, to provide all necessary machinery, tools, apparatus and other means of construction; to furnish all materials, to provide all labor, and to construct the improvements in conformity with the specifications and drawings and other contract provisions herein contained or reasonably implied thereby or as necessary to complete the work in the manner and within the time named herein and according to the requirements and to the reasonable satisfaction of the Director of Public Works; to pay all charges of freight transportation and hauling and all applicable taxes; to indemnify the City against any loss or damage arising from any act of the undersigned as Contractors; and that Bidder will take in full payment therefore an amount computed by the Director of Public Works and based upon the unit prices as set forth in this bid proposal.

It is understood that the quantities set forth herein are approximate only and are for the purpose of comparing bids.

The amount to be paid the Contractor shall be the amount of work in each item actually constructed, multiplied by the unit prices set forth as follows:

Removal and Disposal of Mobile Home Coaches and Related Debris  
from the Pacific Cove Mobile Home Park

**BID SHEET**

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1.	Mobilization	Lump Sum	1	_____	_____
2.	Single Wide Coach Removal & Disposal	Ea	16	_____	_____
3.	Double Wide Coach Removal and Disposal	Ea	4	_____	_____
4.	Awning Removal & Disposal	Ea	16	_____	_____
5.	Porch & Deck Removal & Disposal	Ea	15	_____	_____
6.	Ancillary Structure Removal & Disposal	Ea	13	_____	_____
7.	Shed Removal & Disposal	Ea	7	_____	_____
8.	Dust Control	Lump Sum	1	_____	_____
9.	Utility Disconnections	Lump Sum	1	_____	_____

**TOTAL BID PRICE** \_\_\_\_\_

**TOTAL IN WORDS** \_\_\_\_\_

**CONTRACTOR** \_\_\_\_\_

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The City will award the contract to the lowest responsible bidder. The lowest bidder will be determined on the basis of the total of the Base Bid items alone. In the event that the product of a unit price and an estimated quantity does not equal the extended amount quoted, the unit price shall govern and the corrected product of the unit price and the estimated quantity shall be deemed to be the amount bid. If the sum of two or more item totals in the bid schedule does not equal the total amount bid, the individual item totals shall govern and the corrected sum shall be deemed to be the amount bid.

The undersigned agrees, if this bid proposal is accepted by the City Council and if a contract for the performance of the work is entered into by and between the City of Capitola and the undersigned, to plan the work and prosecute it with such diligence that all of the work shall be completed within THIRTY (30) working days after receipt of the Notice to Proceed.

The undersigned further agrees that if this bid proposal is accepted, to sign the agreement and provide all insurance certificates within TEN (10) calendar days after the award of the contract and if the undersigned fails to contract as aforesaid, it shall be understood that the contract has been abandoned and therefore that this bid proposal shall be forfeited to and become the property of the City.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Bidder

\_\_\_\_\_  
Bidder's Address

\_\_\_\_\_  
Printed Name of Bidder

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Bidder's Telephone No.

CITY OF CAPITOLA  
SANTA CRUZ COUNTY, CALIFORNIA  
AGREEMENT

Removal and Disposal of Mobile Home Coaches and Related Debris  
from the Pacific Cove Mobile Home Park

THIS AGREEMENT, made this \_\_\_th day of \_\_\_, 2013, by and between the City of Capitola, a Municipal Corporation, in Santa Cruz County, California, hereinafter called the City, and \_\_\_\_\_, hereinafter called the Contractor.

WITNESSETH:

WHEREAS, the City has caused to be prepared in accordance with law, specifications, plans and other contract documents, for the work herein described and shown and has approved and adopted these contract documents, specifications and plans, and

WHEREAS, the Contractor has submitted to the City a sealed bid proposal for the construction of all of the proposed work in accordance with the terms of this contract, and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the bids submitted and as a result has determined and declared the Contractor to be the lowest responsible bidder and has duly awarded to the Contractor a contract for all of the work and for the sum or sums named in the bid and in this agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. WORK TO BE DONE:

That the Contractor shall provide all necessary labor, machinery, tools, apparatus and other means of construction; shall furnish all materials, superintendence and overhead expenses of whatever nature necessary to construct all of the improvements for the City of Capitola in conformity with the specifications and plans and other contract documents and according to such instructions as may be given by the City of Capitola Director of Public Works or his authorized agent.

ARTICLE II. CONTRACT PRICES:

Except as provided in Section IV B of the Specifications ("Changes and Extra Work"), the City shall pay the Contractor according to the unit prices stated in the bid submitted by the Contractor or the total amount of the contract, whichever is less, which shall include all applicable taxes, for complete performance of the work.

The Contractor hereby agrees to accept such payment as full compensation for all materials and appliances necessary to complete the work; for all loss or damage arising from the work or

from action of the elements, or from any unforeseen obstruction or difficulties which may be encountered in the prosecution of the work; incurred in and in consequence of the suspension or discontinuance of the work; as hereby specified; for all liability and other insurance; for all fees or royalties or other expenses on account of any patent or patents; for all overhead and other expenses incident to the work and expected profits; and for well and faithfully performing and completing the work within twenty (20) working days from the date of the Notice to Proceed; all according to the contract plans and specifications, the details and instructions, and the requirements of the City Council.

**ARTICLE III. PARTS OF THE CONTRACT:**

That the complete contract document consists of the following:

- |                 |                            |
|-----------------|----------------------------|
| 1. blank        | 2. blank                   |
| 3. Bid Proposal | 4. blank                   |
| 5. blank        | 6. blank                   |
| 7. blank        | 8. Specifications          |
| 9. Agreement    | 10. Insurance Certificates |

In case of any conflict between this Agreement and any other part of the contract, this Agreement shall be binding.

IN WITNESS WHEREOF, the City has caused its corporate name to be hereunto subscribed and its corporate seal to be hereunto affixed by its City Manager and its City Clerk thereunto duly authorized and the Contractor has executed these presents the day and year herein above written.

*This Agreement shall be effective at such time as each party is in possession of a copy (i.e. either an original or facsimile) executed by the other party.*

SO AGREED,

CITY OF CAPITOLA  
A Municipal Corporation

CONTRACTOR

\_\_\_\_\_  
License No. \_\_\_\_\_

Tax ID or SSN \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Jamie Goldstein  
City Manager

Title: \_\_\_\_\_

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

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

Awarded by the City Council on:  
\_\_\_\_\_

*By signing above on behalf of the corporation, the individual so signing warrants that he/she has authority to sign this agreement on behalf of the corporation and legally bind the company to all of the obligations contained therein.*

**ATTEST:**

\_\_\_\_\_  
City Clerk

HOLD HARMLESS CLAUSE

WHEREAS, \_\_\_\_\_, (Contractor), has been awarded a contract with the City of Capitola to perform certain work described as follows:

Removal and Disposal of Mobile Home Coaches and Related Debris  
from the Pacific Cove Mobile Home Park

Contractor hereby agrees to indemnify, defend and hold harmless the City, its officers, agents and employees from any and all demands, claims or liabilities of any nature caused by or arising out of Contractor's negligent acts, errors, or omissions, or willful misconduct, or conduct for which the law imposes strict liability on Contractor in the performance or nonperformance of this agreement.

Dated \_\_\_\_\_ 2013

\_\_\_\_\_  
Contractor

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_



## SPECIAL PROVISIONS

The following special provisions shall add to or modify the General Provisions of the State of California, Department of Transportation, Standard Specifications dated June, 1992.

## SECTION I. DEFINITIONS AND TERMS

Whenever the following terms or pronouns in place of them are used in these specifications or in any documents or instruments where these specifications govern, the intent and meaning shall be interpreted as follows:

- A. CITY. The City of Capitola, located in Santa Cruz County, California; also sometimes referred to as the "City."
- B. ENGINEER OR CITY ENGINEER. The City Engineer of the City of Capitola or the Director of Public Works, acting either directly or through properly authorized agents.
- C. BIDDER. Any individual, firm or corporation submitting a proposal for the work contemplated, acting directly or through a duly authorized representative.
- D. CONTRACTOR. The person or persons, co-partnership or corporation who has entered into a contract with the City for performance of work covered by this contract, and his authorized agents or legal representatives.
- E. INSPECTOR. Shall mean the technical inspector or inspectors duly authorized or appointed by the Engineer.
- F. PLANS. The word "plans" shall denote drawings. The word "drawings" shall denote plans. Plans and/or drawings are a part of the specifications.
- G. SPECIFICATIONS. The directions, provisions and requirements contained herein and supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work, or to the quantities and qualities of materials to be furnished under the contract.
- H. PROPOSAL FORM. The approved form on which the City Engineer may require formal bids to be prepared and submitted for the work.
- I. BID PROPOSAL. The offer of the bidder for the work when made out and submitted, and signed.
- J. AGREEMENT OR CONTRACT. The written agreement covering the performance of the work and the furnishing of labor and materials in the construction of the work. The contract shall include the notice to contractors, the proposal, specifications, special provisions and the contract bonds.
- K. WORK. All the work specified in the special provisions, proposal and contract.
- L. INSTALL. Where the word install is used, it shall also mean that the Contractor shall provide all of the materials necessary to install the item as shown on the plans or in these specifications, unless stated otherwise.

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- M. CONSTRUCT. Where the word construct is used, it shall also mean that the Contractor shall provide all of the materials necessary to construct the item as shown on the plans or in these specifications, unless stated otherwise.
- N. PLACE. Where the word place is used, it shall also mean to provide all of the materials for the complete installation of the item denoted.
- O. blank.
- P. STANDARD SPECIFICATIONS. The Standard Specifications of the State of California, Department of Transportation, dated May, 2006, also referred to as the State Specifications.

## SECTION II. BID REQUIREMENTS AND CONDITIONS

The bidder's attention is directed to the provisions of Section 2 of the State Specifications for the requirements and conditions which must be observed in the preparation of the bid proposal forms and the submission of the bid and these special provisions.

- A. CONTENTS OF BID PROPOSAL FORMS. Prospective bidders will be furnished with forms which will state the location and description of the contemplated work to be performed, for which a bid is asked.
- B. EXAMINATION OF PLANS, SPECIFICATIONS, SPECIAL PROVISIONS AND SITE OF WORK. The bidder shall examine carefully the site of the work contemplated and the plans, specifications and contract forms therefore. It will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character and quality of work to be performed and as to the materials to be furnished, as to the requirements of these specifications, the special provisions and the contract.
- C. BID PROPOSAL FORMS. All bids shall be made upon the blank forms provided herein, which shall be void if detached from these specifications. All items shall be properly filled out. Numbers shall be stated in figures. The signatures of all persons signing shall be in long hand. If the bid is submitted by an individual, the individual's name and post office address must be shown. If submitted by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If submitted by a corporation, the bid proposal shall show the name of the State under the laws of which the corporation was chartered and the names, titles and business addresses of the president, secretary, treasurer and manager.
- D. REJECTION OF BIDS CONTAINING ALTERATIONS, ERASURES OR IRREGULARITIES. Bids may be rejected if they show any alteration of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind.
- E. BID GUARANTEE. All bids shall be presented under sealed cover
- F. WITHDRAWAL OF BIDS. Any bid may be withdrawn by the bidder prior to but not after the time fixed for the opening of bids, provided that a request in writing for the withdrawal of such bid, executed by the bidder or bidder's duly authorized representative, is filed with the Director of Public Works of the City of Capitola. The withdrawal of a bid shall not prejudice the right of a bidder to file a new bid.
- G. DISQUALIFICATIONS OF BIDDERS. More than one bid from an individual, a firm or partnership, a corporation or an association under the same or different names will not be considered. Reasonable grounds for believing that any bidder is interested in more than one bid for the work contemplated will cause the rejection of all bids in which said bidder is interested.
- H. COMPETENCY OF BIDDERS. With each and every bid and forming a part thereof, the City Council will require the bidder to furnish a statement of bidder's financial responsibility, technical ability, and experience.

SECTION III. AWARD AND EXECUTION OF CONTRACT

The bidder's attention is directed to the provisions in Section 3 of the State Specifications for the requirements and conditions concerning award and execution of contract and these special provisions.

- A. AWARD OF CONTRACT OR REJECTION OF BIDS. All bids shall be subject to the approval of the City Council, which reserves unto itself the right to accept or reject any or all bids and waive any irregularities or informalities of bids as it may deem for the best interest of the City, and whose determination as to whose bid is the lowest responsible bid shall be final and conclusive. The award, if made, will be made within fifteen (15) calendar days after the opening of the bids. City shall not be bound until the contract has been fully executed.
- B. blank
- C. blank
- D. EXECUTION OF CONTRACT. The contract shall be signed by the successful bidder and returned and insurance certificates, within ten (10) calendar days after the award of the contract. If bidder fails to do so, the City Council without further proceedings may declare the bid guarantee forfeited.
- E. blank.
- F. blank
- G. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES. Attention is directed to the provisions of Section 8-1.03, "Beginning of Work," Section 8-1.06, "Time of Completion," and Section 8-1.07, "Liquidated Damages," of the State Specifications and these special provisions.

The counting of calendar days shall commence upon the date stated in the "Notice to Proceed." The Contractor shall begin work within FIFTEEN (15) calendar days after receiving the Notice to Proceed and shall diligently prosecute the same to completion before the expiration of THIRTY (30) working days from the date of the Notice to Proceed.

The Contractor shall pay to the City of Capitola the sum of THREE HUNDRED DOLLARS (\$300.00) per day for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed herein.

## SECTION IV. SCOPE OF WORK

- A. WORK TO BE DONE. The work to be done on this project consists, in general, of the following:

Removal and disposal of twenty mobile home coaches and related items, such as decks, awnings, attached structures, and sheds in the Pacific Cove Mobile Home Park, located at 426 Capitola Ave, Capitola, California.

- B. CHANGES AND EXTRA WORK. Changes and extra work, if found necessary, shall be done in accordance with the provisions of Section 4 of the State Specifications and these special provisions.

The City may require changes in, additions to or deductions from, the work to be performed or the materials to be furnished under this Contract pursuant to the provisions of the Contract Documents.

No change to the work shall be made, extra work performed, or deduction from the work made unless in pursuance of a written change order from the City, signed by the Director of Public Works or his authorized representative, stating that the change, addition, deletion, or any combination thereof is authorized. Written field orders may be issued to the contractor pending the issuance of a formal change order. No claim for additional payment shall be considered unless so ordered.

Adjustments to the contract amount by reason of a duly authorized change order shall be determined on the basis of one of the following methods, at the option of the Director of Public Works:

1. On the basis of an acceptable lump sum proposal from the Contractor in response to a quotation request.
2. On the basis of unit prices specified in the Contractor's proposal.
3. On the basis of actual necessary cost plus fifteen (15) percent to cover superintendence, general expense and profit, hereinafter referred to as "Force Account Work."

Force Account Work, if ordered, shall be adjusted and certified daily on record sheets acceptable to the Director of Public Works and signed by both he and the Contractor. Such daily report sheets shall thereafter be considered as the true record of Force Account Work done. Computation of actual costs shall include wages paid for workers and any employer payment made to, or on behalf of, workers for health, welfare, pension, vacation plans or similar purposes. Equipment costs shall be on the basis of generally accepted rental schedules for the locality. Material costs shall be supported by supplier's invoices.

When a lump sum proposal for extra work is requested from the Contractor, such quotation request shall be furnished by the Contractor, and a quotation for the work involved delivered to the Director of Public Works within five (5) calendar days. If the Director of Public Works finds said proposal unacceptable, he may then proceed with such extra work by Force Account or such other means as are available under the provisions of the contract.

- C. INTERPRETATION OF SPECIFICATIONS AND DRAWINGS. The specifications and the contract drawings are intended to be explanatory of each other. Any work indicated in the contract drawings and not in the specifications, or vice versa, is to be executed as if indicated in both. Should it

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appear that the work to be done, or any of the matters relative thereto, are not sufficiently detailed or explained in these contract documents, including the contract drawings, the Contractor shall apply to the Engineer for such further explanations as may be necessary, and shall conform thereto as part of this contract, so far as may be consistent with the terms of this contract. In the event of any doubt or question arising respecting the true meaning of the specifications, reference shall be made to the City and its decision thereon shall be final.

- D. FIGURED DIMENSIONS. All work shown on the contract drawings, the dimensions of which are not figured, shall be accurately followed to the scale to which the drawings are made, but figured dimensions where given are in all cases to be followed, though they may differ from scaled measurements. Large scale and full size drawings shall be followed in preference to small scale drawings.
- E. ERRORS OR DISCREPANCIES. If the Contractor, in the course of the work, discovers any discrepancies between the drawings and the conditions of the ground, or any errors or omissions in the drawings or in the layout given by stakes, points or instructions, it shall be Contractor's duty to inform the Engineer immediately in writing and the Engineer shall promptly verify the same. Any work done after such discovery until authorized will be done at the Contractor's risk.
- F. blank
- G. ADDITIONAL DRAWINGS BY CITY. The drawings made a part of this contract at the time of its execution are intended to be fairly specific and to indicate the detail of the scope of the work. In addition to these drawings, however, the Engineer shall furnish such additional drawings from time to time during the progress of the work as are necessary to make clear or to define in greater detail the intent of the specifications and contract drawings, and the Contractor shall make the work conform to all such drawings.
- H. CLEANING UP. The Contractor shall not allow the site of the work to become littered with trash and waste material, but shall maintain the same in a neat and orderly condition throughout the construction period. The Engineer shall have the right to determine what is or is not waste material or rubbish and the place and manner of disposal.

On or before the completion of the work the Contractor shall, without charge therefor, tear down and remove all temporary structures built by Contractor, and shall remove rubbish of all kinds from any of the grounds which Contractor has occupied and leave them in a condition acceptable to the Engineer.

- I. Blank

## SECTION V. CONTROL OF WORK

The bidder's attention is directed to the provisions in Section 5 of the State Specifications for the requirements and conditions concerning Control of Work and these special provisions.

- A. AUTHORITY OF THE ENGINEER. The Engineer shall decide any and all questions which may arise as to the quality and acceptability of the work performed, as to the quality and acceptability of materials furnished, and as to the manner of performance and the rate of progress of the work, and shall decide all questions which may arise as to the interpretation of the Plans and Specifications, and all questions as to the acceptable fulfillment of the contract on the part of the Contractor, and as to compensation. The Engineer's decisions shall be final; the Engineer shall have authority to enforce and make effective such decisions and an order as the Contractor fails to carry out promptly.
- B. COOPERATION OF THE CONTRACTOR. Whenever the Contractor is not present on any part of the work where it may be desired to give directions, orders will be given by the Engineer in writing and shall be received and obeyed by the Superintendent or Foreman who may have charge of the particular work in question.
- C. COOPERATION BETWEEN CONTRACTORS. Where two or more contractors are employed on related or adjacent work, each shall conduct their operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each Contractor shall be responsible to the other for all damage to work, to persons or property, or for loss caused by failure to finish the work within the time specified for completion.
- D. ACCESS TO WORK. The Engineer and the Engineer's authorized assistants shall at all times have access to the work during its progress. All work done and all materials furnished shall be subject to the inspection of the Engineer.
- E. INSPECTION. The inspection of the work shall not relieve the Contractor of his obligation to fulfill the contract as prescribed, and defective work shall be made good and unsuitable materials may be rejected, notwithstanding that such defective work and materials have been previously overlooked by the Engineer and accepted or estimated for payment.
- F. REMOVAL OF DEFECTIVE OR UNAUTHORIZED WORK. All work which has been rejected shall be remedied or removed and replaced in an acceptable manner by the Contractor at the Contractor's own expense, and no compensation will be allowed Contractor for such removal or replacement.
- G. EQUIPMENT. The use of equipment which is obsolete as to type, in bad condition or worn out will not be permitted on the work. The Contractor shall provide adequate and suitable equipment and plans to meet the requirements of the work, and when ordered by the Engineer shall remove unsuitable equipment from the work.
- H. FINAL INSPECTION. When the work performed by the Contractor shall have been satisfactory and the final cleaning up performed, the Engineer will make the final inspection.

## SECTION VI. CONTROL OF MATERIALS

The Bidder's attention is directed to the provisions in Section 6 of the State Specifications for the requirements and conditions concerning Control of Materials and these special provisions.

- A. DEFECTIVE MATERIALS. All materials not conforming to the requirements of these specifications shall be considered as defective, and all such materials -- whether in place or not -- shall be rejected and shall be removed immediately from the site of the work.
- B. REMOVAL OF CONDEMNED MATERIALS AND STRUCTURES. The Contractor shall remove from the site of the work, without delay, all rejected and condemned materials or structures of any kind brought to or incorporated in the work; upon failure to do so or to make satisfactory progress in so doing within forty-eight (48) hours after the service of a written notice by the Engineer, the condemned materials or work may be removed by the City and the cost of such removal shall be taken out of the contract price. No such rejected or condemned material shall again be offered for use by the Contractor under this contract.
- C. SUBMITTALS. Within fifteen (15) calendar days after award of the contract, before any materials are purchased, brought to the site or installed, the Contractor shall submit to the Engineer a complete listing of the manufacturers of each item of equipment or assembly fabricated off the site which the Contractor proposes to furnish on the project, together with sufficient information including shop assembly and detail drawings, manufacturers' specifications, and performance data to demonstrate clearly that the materials and equipment to be furnished comply with the provisions and intent of the contract specifications, contract drawings and contract documents. If the information shows any deviation from the contract requirements,, the Contractor shall, by a statement in writing accompanying the submittal, advise the Engineer of the deviation and state the reason therefor.

Approval by the Engineer of shop drawings and other data submitted by the Contractor shall not relieve the Contractor from responsibility for any errors therein or of furnishing the materials and equipment of proper dimension, size, quantity, quality, and all performance characteristics to meet the requirements and intent of the contract documents. The Contractor shall have no claim for damages or extension of time on account of any delay in the work resulting from the rejection of materials or from revision and resubmittal of drawings and other data for approval. All submittals and shop drawings shall be furnished to the City in quadruplicate.

- D. GRADING. Attention is also directed to City of Capitola Grading Ordinance, as contained in Title 15, Chapter 28, of the Municipal Code.
- F. STORAGE OF MATERIALS. Unless specifically authorized by the Engineer, no materials shall be stored overnight upon any public road or right of way within the City.



## SECTION VII. LEGAL RELATIONS AND RESPONSIBILITY

The Bidder's attention is directed to the provisions in Section 7 of the State Specifications for the requirements and conditions concerning Legal Relations and Responsibility and these special provisions.

- A. LEGAL RESTRICTIONS. The Contractor shall stay fully informed of all existing and future state and national laws and municipal ordinances and regulations which in any manner affect those engaged or employed on the work, or which in any manner affect the conduct of the work. The Contractor shall at all times observe and comply with all such existing and future laws, ordinances and regulations.

All removal and disposal work must be done in compliance with any and all local, state, and federal regulation including but not limited to Monterey Unified Air Pollution Control Board, OSHA, USEPA, and NESHAP regulations. The contractor shall be responsible for compliance and any required notifications or reporting.

- B. PERMITS AND LICENSES. Prior to start of work the Contractor shall procure the following from the City of Capitola.
1. A business license
  2. A demolition permit at no cost.

In addition the contractor shall be responsible for any and all other permits and licenses, required for the completion of this work. The contractor shall pay all charges and fees, and give all notices incident to the lawful prosecution of the work.

- C. PATENTS. The Contractor shall assume all costs arising from the use of patented materials, equipment, devices or processes used on or incorporated in the work.
- D. SANITARY PROVISIONS. The Contractor shall comply with all of the sanitary regulations prescribed by the Department of Health of the State of California.
- E. PUBLIC CONVENIENCE AND SAFETY. The Contractor shall so conduct his operations as to offer the least possible obstruction and inconvenience to the public. It shall be the responsibility of the Contractor to protect and guard the public from injury or damage due to any cause.
- F. RESPONSIBILITY FOR WORK. Excepting as herein otherwise provided, until the formal acceptance of all work by the City, the Contractor shall have the charge and care thereof, and shall take every necessary precaution against injury or damage to any part thereof from any cause whatever. The Contractor shall rebuild, repair, restore and make good all injuries or damages to any portion of the work occasioned by any cause before its acceptance, and shall bear the expense thereof.
- G. PROGRESS OF THE WORK. Except as otherwise provided by these specifications, the Contractor shall begin work within seven (7) calendar days after receipt of the Notice to Proceed and shall diligently prosecute the same to completion within the time set forth in the contract and/or special provisions.
- H. CHARACTER OF WORKERS. If any person employed by the Contractor, or by a subcontractor, shall fail or refuse to carry out the directions of the Engineer, or shall appear to the Engineer to be incompetent, or to act in a disorderly or improper manner, that person shall be discharged

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immediately upon the recommendation of the Engineer, and shall not again be employed on the work.

- I. HOURS OF LABOR. The Contractor shall forfeit as penalty to the City, Fifty Dollars (\$50.00) for each laborer, worker, or mechanic employed in the execution of the contract by the Contractor, or by any subcontractor, upon any of the work hereinafter mentioned, for each working day during which said laborer, worker or mechanic is required or permitted to labor more than eight hours per day or forty hours per week in violation of the provisions of Article 3, Chapter 1, Part 7, Division 2 of the Labor Code.
  
- J. PREVAILING WAGE. All workers on this project shall be paid Prevailing Wages as determined by the California State Department of Industrial Relations. The Contractor shall, as a penalty to the City, forfeit Fifty Dollars (\$50.00) for each working day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed for any public work done under the contract by the Contractor or any of Contractor's subcontractors. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each working day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor. The provisions of Section 1773, 1773.2, 1773.4 and 1775 of the Labor Code will be complied with.

Pursuant to the State of California, or local law thereto applicable, the City Council hereby determines that the general prevailing per diem rate in the locality in which the work is to be performed, for laborers and for each craft or type of worker and mechanic employed in the execution of this contract, is the Union Wage Scale established for Santa Cruz County, which wage scale as of the execution date of this contract is incorporated herein as if fully set forth.

Copies of the prevailing rate of per diem wages prepared and available by the California State Department of Industrial Relations.

- K. HOURS OF WORK The Contractor shall limit his hours of work to 8 a.m. – 5 p.m. Monday through Friday. No work shall be permitted on weekends and holidays or beyond these hours without the authorization of the Engineer.

Designated legal holidays are: January 1, the third Monday in February, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, and December 25. When a designated legal holiday falls on a Sunday, the following Monday shall be a designated legal holiday. When November 11 falls on a Saturday, the preceding Friday shall be a designated legal holiday.

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of the work may be permitted upon the written request of the Contractor if in the opinion of the Engineer public traffic will be better served and the work expedited. Such deviations shall not be adopted until the Engineer has indicated his written approval. All other modifications will be made by Contract Change Order.

- L. blank
  
- M. blank
  
- N. blank

- O. REGISTRATION OF CONTRACTORS. Before submitting bids, Contractor shall be licensed in accordance with the provisions of Chapter 9 of Division III of the Business and Professions Code.
- P. RESPONSIBILITY FOR DAMAGE. The City of Capitola, the City Council, or the Engineer shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof; or for any of the materials or other things used or employed in performing the work; or for injury to any person or persons, either workers or the public; for damage to property from any cause which might have been prevented by the Contractor, Contractor's workers, or anyone employed by the Contractor; against all of which injuries or damages to persons and property the Contractor having control over such work must properly guard. The Contractor shall be responsible for any liability imposed by law for any damage to any person or property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time before its completion and final acceptance, and shall indemnify and save harmless the City of Capitola, the City Council, and the Engineer from all suits or actions of every name and description brought forth or on account of any injuries or damages received or sustained by any person or persons by or from the Contractor, Contractor's servants or agents, in the construction of the work or by or in consequence of any negligence in guarding against such injuries or damages or on the account of any act or omission of the Contractor or Contractor's agents, and in addition to any remedy authorized by law so much as shall be considered necessary by the City Council may be retained by the City of Capitola until disposition has been made of such suits or claims for damages as aforesaid.

The Contractor shall be responsible for any liability imposed by law or for any damage to any person or property and shall indemnify and hold harmless the City of Capitola, its officers and employees, all in the same manner and to the same extent as provided above for the protection of the City, the City Council and the Engineer, except that no retention of money due the Contractor under and by virtue of the contract will be paid by the City of Capitola, pending disposition of suits or claims for damages brought against the City.

- Q. TERMINATION OF CONTRACT. If the work provided for under this contract shall be abandoned, or if the contract shall be sublet or assigned without the consent of the City, or if at any time the Engineer shall be of the opinion that the conditions specified as to the rate of progress are not being fulfilled, or that the work or any part thereof is unnecessarily delayed, or that the Contractor is willfully violating any of the conditions or provisions of this contract or is executing the same in bad faith, the City shall notify the Contractor to fulfill the conditions of this contract. Should the Contractor fail to begin compliance with said notice within five (5) calendar days, the City may, at its discretion, notify the Contractor to discontinue all work under this contract or any part thereof, and thereupon the Contractor shall discontinue work, and the City may, by contract or otherwise, at its discretion, complete the work or such part thereof, and may take possession of the work and use therein such materials, machinery, implements and tools of every description as shall be found upon the work, or provide whatever is needed for the completion of the work and charge the expense thereof to the Contractor. In order to meet the expenses so incurred, the City is hereby authorized by the Contractor to draw a warrant in the name of the Contractor and in favor of these persons, firms or corporations doing the work or providing the materials or labor therefor, against the fund or appropriation set aside for the purpose of this contract. When a warrant is so drawn it shall be conclusive upon the Contractor and shall be to all intent and purposes the same as drawn by the Contractor in person. When any of the said demands have been audited and paid, the amount of the same shall be deducted from the fund or appropriation set aside for the purposes of this contract being so terminated. The Contractor shall immediately, upon due notice from the Engineer to do so, remove from the premises all materials and personal property belonging to the Contractor which have not already been used in the construction of the work or which are not in place in the work, and the Contractor shall forfeit all rights under this contract, and both the

## Item #: 8.D. Attach 1.pdf

Contractor and Contractor's sureties shall be liable for the bond for all damages caused the City by reason of Contractor's failure to complete this contract.

Neither the extension of time for any reason beyond the date fixed for the completion of this work, nor the doing and acceptance of any part of the work called for by the terms of this contract, subsequent to the said date, shall be deemed to be a waiver by the City of the right to abrogate, annul, or terminate this contract for abandonment or other cause as provided above.

During the performance of this contract, the Contractor, its assignees and successors in interest (hereinafter referred to as "Contractor") agree as follows:

1. COMPLIANCE WITH REGULATIONS. The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (Title 15, Code of Federal Regulations, Part 8, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. NONDISCRIMINATION. The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, sex, or national origin, ancestry, physical handicap, medical condition, marital status, or religion in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 1735 of the Labor Code.
3. SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENT OF MATERIALS AND EQUIPMENT. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, ancestry, physical handicap, medical condition, marital status, or religion.
4. INFORMATION AND REPORTS. The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the City, and shall set forth what efforts it has made to obtain the information.
5. SANCTIONS FOR NONCOMPLIANCE. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the City shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or
  - b. Cancellation, termination or suspension of the contract, in whole or in part.
6. INCORPORATION OF PROVISIONS. The Contractor will include the provisions of Paragraphs 1 through 5 in every subcontract, including procurement of materials and leases

of equipment, unless exempt by the regulations, order or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the City of Capitola may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City to enter into such litigation to protect the interests of the City.

SECTION VIII. PROSECUTION, PROGRESS AND PAYMENT

Attention is directed to Sections 8 and 9 of the State Specifications for the requirements and conditions concerning Prosecution, Progress and Payment and these special provisions.

- A. COMPLETION AND PAYMENT. All work completed under the contract shall be paid for in accordance with the provisions of these specifications. The Contractor shall accept the compensation as provided in the contract in full payment for furnishing all materials, labor, tools and equipment, including all applicable taxes and fees, necessary to complete the work and for performing all work completed and embraced under the contract.
- B. PROGRESS ESTIMATE AND PAYMENT. The Engineer shall, on or around the twentieth (20th) day of each month, make an estimate of the value of the work performed and materials furnished in accordance with this contract. The first estimate shall be of the value of the work done and of the materials proposed and suitable for permanent incorporation in the work delivered and suitably and safely stored at the site of the work since the Contractor began the performance of this Contract.

Every subsequent estimate, except the final estimate, shall be of the value of the work done and materials delivered and suitably stored at the site of the work since the last preceding estimate was made; provided, however, that should the Contractor fail to adhere to the program of completion fixed in this contract, the Engineer shall deduct from the next and all subsequent estimates the full calculated accruing amount of the liquidated damages to the date of said estimate, until such time as the compliance with the program has been restored; and provided, further, that no estimate shall be required to be made when in the judgment of the Engineer the total value of the work done and materials incorporated into the work under this contract since the last preceding estimate amounts to less than One Thousand Dollars (\$1,000.00); and provided, also, that materials so delivered and estimated shall not be removed from the site of the work prior to its completion without the written consent of the Engineer.

The estimates shall be signed by the Engineer, and after approval by the City the City shall pay or cause to be paid to the Contractor, in the manner provided by law, an amount equal to ninety per cent (90%) of the estimated value of the work performed and of the value of the materials furnished and delivered and unused, such materials to be those which are proposed and suitable for permanent incorporation in the work.

- C. blank
- D. FINAL ACCEPTANCE. The Engineer shall, as soon as practical after the final acceptance of the work done under this contract, make a final estimate of the amount of work done thereunder and the value thereof. Such final estimate shall be signed by the Engineer, and after approval the City shall pay or cause to be paid to the Contractor in the manner provided by law, the entire sum so found to be due hereunder, after deducting therefrom all previous payments and such other lawful amounts as the terms of this contract prescribe.

In no case will final payment be made in less than thirty-five (35) calendar days after the filing of a "Notice of Completion" in the County Records Office, Santa Cruz County, California.

## SECTION IX. INSURANCE

A. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE. The Contractor shall take out and maintain during the life of this contract such public liability and property damage insurance, by an insurer acceptable to the City, that shall protect Contractor and any subcontractor performing work covered by this contract from any claims for property damage which may arise because of the nature of the work or from operations under this contract, whether such operations are performed by the Contractor or by any subcontractor or anyone directly or indirectly employed by either of them, even though such damages may not be caused by the negligence of the Contractor or any subcontractor, or anyone employed by either of them. The public liability and property damage insurance shall name the City, its officers, agents and employees as insured's, and all insurance policies issued hereunder shall so state. The amounts of such insurance shall be as follows:

1. CONTRACTORS LIABILITY INSURANCE. Shall provide bodily injury liability limits of not less than \$1,000,000 for each person, and \$2,000,000 for each accident or occurrence, and property damage liability limits of not less than \$1,000,000 for each accident or occurrence with an aggregate limit of \$2,000,000 for claims which may arise from the operations of the Contractor in the performance of the work hereunder provided. This insurance must include coverage for contractual liability assumed by the Contractor under Paragraph F, Section VII, Responsibility for Work.
2. AUTOMOBILE LIABILITY INSURANCE. Covering all vehicles used in the performance of the contract providing bodily injury liability limits of not less than \$500,000 for each person and \$1,000,000 for each accident or occurrence, and property damage liability limits of not less than \$500,000 for each accident or occurrence which may arise from the operations of the Contractor in performing the work provided for herein.

Before the execution of the contract, the successful bidder shall file with the City a certificate or certificates of insurance, covering the specified insurance. Each such certificate shall bear an endorsement precluding the cancellation or reduction in coverage of any policy evidenced by such certificate, before the expiration of thirty (30) calendar days after the City shall have received notifications by registered mail from the insurance carrier.

All policies shall name the City of Capitola as an insured under all terms of the policy.

B. WORKER'S COMPENSATION INSURANCE. Before beginning the work, the Contractor shall furnish to the City satisfactory proof that Contractor has taken out for the period covered by the work under this contract, full compensation insurance for all persons employed directly by Contractor or through subcontractors in carrying out the work contemplated under this contract, in accordance with the "Worker's Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof. Such insurance shall be maintained in full force and effect during the period covered by this contract.

SECTION X. TECHNICAL PROVISIONS  
SECTION 10-1. GENERAL

10-1.01 ORDER OF WORK--Order of work shall conform to the provisions in Section 5-1.05, "Order of Work," of the Standard Specifications and these special provisions.

The order of work for this project shall be as follows:

1. Site preparation including initial storm water pollution control measures
2. Demolition and disposal

10-1.02 COOPERATION--Attention is directed to Section 7-1.14, "Cooperation," and Section 8-1.10, "Utility and Non-Highway Facilities," of the Standard Specifications and these special provisions.

10-1.03 PROGRESS SCHEDULE--Progress schedules, if requested by the Engineer, shall conform to the provisions in Section 8-1.04, "Progress Schedule," of the Standard Specifications.

10-1.04 OBSTRUCTIONS--Attention is directed to Section 8-1.10, "Utility and Non-Highway Facilities," and Section 15, "Existing Highway Facilities," of the Standard Specifications and these special provisions.

The Contractor's attention is directed to the existence of certain underground facilities that may require special precautions be taken by the Contractor to protect the health, safety and welfare of workmen and of the public. Facilities requiring special precautions include, but are not limited to: conductors of petroleum products, oxygen, chlorine, and toxic or flammable gases; natural gas in pipelines greater than 6 inches in diameter or pipelines operating at pressures greater than 60 psi (gage); underground electric supply system conductors or cables either directly buried or in duct or conduit which do not have concentric neutral conductors or other effectively grounded metal shields or sheaths; and underground electrical conductors with potential to ground of more than 300 volts.

The Contractor shall notify the Engineer and the appropriate regional notification center for operators of subsurface installations at least 2 working days prior to performing any excavation or other work close to any underground pipeline, conduit, duct, wire or other structure. Regional notification centers include but are not limited to the following:

Underground Service Alert  
Northern California (USA)

Telephone: 1 (800) 642-2444

If such facilities are not located on the plans in both alignment and elevation, no work shall be performed in the vicinity of said facilities until the owner, or his representative, has located the facility by potholing, probing, or other means that will locate and identify the facility. If, in the opinion of the Engineer, the Contractor's operations are delayed or interfered with by reason of the utility facilities not being located by the owner or his representative, the State will compensate the Contractor for such delays to the extent provided in Section 8-1.09, "Right-of-way Delays," of the Standard Specifications, and not otherwise, except as provided in Section 8-1.10, "Utility and Non-Highway Facilities," of the Standard Specifications.

Utility facilities will be relocated during the progress of the Contract. The Contractor shall notify the Engineer in writing prior to doing any work in the vicinity of the facility. The utility facility will be



relocated within the listed working days, as defined in Section 8-1.06, "Time of Completion," of the Standard Specifications, after said notification is received by the Engineer.

10-1.05 MAINTAINING TRAFFIC--Attention is directed to Section 7-1.08, "Public Convenience," Section 7-1.09, "Public Safety," and Section 12, "Construction Area Traffic Control Devices," of the Standard Specifications and to the section entitled, "Public Safety," elsewhere in these special provisions, and these special provisions. Nothing in these special provisions shall be construed as relieving the Contractor from his responsibility as provided in said Section 7-1.09.

10-1.06 EXISTING HIGHWAY FACILITIES--The work performed in connection with various existing highway facilities shall conform to the provisions in Section 15, "Existing Highway Facilities," of the Standard Specifications and these special provisions.

10-1.07 HAZARDOUS MATERIALS – The contractor shall be responsible for the proper disposal of any hazardous material discovered during removal and disposal. The City has completed an asbestos preliminary survey of the coaches and had all Asbestos Containing Material removed under a separate contract. Copies of the preliminary survey area available at City Hall.

10-1.08 blank

10-1.09 WATERING--Watering shall conform to the provisions in Section 17, "Watering," of the Standard Specifications.

10-1.10 blank

10-1.11 blank

10-1.12 blank

10-1.13 blank

10-1.14 blank

10-1.15 blank

10-1.16 CONSTRUCTION AREA SIGNS--Construction area signs shall be furnished, installed, maintained, and removed when no longer required in accordance with the provisions in Section 12, "Construction Area Traffic Control Devices," of the Standard Specifications. Special C-90 advance warning signs shall be installed 1 week prior to starting work.

Full compensation for construction area signs shall be considered as included in the lump sum price paid for traffic control system for lane closure and no separate payment will be made therefor.

10-1.17 blank

10-1.18 LINES AND GRADES--The Contractor shall be responsible for setting all lines and grades deemed to be necessary to construct this project.

10-1.19 MOBILIZATION--Attention is directed to Section 11 "Mobilization" of the Standard Specifications which shall apply without modification.

**SECTION 10-2  
SPECIFICS**

10-2.1 REMOVAL AND DISPOSAL: Removal and Disposal shall include the removal and demolition of all coaches including, all contents, windows, plumbing, appliances, also all foundations, decks, awnings, sheds adjacent the coach, and other incidental materials located in and adjacent to each coach listed in the bid proposal. All coaches removed and disposed of under this contract must be demolished and may not be reused or relocated to another property. Demolition activities may take place on-site or off-site. If the final demolition is completed off site, the contractor must notify the Engineer where the demolition will take place and provide access to the facility.

All materials shall be recycled to the maximum extent possible. At a minimum the contractor shall sort all concrete, asphalt and baserock (includes brick, ceramic tile & porcelain fixtures), sheetrock, wood shingles, metals, carpet padding, foam, cardboard, and clean plastic film prior to disposal at a landfill.

10-2.2 DUST CONTROL: The contractor shall control the release of dust at all times during demolition, loading and transporting materials. No dust shall be permitted to migrate off the site onto adjacent properties. The contractor shall be solely responsible for protecting adjacent properties.

10-2.3 UTILITY DISCONNECTION: The contractor shall disconnect and safely cap all gas, water and sanitary sewer connections. All electrical, gas, and water utilities on the project site has been shut off, the contractor is only responsible for capping the utility connections at the coaches.

PACIFIC COVE TOPOGRAPHIC SURVEY

And

SPACE DETAIL MATRIX

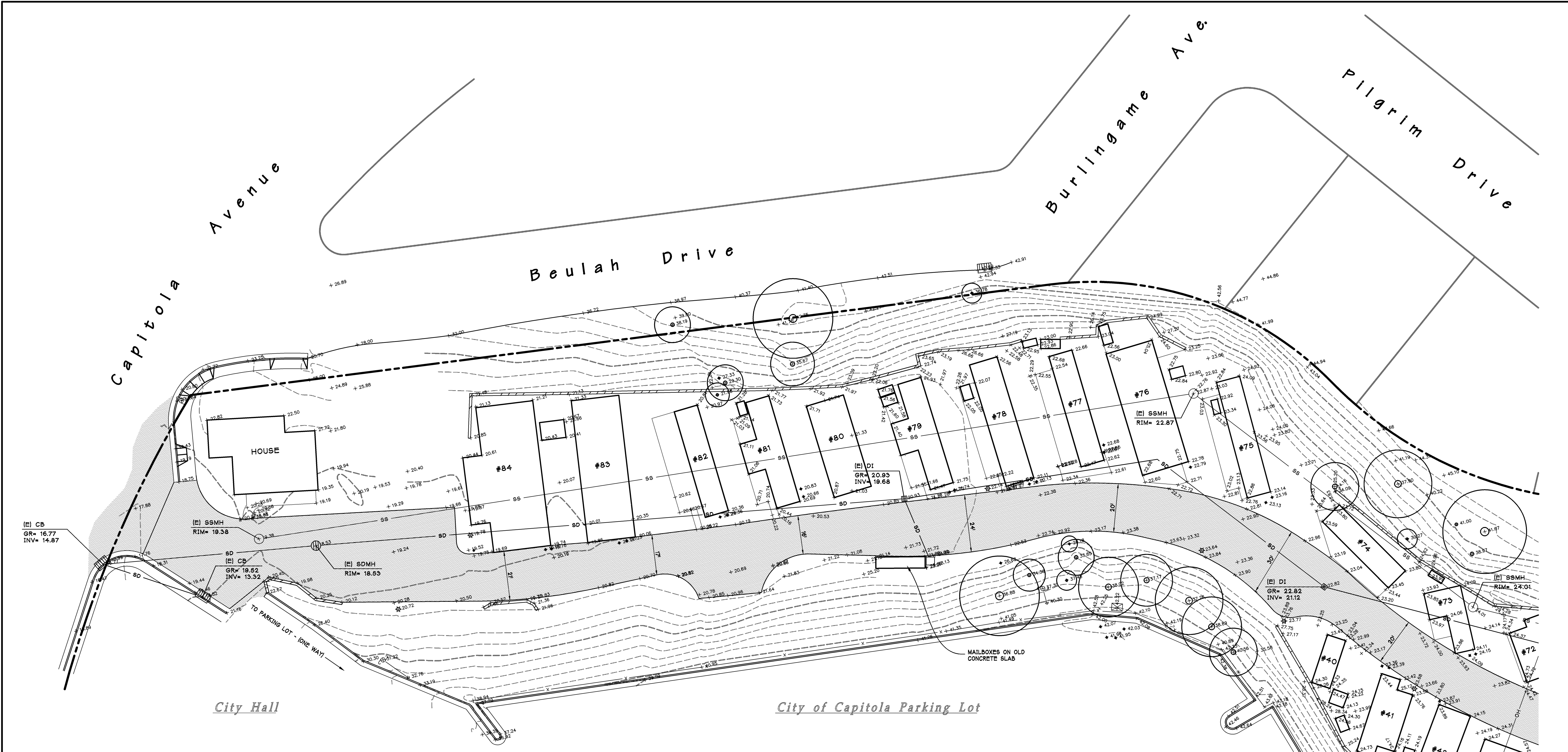
SPACE DETAIL MATRIX

Space No.	Double Wide Coach	Single Wide Coach	Awning	Porch/Deck	Addition	Shed		
40								
41								
42								
43				X	X	X		
45		X	X	X				
46								
47		X			X			
48		X	X		X			
49		X			X	X		
50		X	X					
51		X	X	X	X			
53				X				
54					X			
56		X		X	X			
60	X		X	X		X		
62	X		X	X				
63		X	X	X				
64		X		X	X			
65		X	X	X	X	X		
66								

**SPACE DETAIL MATRIX**

<b>Space No.</b>	<b>Double Wide Coach</b>	<b>Single Wide Coach</b>	<b>Awning</b>	<b>Porch/Deck</b>	<b>Addition</b>	<b>Shed</b>		
<b>67</b>								
<b>68</b>	<b>X</b>		<b>X</b>	<b>X</b>				
<b>69</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>			
<b>70</b>		<b>X</b>	<b>X</b>			<b>X</b>		
<b>71</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>			
<b>72</b>								
<b>73</b>		<b>X</b>	<b>X</b>		<b>X</b>			
<b>74</b>								
<b>75</b>								
<b>76</b>	<b>X</b>		<b>X</b>	<b>X</b>		<b>X</b>		
<b>77</b>		<b>X</b>	<b>X</b>					
<b>78</b>								
<b>79</b>								
<b>80</b>								
<b>81</b>		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>			
<b>82</b>								
<b>83</b>						<b>X</b>		
<b>84</b>								
<b>Totals</b>	<b>4</b>	<b>16</b>	<b>16</b>	<b>15</b>	<b>13</b>	<b>7</b>		

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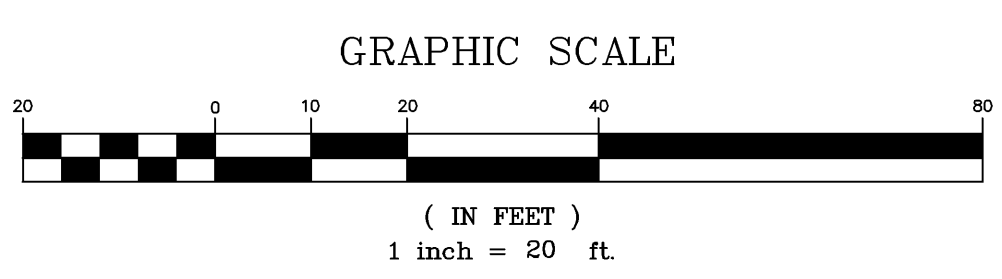


- Notes**
- ELEVATIONS AND CONTOURS ARE BASED ON NGVD '29 DATUM
  - PROPERTY BOUNDARIES AND BOUNDARY DATA SHOWN ARE COMPILED FROM RECORD DATA

**Area of Existing Roadway Pavement**  
 30,740 SQUARE FEET - (INCLUDES PAVEMENT SHOWN ON SHEET TS-2)

**Legend**

	Indicates Existing Property Line		Indicates Existing Street Light
	Indicates Existing Ground Contour Line		Indicates Existing Sanitary Sewer Pipeline
	Indicates Existing Tree		Indicates Existing Storm Drain Pipeline
	Indicates Existing Mobile Home / Coach / Trailer		Indicates Existing Asphaltic Concrete Paving
	Indicates Existing Storage Building		Indicates Existing Fence
	Indicates Existing Steel Bollard		Indicates Existing Spot Elevation
	Indicates Existing Retaining Wall		Indicates Existing Electrical Box
	Indicates Existing Power Pole		



**Existing Topographic Survey**  
 SCALE: 1" = 20'

-59-

PROFESSIONAL LAND SURVEYOR NO. 7367  
 APPROVED  
 REVISIONS

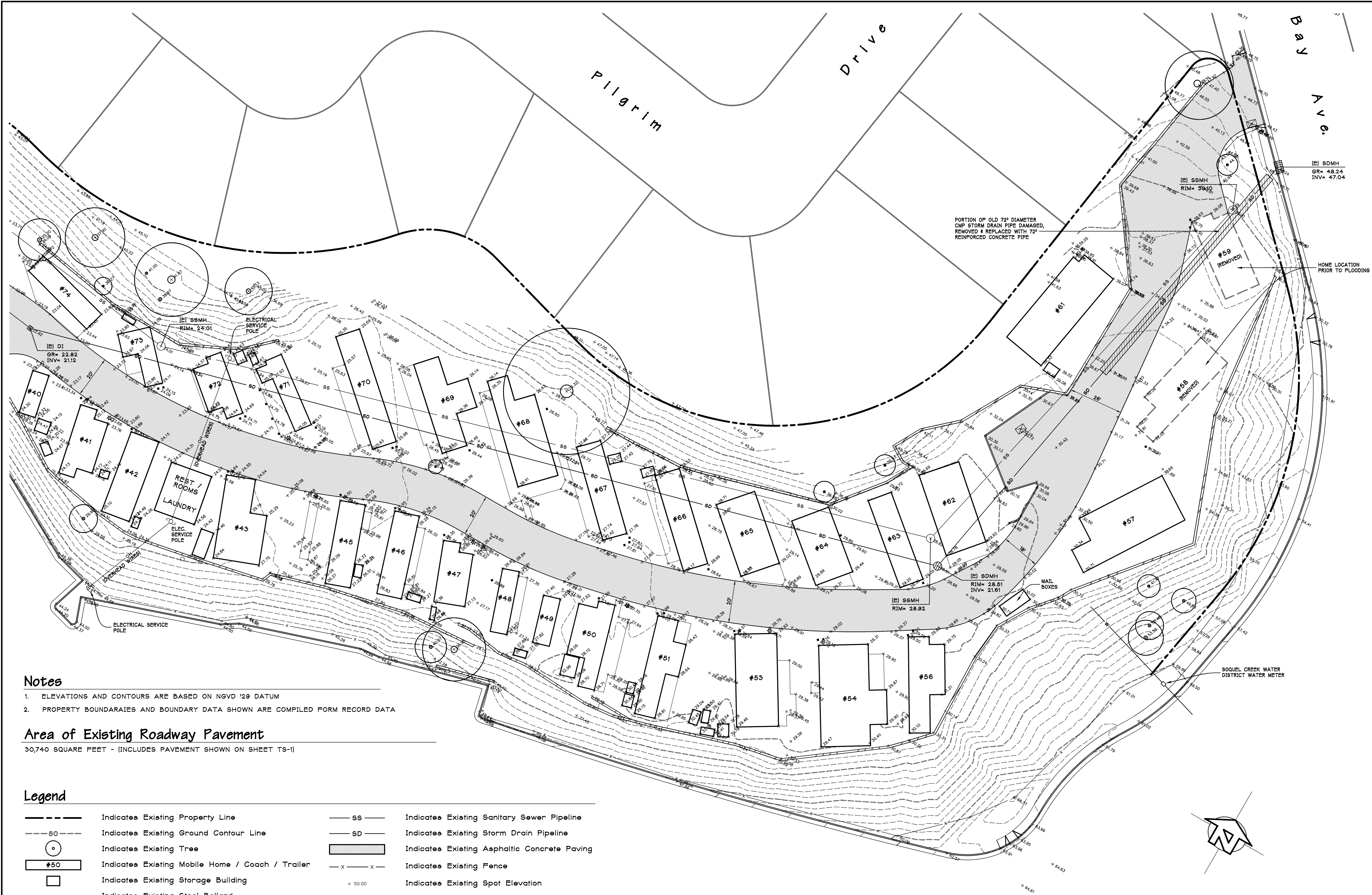
**IFLAND ENGINEERS**  
 CIVIL ENGINEERING • LAND PLANNING • STRUCTURAL DESIGN

**Item #: 8.D. Attach 2.pdf**  
 MHP Drive - M.H.P.

Existing Topographic Survey For: Capitola, California

Assessor's Parcel Number: 035-141-33  
 SHEET 1 OF 2  
 JOB NO.

5200 SOQUEL AVE SUITE 101  
 SANTA CRUZ, CA 95062  
 TEL (831) 424-5313  
 FAX (831) 424-1743  
 www.iflandengineers.com



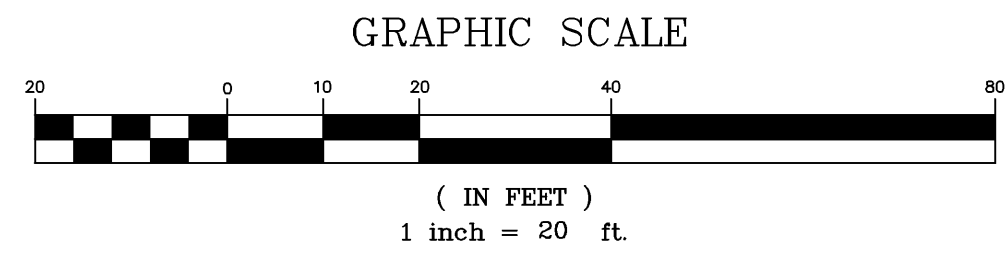
- Notes**
- ELEVATIONS AND CONTOURS ARE BASED ON NGVD '29 DATUM
  - PROPERTY BOUNDARIES AND BOUNDARY DATA SHOWN ARE COMPILED FROM RECORD DATA

**Area of Existing Roadway Pavement**  
 30,740 SQUARE FEET - (INCLUDES PAVEMENT SHOWN ON SHEET TS-1)

**Legend**

	Indicates Existing Property Line		Indicates Existing Sanitary Sewer Pipeline
	Indicates Existing Ground Contour Line		Indicates Existing Storm Drain Pipeline
	Indicates Existing Tree		Indicates Existing Asphaltic Concrete Paving
	Indicates Existing Mobile Home / Coach / Trailer		Indicates Existing Fence
	Indicates Existing Storage Building		Indicates Existing Spot Elevation
	Indicates Existing Steel Bollard		Indicates Existing Electrical Box
	Indicates Existing Retaining Wall		
	Indicates Existing Power Pole		
	Indicates Existing Street Light		

**Existing Topographic Survey**  
 SCALE: 1" = 20'



Item #: 8.D. Attach 2.pdf  
 5200 SOQUEL AVE SUITE 101  
 SANTA CRUZ, CA 95042  
 TEL (831) 424-5313  
 REVISIONS  
 IFLAND ENGINEERS  
 CIVIL ENGINEERING - LAND PL.  
 Existing Topographic Survey For:  
**Pacific Cove - M.H.P.**  
 426 Capitola Avenue; Capitola, California  
 Assessor's Parcel Number: 035-141-33  
 DATE: 04/08/11 DRAWN: Jim  
 SCALE: 1" = 30' CHECKED: Gary  
 SHEET: TS-2 OF 2 SHEETS  
 JOB NO. 11022  
CLIENT: Project 11022 Pacific Cove MHP DWG's Inherited DWG's from Project No. 974717502 - Existing Topographic Survey.dwg 4/8/2011 10:07:05 AM CDT

-60-



Project: Removal and Disposal of Mobile Home Coaches and Related Debris from the Pacific Cove Mobile Home Park

**Engineer's Estimate**

Bid Opening Date: 10-Apr-13

Item	Description	Unit	Quantity	Opinion of Probable Cost	
				Unit Price	Total
1	Mobilization	Lump Sum	1	\$9,100.00	\$9,100
2	Single Wide Coach Removal & Disposal	Ea	16	\$2,500.00	\$40,000
3	Double Wide Coach Removal & Disposal	Ea	4	\$4,500.00	\$18,000
4	Awning Removal & Disposal	Ea	16	\$200.00	\$3,200
5	Porch & Deck Removal & Disposal	Ea	15	\$500.00	\$7,500
6	Ancillary Structure Removal & Disposal	Ea	13	\$1,500.00	\$19,500
7	Shed Removal & Disposal	Ea	7	\$200.00	\$1,400
8	Dust Control	Lump Sum	1	\$500.00	\$500
9	Utility Disconnections	Lump Sum	1	\$500.00	\$500
				Total	\$99,700

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# CITY COUNCIL AGENDA REPORT

## MEETING OF MARCH 14, 2013

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: DISCUSSION OF DRAFT LAND USE PLAN AND GENERAL PLAN SCHEDULE

---

**RECOMMENDED ACTION:** Receive the information and provide direction.

**BACKGROUND/DISCUSSION:** In the fall of 2010 the City of Capitola started the process of updating the City's General Plan, Local Coastal Plan and Zoning Ordinance. This process included the appointment of a General Plan Advisory Committee (GPAC) to work with staff and various consultants to develop the new plans. It is anticipated that a draft General Plan/Local Coastal Plan will be available for the public in June 2013 and the zoning ordinance and EIR will be released in the fall.

The draft Land Use Element was developed based on the result of four special workshops (41<sup>st</sup> Avenue, Bay Avenue, Capitola Village/Hotel, and City Hall/Pacific Cove), 16 GPAC meetings, and input from various consultants and staff. The special study areas generally followed a process whereby staff and consultants met with major stakeholders in that area, conducted an advertised Community Workshop and then discussed the results of the workshop with the GPAC. In addition some other special studies have been completed including a Green Economy Report, a Sea Level Rise Study and the Local Hazards Mitigation Plan.

The General Plan/Local Coastal Plan will include background information and maps. There will be general goals established which then are implemented through policies and actions. Some of the information, such as the guiding principles for the hotel, will be in appendices to the General Plan.

The purpose of tonight's discussion is not to decide every minor point in the draft Land Use Element but for the Council to give direction on some of the broader concepts included in the draft Land Use Element. The discussion may include the following:

1. A discussion regarding the Village and new hotel;
2. Changes to 41<sup>st</sup> Avenue on both sides of Capitola Road. These changes allow increases in the size of development to attempt to keep this corridor economically viable;
3. Changing Capitola Avenue and Capitola Road's General Plan/Local Coastal Plan designation to Neighborhood Mixed Use and allowing for a more urban/pedestrian development pattern;
4. Bay Avenue commercial area and possible roundabout at Bay Avenue and Capitola Avenue;
5. The City Hall/Pacific Cove property with the temporary parking lot, parking structure and possible relocation of City Hall/Police facilities.

## Item #: 9.A. Staff Report.pdf

3-14-13 CITY COUNCIL AGENDA ITEM

AGENDA STAFF REPORT: DISCUSSION OF THE DRAFT LAND USE ELEMENT

Ben Noble from DC&E will be presenting the land use element to the City Council.


In addition to the discussion of the draft Land Use Element, the Council will want to discuss the future schedule of the update process. This will include deciding on whether or not to have joint Planning Commission/City Council study sessions before the formal adoption process begins in the late fall. If the Council were to have these study sessions, this would give everyone, including the public, the opportunity to better understand the documents before the formal adoption process begins.

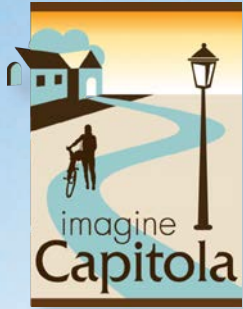
**FISCAL IMPACT:** None

**ATTACHMENTS:**

1. Draft General Plan Land Use Element

**Report Prepared By:** Susan Westman  
General Plan Coordinator

**Reviewed and Forwarded  
By City Manager:** 



# Capitola General Plan and Local Coastal Program **LAND USE ELEMENT**

Final Draft - November 2013





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# INTRODUCTION

The Land Use Element establishes core policies to guide land use and development in Capitola. It identifies permitted land uses within the city and the allowed intensity of new development. The Land Use Element also describes the desired form and character of development, and how land uses can best preserve and enhance Capitola’s unique sense of place.

The Land Use Element describes a pattern of development in Capitola consistent with the General Plan Guiding Principles found in Chapter 2. The Element provides a roadmap for growth, conservation, and enhancement in Capitola consistent with basic community values. Like all elements in this General Plan, the Land Use Element is guided by the principle of sustainable development. The Land Use Element supports a pattern of development that protects natural resources, supports economic development, and promotes access to opportunity for all residents.

The Land Use Element also functions as the component of Capitola’s Local Coastal Program (LCP) that addresses issues related to visitor-serving uses, view protection, and land uses that affect coastal access. LCP goals, policies, and actions in the Land Use Element are marked with a 🌊 [wave] icon. Other required LCP topics, such as environmental resource protection and coastal hazards, are addressed in other elements of this General Plan.

The Land Use Element is divided into three sections, which cover:

- ◆ **Land Use Background.** This section provides background information about existing land use patterns, historic resources, parks and recreation, and LCP topics addressed in this element.
- ◆ **Land Use Map and Designations.** This section presents the citywide land use map and describes the land use designations that apply in Capitola. Land use designations identify the permitted land uses and intensity of development allowed in all areas of the city.
- ◆ **Goals, Policies, and Actions.** This section presents the goals, policies, and actions to guide land use and development in Capitola.

The General Plan also contains the following Appendices which are relevant to the Land Use Element:

- ◆ **Appendix A: Hotel Guiding Principles.** This appendix contains guiding principles for the design of a potential new hotel on the Esplanade in Capitola Village.
- ◆ **Appendix B: Action Plan.** This appendix summarizes all General Plan actions, and identifies responsible City staff and time frame for completion.
- ◆ **Appendix C: Local Coastal Plan Policy Matrix.** This appendix provides a summary of Local Coastal Program (LCP) goals, policies, and actions that address applicable Coastal Act policies.

# LAND USE BACKGROUND

## Existing Land Use

Within a small area of 1.7 square miles, Capitola contains a diversity of land uses. As shown in Table LU-1, over half of Capitola is occupied by residential uses, primarily in the form of detached single-family homes. Commercial and industrial uses occupy 21 percent of the city, primarily located along the 41<sup>st</sup> Avenue corridor. Open space and recreational uses, including New Brighton State Park and Capitola Beach, occupy 14 percent of the city.

## Neighborhoods and Districts

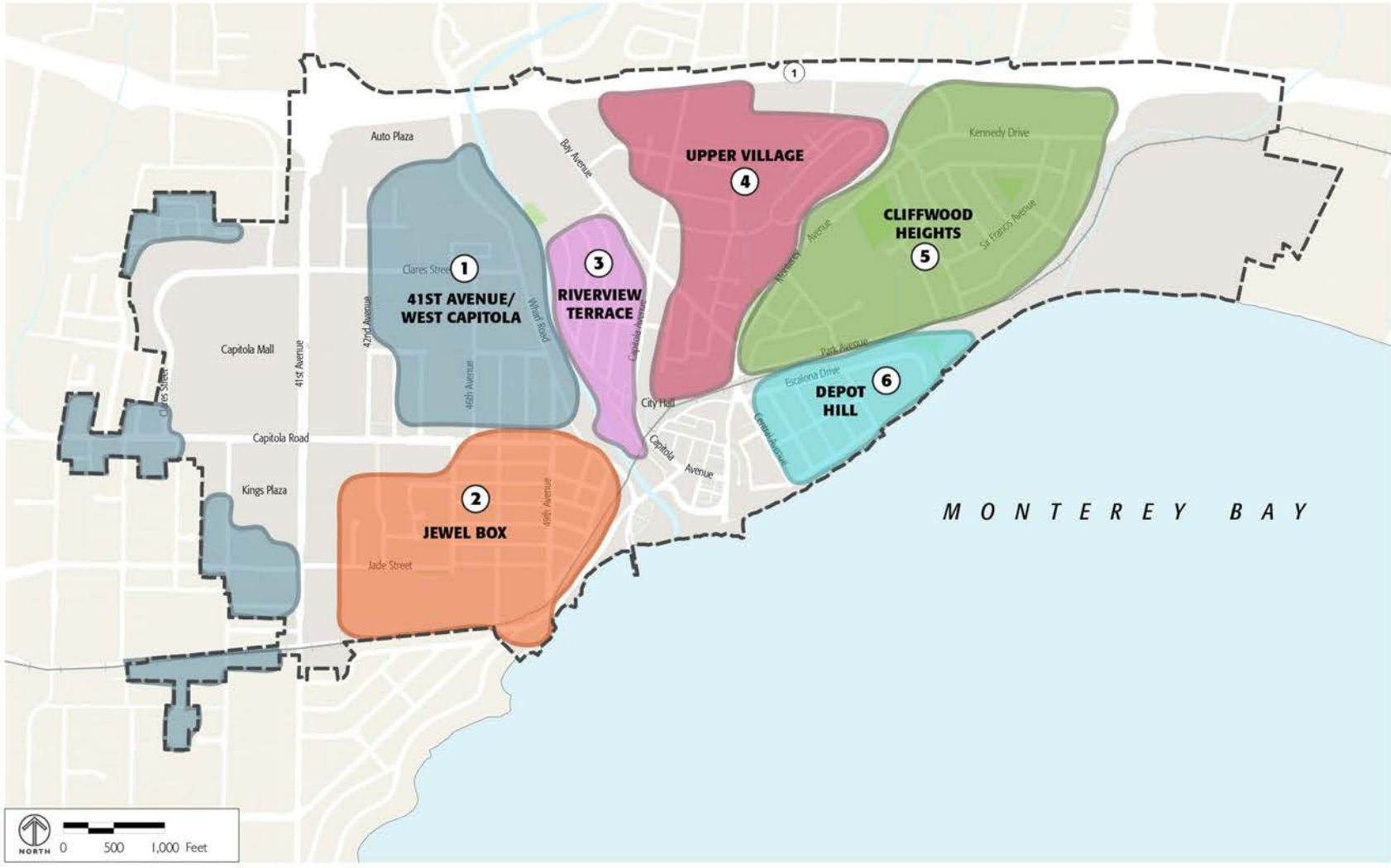
Generally speaking, existing land use in Capitola can be grouped together into a number of residential neighborhoods and commercial, industrial, and mixed-use districts. These neighborhoods and districts comprise distinctive places that are familiar to Capitola residents and visitors. Figure LU-1 and LU-2 show the general boundaries of these neighborhoods and districts, which are described below.

TABLE LU-1 EXISTING LAND USE

	Acres	Percent
Residential	442	52%
Commercial and Industrial	176	21%
Open Space and Recreational	118	14%
Other	88	10%
<b>Total</b>	<b>845</b>	

Source: Santa Cruz County Assessor, 2010.

FIGURE LU-1 RESIDENTIAL NEIGHBORHOODS



Source: City of Capitola, 2010.

## Residential Neighborhoods

**Depot Hill.** The Depot Hill neighborhood overlooks Capitola Village and contains a high concentration of historic single-family homes. The Inn at Depot Hill and Monarch Cove Inn (formerly El Salto Resort) are located on the eastern side of the Depot Hill neighborhood.

**Cliffwood Heights.** The Cliffwood Heights neighborhood consists primarily of detached single-family homes as well as multiple-family housing on Monterey Avenue and Park Avenue. Monterey Park, Cortez Park, and New Brighton Middle School are also located within the Cliffwood Heights neighborhood.

**Upper Village.** The primary existing land uses in the Upper Village neighborhood are detached single-family homes, multiple-family apartment complexes, and three mobile home parks.

**Riverview Terrace.** The Riverview Terrace neighborhood is bordered by Soquel Creek and Capitola Avenue and contains detached single-family homes on smaller lots.

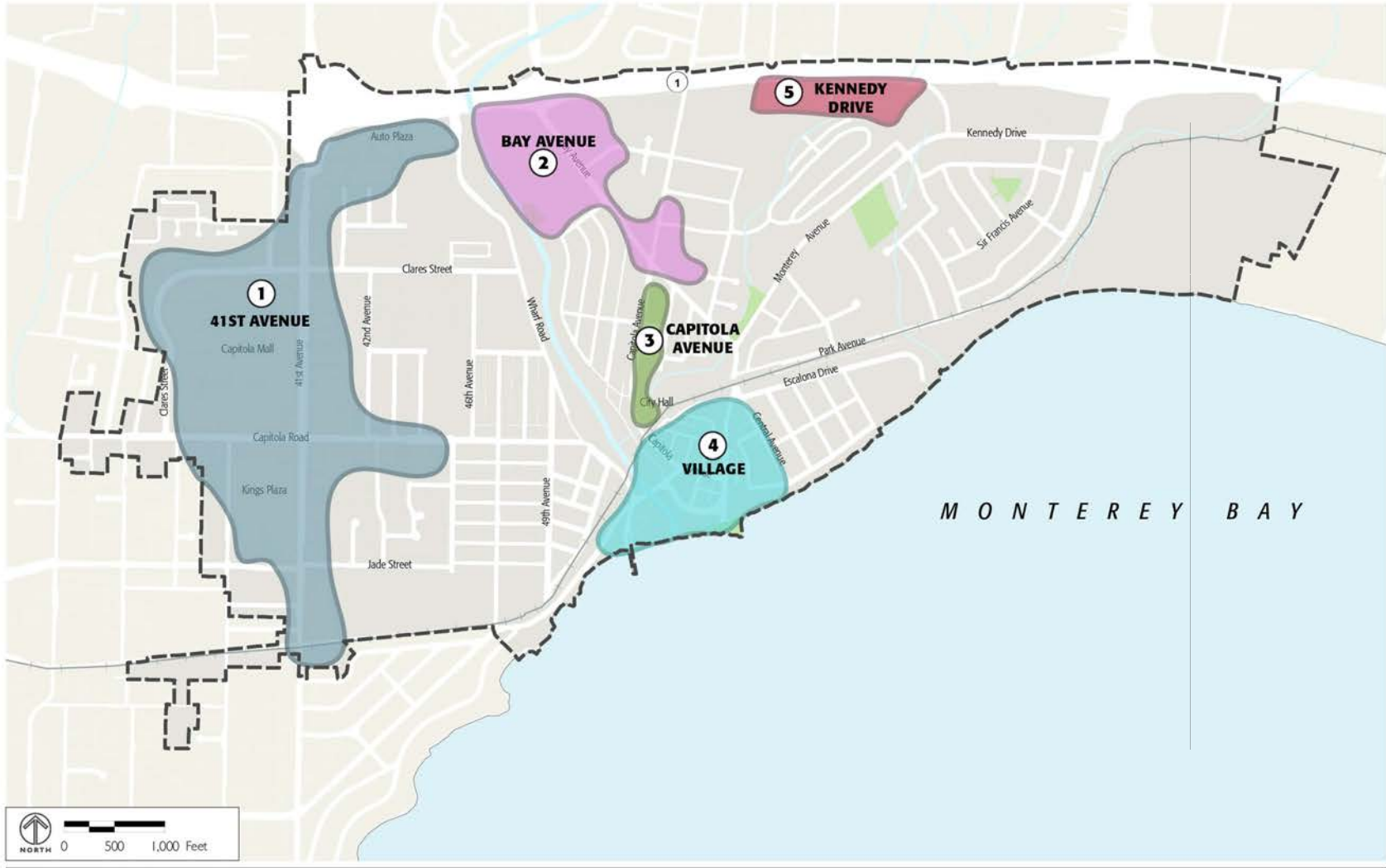
**Jewel Box.** Existing land uses within the Jewel Box neighborhood include single-family detached homes, multiple-family housing, two mobile home parks, the Jade Street Park and Community Center, and a few non-residential uses along Capitola Road.

**41<sup>st</sup> Avenue/West Capitola.** The 41<sup>st</sup> Avenue/West Capitola neighborhood is comprised of an assortment of detached single-family homes, multiple-family housing, and three mobile home parks. The Rispin property, the Shadowbrook property, and the Capitola Library are located along the eastern edge of the neighborhood.



*Residences in the Jewel Box (top) and Upper Village (bottom) neighborhoods*

FIGURE LU-2 MIXED USE, COMMERCIAL, AND INDUSTRIAL DISTRICTS



Source: City of Capitola, 2010.

## Mixed Use, Commercial, and Industrial Districts

**Capitola Village.** The Capitola Village mixed-use district is the “heart” of Capitola with a mixture of visitor-serving commercial establishments, public amenities, and residential uses. Capitola Village contains a high concentration of landmark destinations, such as the Esplanade Park, Capitola Beach, the Six Sisters, the Venetian, and the Capitola Wharf.

**Capitola Avenue.** The Capitola Avenue mixed-use district is characterized by an eclectic assortment of small-scale offices, personal services, retail, multiple-family housing, a mobile home park, and single-family homes. The Capitola City Hall, police station, fire station, and historic museum border the Village at the southern end of this district.

**41<sup>st</sup> Avenue/Capitola Mall.** The 41<sup>st</sup> Avenue/Capitola Mall commercial district contains a number of region-serving shopping centers, including the Capitola Mall and Kings Plaza shopping center. Other land uses include the Brown Ranch Shopping Center, the Auto Plaza at the northern end of the corridor, the Whole Foods Market, the New Leaf Community Market, the Best Western Inn, and a variety of other retail, office, and service establishments.

**Bay Avenue.** The Bay Avenue area is a neighborhood-serving commercial district with stores and services for Capitola residents. Land uses include the recently renovated Nob Hill shopping center, a large vacant parcel north of the Nob Hill shopping center, the Capitola Plaza shopping center, and Gayle’s Bakery.

**Kennedy Drive.** The Kennedy Drive industrial district is occupied by light industrial and service establishments and the City corporation yard.



*Offices on Kennedy Drive (top) and the Nob Hill Shopping Center on Bay Avenue (bottom)*

## Historic Resources

A significant number of historic places and structures contribute to Capitola's unique identity and coastal village charm. Many of these structures are commercial and visitor-serving buildings located in the central Village. Capitola also has many historic homes in residential neighborhoods, and even historically significant public infrastructure such as the Trestle and Stockton Bridges.

Many of the officially designated historic structures are located in four National Register Historic Districts:

- ◆ **The Venetian Court Historic District.** Located at the juncture of the Soquel Creek and the Capitola Beach, the Venetian Court was built in 1924 and consists of 24 residential units and a 19-unit hotel.
- ◆ **The Six Sisters Historic District.** The Six Sisters duplexes located on the Esplanade in the Village were originally built in 1903 and provide vacationers with oceanfront rental housing.
- ◆ **The Lawn Way Historic District.** The Lawn Way subdivision, located in the village center, was completed in 1911 and today features a high concentration of historic structures.
- ◆ **The Old Riverview Historic District.** This district is located along the Soquel Creek just north of the Stockton Bridge and contains cottages adjacent to the Creek and the Riverview Pathway.

There are a number of designated historic structures in Capitola. Designated historic structures are listed or eligible for listing on the National Register of Historic Places, the California Historic Resources Inventory, or the Capitola Register of Historic Features. The majority of designated historic structures are



*Cliff Drive homes, the Venetian, and the Esplanade circa 1925*



located in the Village or along the Soquel Creek immediately north of the Trestle. Past surveys also have found many additional potential historic structures in Capitola. The majority of these structures are concentrated in the Village and the Depot Hill neighborhood, with additional structures found in the Jewel Box and Upper Village neighborhoods.

## Coastal Amenities

### Scenic Resources and Views

Capitola’s scenic beauty is shaped by a unique natural setting and a distinctive built environment. Scenic resources within the coastal zone include the waters of Monterey Bay, Capitola Beach, Soquel Creek and Lagoon, coastal cliffs and bluffs, and vegetated banks.

Capitola Village’s scenic qualities are a product of a compact development pattern with pedestrian-friendly streets and sidewalk-oriented commercial storefronts. Distinctive architecture and a concentration of historic structures contribute to this unique sense of place. Public and semi-public gathering places, including Esplanade Park, Lawn Way, and Capitola Wharf encourage pedestrian activity which further enhances the Village’s scenic qualities.

Public views of these scenic resources are a valued community amenity for residents and visitors. Figure LU-3 identifies primary public viewpoints from where these resources are visible.

### Visitor-Serving Facilities

Visitors are attracted to Capitola throughout the year to enjoy its scenic beauty, recreational opportunities, and visitor-serving commercial establishments. Important visitor-serving destinations in Capitola include the entirety of Capitola Village, Capitola Beach, Capitola Wharf, New Brighton State Beach, Monarch Cove Inn, and Shadowbrook Restaurant. The McGregor property is intended for future recreational and/or hotel use, and the Rispin property is intended for open space and recreation. The location of these visitor-serving facilities is shown in Figure LU-4.



*Public views from Cliff Drive (top) and Depot Hill (bottom)*

FIGURE LU-3 SCENIC RESOURCES



FIGURE LU-4 VISITOR DESTINATIONS



Source: The Planning Center | DC&E, 2013.

## Shoreline Access

Capitola's land use pattern generally supports public access to the shoreline and coastal areas. Capitola Beach, Esplanade Park, and Capitola Wharf are all free and open to the public. The main issue affecting shoreline access in Capitola is a parking shortage, traffic congestion, and limited transit service. These issues are specifically addressed in the Mobility Element of this General Plan. The Mobility Element also describes existing pedestrian routes and access points to shoreline areas in Capitola.

## Parks and Recreation

As shown in Table LU-2, there are seven City parks in Capitola, totaling over 18 acres. Six of these parks are smaller neighborhood parks, and one park (Jade Street) is a larger park with a community center intended to serve the entire community. The School District, which owns the Jade Street park property, intends to construct a new elementary school on the property. Table LU-2 generally describes the amenities provided at each park. The location of these parks is shown in Figure LU-6.



*Capitola Beach and Esplanade Park*

## Special Study Areas

The process to prepare this general plan focused on four special study areas: 1) Capitola Village; 2) 41<sup>st</sup> Avenue/Capitola Mall; 3) Bay Avenue; and 4) City Hall/Pacific Cove. The boundaries of these areas are shown in Figure LU-5. These special study areas represent areas in Capitola with the greatest opportunity for positive change over the next 20 years. Study of these areas focused on place-making strategies (i.e. how to create memorable places that are welcoming and attractive for residents, visitors, and workers). The studies addressed many key issues in Capitola, such as providing adequate

parking to serve the Village, maintaining a strong local economy, and adapting to the expected effects of sea level rise. Many goals, policies, and actions in the Land Use Element address these and other important issues examined as part of the special study process.

TABLE LU-2 EXISTING PARKS

Name	Size	Type	Amenities
Cortez Park	1.1 acres	Neighborhood Park	Open field and playground equipment
Esplanade Park	1.2 acres	Neighborhood Park	Oceanfront seating and grassy field
Jade Street Park*	9.9 acres	Community Center and Park	Community center, athletics fields, tennis courts, playground equipment
Monterey Park	4.0 acres	Neighborhood Park	Baseball diamond and athletic fields
Noble Gulch Park	1.3 acres	Neighborhood Park	Open field and picnic tables
Peery Park	0.8 acres	Neighborhood Park	Soquel River woodlands
<b>Total</b>	<b>18.3 acres</b>		

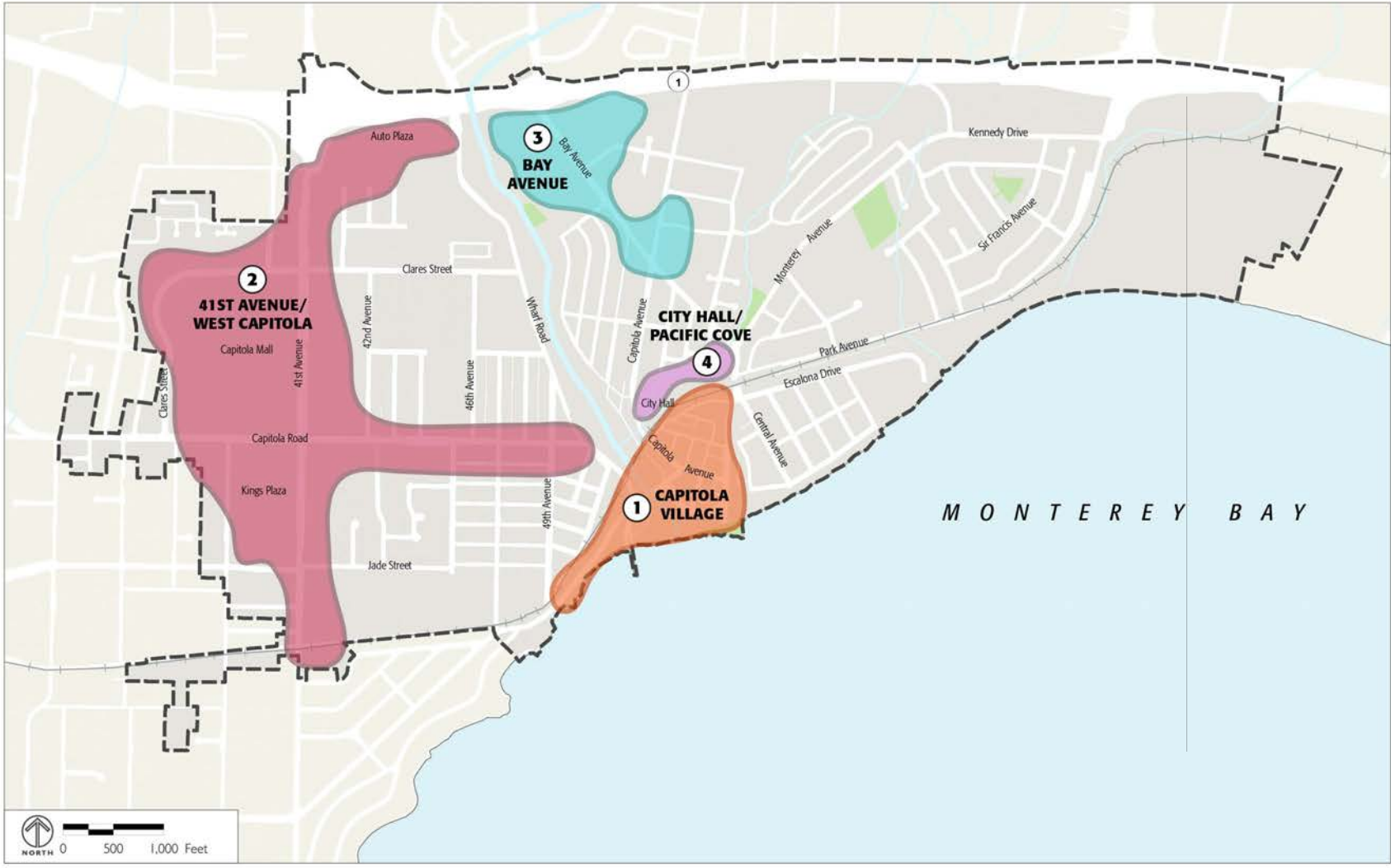
\* Property owned by School District.

Source: City of Capitola, 2011.



Noble Gulch Park (left) and the Capitola Community Center (right)

FIGURE LU-5 SPECIAL STUDY AREAS



Source: City of Capitola, 2010.

## Key Issues Examined in the General Plan Special Study Areas

- ① **Capitola Village.** Study of Capitola Village focused on four key issues: 1) parking supply and demand; 2) vehicle, bicycle, and pedestrian circulation; 3) Village character and public spaces; and 4) design principles for a potential new Village hotel.
- ② **41<sup>st</sup> Avenue/Capitola Mall.** Study of this area focused on how best to maintain the corridor as a successful region-serving shopping destination. The study also explored ways to provide for a high-quality design environment and to improve circulation and mobility for all modes of transportation.
- ③ **Bay Avenue.** The Bay Avenue study explored ways to promote high quality development that strengthens this resident-serving commercial district. The study also examined strategies to create a more pedestrian-friendly environment with an attractive and welcoming streetscape design.
- ④ **City Hall Pacific Cove.** The City Hall/Pacific study focused on four key issues: 1) future use of the Lower Pacific Cove property; 2) expanded parking to serve Capitola Village; and 3) possible relocation of City Hall and Capitola Police facilities away from flood prone areas.



*Capitola Mall on 41<sup>st</sup> Avenue (top) and City Hall facing Capitola Avenue (bottom)*

## LAND USE MAP AND DESIGNATIONS

This section outlines land use designations for land within city limits, as shown in Figure LU-6. All new development in the city must conform to these designations.

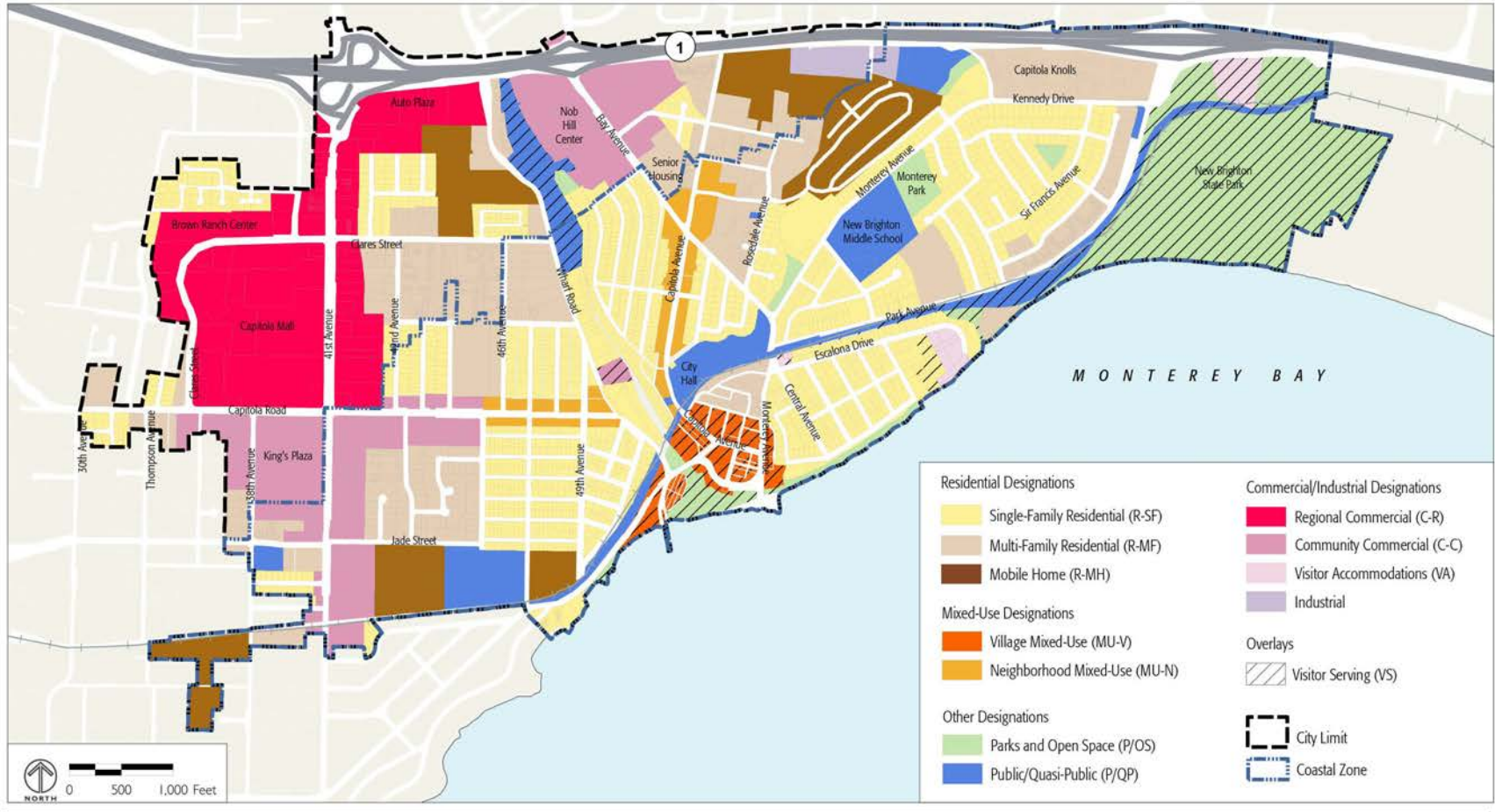
This General Plan defines various land use designations by their allowable uses and maximum densities and intensities. The land use designations in the Land Use Element establish a range of densities and intensities of use in order to provide flexibility for development while still maintaining Capitola's existing character. The development levels listed here do not create entitlements to a specific number of dwelling units or amount of floor area. Densities on individual parcels may be lower due to site constraints or other City regulations.

In this General Plan, standards of building intensity for residential uses are stated as the allowable range of dwelling units per gross acre; this means that the number of allowable units on a parcel can be calculated by multiplying the total number of acres by the allowable density. Standards of building intensity for non-residential uses are determined by setback, height, lot coverage, parking, and other development standards contained in the Capitola Zoning Code.

The goals, policies, and actions contained in this Element provide direction on how the various land use designations should be developed to contribute to the overall character of Capitola.



FIGURE LU-6 LAND USE MAP



Source: City of Capitola, 2010.

## Residential Designations

- ◆ **Single-Family Residential (R-SF).** The R-SF designation applies to residential neighborhoods primarily characterized by detached single-family homes. Permitted land uses include single-family homes and public facilities such as schools, religious institutions, parks, and other community facilities appropriate within a residential neighborhood. The maximum permitted residential density in the R-SF designation is 10 dwelling units per acre.
- ◆ **Multi-Family Residential (R-MF).** The R-MF designation applies to areas primarily intended for multi-family residential development. All residential uses are permitted in the R-MF designation, including single-family homes, duplex homes, townhomes, and multi-family structures. Public facilities, such as schools, religious institutions, parks, and other community facilities appropriate within a multi-family residential setting are also permitted. The maximum permitted residential density in the R-MF designation ranges from 10 to 20 dwelling units per acre.
- ◆ **Mobile Home Park (MH).** The MH designation provides areas for use as mobile home parks to provide a valuable source of affordable housing for Capitola residents. Mobile home coaches and other land uses typically associated with mobile home parks are permitted within the MH designation. A maximum of 20 mobile homes per acre are permitted in the MH designation.



*Cliffwood Heights homes in the R-SF designation (top) and Fanmar Way homes in the R-MF designation (bottom)*

## Mixed-Use Designations

- ◆ **Village Mixed-Use (MU-V).** The MU-V designation applies to the central Capitola Village area and supports a vibrant pedestrian-friendly environment that is the heart of Capitola. A fine-grain mixture of commercial, residential, visitor-serving, recreational, and public uses are permitted in the MU-V designation.
- ◆ **Neighborhood Mixed-Use (MU-N).** The MU-N designation applies to pedestrian-oriented mixed-use areas with an emphasis on resident-serving stores and services. Permitted uses in the MU-N designation include single-family homes, multi-family developments, retail, personal services, community facilities, and other uses compatible with an eclectic neighborhood-oriented mixed-use district. The maximum permitted residential density in the MU-N designation is 20 dwelling units per acre.

## Commercial and Industrial Designations

- ◆ **Regional Commercial (C-R).** The C-R designation provides an area for general retail and services for Capitola residents and regional shoppers. Permitted land uses include shopping malls, auto sales, general retail, personal and business services, restaurants, offices, and similar commercial uses.



*Capitola Village in the MU-V designation (top) and Nob Hill Shopping Center in the C-C designation (bottom)*

- ◆ **Community Commercial (C-C).** The C-C designation provides an area for commercial uses primarily serving Capitola residents. Permitted land uses include general retail, personal services, restaurants, offices, and multi-family housing as part of a mixed-use project. The maximum permitted residential density in the C-C designation is 20 dwelling units per acre.
- ◆ **Visitor Accommodations (VA).** The VA designation applies to areas that provide overnight visitor accommodations. Permitted land uses in the VA designation include hotels, motels, hostels, bed and breakfast lodgings, campgrounds, resorts, and ancillary visitor-serving food and service establishments.
- ◆ **Industrial (I).** The I designation provides an area in Capitola for light industrial and other employment uses. Permitted land uses include manufacturing facilities, vehicle repair, research and development laboratories, administrative offices, warehouses, and homeless shelters.

## Other Designations

- ◆ **Parks and Open Space (P/OS).** The P/OS designation applies to public parks and open space intended for recreational use and/or natural resource preservation. Parks, playgrounds, trails, recreational facilities, visitor centers, and other similar uses are permitted in the P/OS designation.
- ◆ **Public/Quasi-Public Facility (P/QP).** The P/QP designation provides areas for public and community facilities serving Capitola residents and visitors. Permitted land uses in the P/Q designation include govern-



*Capitola Historical Museum in the P/QP designation (top) and a Kennedy Drive building in the I designation (bottom)*


mental offices, police and fire stations, community centers, schools, libraries, churches, and other similar uses.

## Overlay Designations


- ◆ **Visitor Serving (-VS).** The -VS overlay designation applies to areas where additional visitor-serving uses are permitted in addition to the land uses permitted by the base designation. Additional visitor-serving uses permitted in the -VS designation include hotels, motels, hostels, bed and breakfast lodgings, campgrounds, resorts, and ancillary visitor-serving food and service establishments. The maximum permitted development intensity within the -VS overlay designation is determined by the applicable base designation.

# GOALS, POLICIES, AND ACTIONS

## Communitywide

**Goal LU-1 Maintain and enhance Capitola’s distinctive identity and unique sense of place.** 

### Policies

- Policy LU-1.1 Community Character.** Ensure that new development maintains and enhances Capitola’s neighborly feel, coastal village charm, and welcoming character. 
- Policy LU-1.2 Design Quality.** Require all new development to feature high quality design that enhances the visual character of the community.
- Policy LU-1.3 Compatible Development.** Ensure that all new development is compatible with neighboring land uses and development.
- Policy LU-1.4 Community Involvement.** Encourage land uses that promote civic engagement, community interaction, and a sense of pride in Capitola.
- Policy LU-1.5 Inclusiveness.** Provide for a mixture of land uses that cater to the needs of people of all ages, backgrounds, and abilities.



*Home on Depot Hill that contributes to Capitola’s identity as a quaint coastal village*

**Policy LU-1.6 Balanced Community.** Ensure that land use decisions balance the needs, interests, and concerns of Capitola residents, visitors, and workers. 🌐

**Policy LU-1.7 Economic Viability.** Ensure that land use patterns and new development enhance Capitola’s long-term economic viability.

Actions

**Action LU-1.1 Design Guidelines.** Develop commercial and residential design guidelines that preserve Capitola as a unique coastal community and allow for development which will enhance the long-term economic viability of Capitola. Design Guidelines will address topics such as:

- ◆ Unique characteristics of specific residential neighborhoods.
- ◆ Transitions between residential and non-residential land uses.
- ◆ Green building techniques.
- ◆ Pedestrian-friendly commercial and mixed-use building design. 🌐

**Goal LU-2 Protect and enhance the special character of residential neighborhoods.** 🌐

Policies

**Policy LU-2.1 Neighborhood Characteristics.** Require new residential development to strengthen and enhance the unique qualities of the neighborhood in which it is located. Residential neighborhood boundaries are identified in Figure LU-1. 🌐

**Policy LU-2.2 Quality of Life.** Ensure residential neighborhoods are walkable, safe, friendly, and provide a high quality of life for residents of all ages.

**Policy LU-2.3 Neighborhood Congruity.** Require new development in residential neighborhoods to respect the scale, density, and character of nearby homes.

**Policy LU-2.4 Development Impacts.** Ensure that new commercial and residential development, both within and adjacent to neighborhoods, minimizes impacts to residential neighborhoods to the greatest extent possible.

- Policy LU-2.5 Neighborhood Diversity.** Support diverse and inclusive neighborhoods for residents of all ages and backgrounds.
- Policy LU-2.6 Planning Projects.** Ensure that future planning efforts for non-residential areas carefully consider potential impacts on adjacent residential neighborhoods.

**Goal LU-3 Preserve historic and cultural resources in Capitola.** 🌐

Policies

- Policy LU-3.1 Historic Structures.** Encourage the preservation, maintenance, and adaptive reuse of important historic structures in Capitola. 🌐
- Policy LU-3.2 Modification Standards.** Use the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties as a guide for exterior modifications to identified historic resources. 🌐
- Policy LU-3.3 Preservation Incentives.** Promote the maintenance, restoration, and rehabilitation of historical resources through the use of Federal Rehabilitation Tax Credits, State incentives including the Mills Act, the California Cultural and Historical Endowment, and the California State Historical Building Code. 🌐
- Policy LU-3.4 Public Awareness.** Encourage public education and awareness of the history of Capitola and the community’s historical and cultural resources through public outreach, preparing promotional materials, and other similar initiatives. 🌐



*The historic Venetian Court condominiums and hotel*



Actions

- Action LU-3.1 Historic Structures List.** Update the City of Capitola Historic Structures List as new information becomes available. 🌐
- Action LU-3.2 Public Outreach.** Continue to work with the school district to educate the public about the history of Capitola and the community's historical and cultural resources. 🌐

**Goal LU-4 Promote sustainable land use patterns that encourage transportation alternatives and reduce greenhouse gas emissions.**

Policies

- Policy LU-4.1 Land Use Diversity.** Encourage the most diverse mixture of land use that the market will support within the mixed use and commercial land use designations.
- Policy LU-4.2 Walkability.** Encourage development and land uses that enhance a pedestrian-oriented environment.
- Policy LU-4.3 Infill Development.** Support well-designed infill development on vacant and underutilized sites that enhances Capitola's quality of life.
- Policy LU-4.4 Transit and Pedestrian Access.** Encourage new residential and employment development in areas well-served by transit and within walking distance of stores, services, and public facilities.
- Policy LU-4.5 Pedestrian and Bicycle Connections.** Require new development to provide for safe and convenient pedestrian and bicycle connections between residential and commercial areas.
- Policy LU-4.6 Street Closures.** Allow occasional street closures in the Village and other non-residential areas in Capitola to create public spaces for temporary community activities. 🌐

**Policy LU-4.7 Regional Outlook.** Support land uses in Capitola that contribute to a more sustainable regional development pattern in Santa Cruz the Monterey Bay area. Consider the benefits and impacts of new development in Capitola to neighboring jurisdictions and the region as a whole.

**Goal LU-5 Maximize opportunities for public access to and enjoyment of the coast.**

Policies

**Policy LU-5.1 New Development.** Ensure that new development and land uses support and facilitate public access to the coastal areas in Capitola.

**Policy LU-5.2 Signs and Posting.** Provide conspicuous directional signage and postings that identify public access points to the shoreline and coastal-related recreational opportunities.

**Policy LU-5.3 Public Prescriptive Rights.** Ensure that new development does not interfere with public rights to access the coast over private lands acquired through historic use without the explicit consent of the property owner (i.e. “public prescriptive rights”).

**Policy LU-5.4 Public Lands.** Utilize public lands, including rights of way, easements, and dedications for public recreation or access purposes, where appropriate and consistent with public safety and the protection of sensitive environmental resources.

**Policy LU-5.5 Intergovernmental Coordination.** Coordinate public access and recreational planning and management efforts with the State Department of Parks and Recreation, the County of Santa Cruz, the California Coastal Commission, and other relevant governmental agencies.



*Restaurants overlooking Soquel Lagoon*

**Policy LU-5.6 Public Engagement.** Utilize community members and other volunteers as appropriate to assist with the development, maintenance, and operation of public coastal access-ways. 🌐

**Policy LU-5.7 Existing Access-Ways.** Continue to make existing coastal access-ways owned, operated, or maintained by the City available to the public. If temporary closure is necessary to protect public safety, the City shall offer the access-way to another public agency or qualified private association that agrees to open and maintain the access-way for public use. 🌐

**Policy LU-5.8 Sea Level Rise.** Minimize to the extent possible interference to public shoreline access caused by sea level rise. 🌐



*Capitola Beach*

Actions

**Action LU-5.1 Permit Conditions.** Include conditions of approval for new development which protects and maintains recognized public prescriptive rights to access the coast over private lands. 🌐

**Action LU-5.2 Grant Funding.** Utilize available coastal access and open space grant programs from non-profit and governmental agencies for the acquisition and development of enhanced public coastal access opportunities. 🌐

**Action LU-5.3 Sea Level Rise.** Monitor the effects of sea level rise on public access to the shoreline. If the effects of sea level rise (e.g. increased flooding and erosion) have or will likely in the future negatively impact coastal access, develop a plan to mitigate these effects to the greatest extent possible. 🌐

**Goal LU-6 Maintain and enhance public views of the shoreline and other scenic resources in Capitola.** 🌐

Policies

**Policy LU-6.1 Scenic Resources.** Protect and enhance public views of scenic resources such as Monterey Bay, Capitola Beach, and coastal cliffs and bluffs. 🌐

**Policy LU-6.2 New Development.** Ensure that new development, including landscaping, does not significantly block or detract from public coastal views, including from public viewpoints as shown in Figure LU-6. 🌐

**Policy LU-6.3 Framing of Public Views.** Encourage new development on the edges of public view corridors, including those down public streets, to frame and accent public views in a manner that enhances Capitola's scenic qualities. 🌐

**Policy LU-6.4 View Easements.** Where appropriate, require new development to provide view easements or corridors to protect public coastal views or to restore public coastal views in developed areas. 🌐

**Policy LU-6.5 Public Facilities.** Ensure that all improvements to public infrastructure, including roadways, parking, sidewalks, bicycle facilities, public signage, and street trees, do not block or detract from public coastal views, including from public viewpoints as shown in Figure LU-6. 🌐

**Policy LU-6.6 View Access.** Maximize pedestrian access to public viewpoints through trails, paths, sidewalks, and other pedestrian facilities. 🌐



*Enjoyment of public views from Depot Hill*

**Goal LU-7 Provide high quality uses and facilities to serve Capitola’s visitors.** 🌐

Policies

**Policy LU-7.1 Visitor-Serving Priority.** On land designated for visitor-serving uses, give priority to visitor-serving and commercial recreational uses over other commercial uses. Lands designated for visitor-serving uses include all areas designated in the Land Use Map as Village Mixed Use, Village Accommodations, and Visitor Serving Overlay. Destinations within these visitor-serving areas include:

- ◆ Capitola Village
- ◆ All sandy beaches
- ◆ Capitola Wharf
- ◆ New Brighton State Beach
- ◆ Monarch Cove Resort
- ◆ Shadowbrook Restaurant
- ◆ The Rispin property
- ◆ The McGregor property 🌐



*Capitola Wharf*

**Policy LU-7.2 Diversity of Activities.** Encourage a range of visitor-serving uses that cater to the diverse interests, abilities, and needs of Capitola visitors. 🌐

**Policy LU-7.3 Low-Cost Activities.** Ensure that low-cost activities and facilities are widely available for the use and enjoyment of visitors and residents. 🌐

**Policy LU-7.4 Visitor Accommodations.** Support the increase in the number of hotels, motels, hostels, campgrounds, and other visitor accommodations in Capitola with convenient access to the shoreline and other coastal amenities. 🌐

**Policy LU-7.5 McGregor Property.** Encourage the development of a hotel on the McGregor property (APN 036-341-02at McGregor Drive and Park Avenue). If a hotel cannot be developed on this site, utilize the property for park, recreational, or open space uses that serve both residents and visitors. 🌐

**Policy LU-7.6 Sea Level Rise.** Ensure that increased hazards from sea level rise do not diminish the quality or quantity of visitor-serving and coastal recreational uses in Capitola. Work collaboratively with Village property owners and merchants to minimize to the greatest extent possible negative impacts to visitor-serving uses caused by sea level rise. 🌐

**Goal LU-8 Provide high-quality public parks that cater to the diverse needs and interest of Capitola residents and visitors.** 🌐

#### Policies

**Policy LU-8.1 Park Types.** Provide a diversity of park types, including active low-investment (e.g. playfields and picnic facilities), and passive recreational facilities (e.g. natural areas suitable for quiet reflection).

**Policy LU-8.2 Neighborhood Parks.** Maintain a network of neighborhood parks with a variety of facilities that cater to the needs and interests of park users. Ensure that neighborhood parks contain facilities that cater to youth, seniors, and people of diverse socio-economic backgrounds.

**Policy LU-8.3 Sustainable Park Design.** Design, construct, and maintain park facilities in an environmentally sustainable manner. This can be achieved with techniques such as:

- ◆ Preserving sensitive species and habitats.



*Noble Gulch Park*

- ◆ Designing new recreational facilities with environmentally-friendly features.
- ◆ Using reused, renewable, locally sourced, and recycled materials.
- ◆ Employing integrated pest management practices as part of parks maintenance programs.
- ◆ Utilizing drought-resistant and climate-appropriate landscaping with water-efficient irrigation controllers.
- ◆ Integrating on-site stormwater management into park design.

**Policy LU-8.4 New Brighton State Beach.** Cooperate with the California Department of Parks and Recreation and other agencies to maintain, improve, and preserve New Brighton State Beach to serve the region with a variety of nature-oriented and passive recreational opportunities. 🌐

**Policy LU-8.5 Ocean Recreation.** Maintain and enhance access to the waters of Monterey Bay and Capitola Beach as recreational amenities for residents and visitors. 🌐

**Policy LU-8.6 Beach Management.** Manage activities and uses in the beach area so that the beach continues to be a safe and enjoyable place for people of all ages and abilities. 🌐

**Policy LU-8.7 Beach Structures.** Prohibit permanent structures on the open, sandy beach area except for facilities required for public health and safety, to improve public access, or to maintain the health of the beach. Additions to the Capitola Wharf to improve public access and enjoyment are permitted. 🌐

**Policy LU-8.8 Intergovernmental Cooperation.** Maintain partnerships and shared service agreements with local school districts and neighboring communities in order to enhance the range of opportunities available to Capitola residents and achieve cost savings.

**Policy LU-8.9 Special Use Facilities.** Support and encourage the location of special use recreation facilities, such as community gardens, dog parks, and skate parks, on available park or other public lands, where compatible with the existing and planned uses of surrounding properties.

**Policy LU-8.10 Soquel Lagoon.** Continue to allow and encourage recreational activities and events within Soquel Lagoon. 🌐

**Policy LU-8.11 Soquel Creek Access.** Maintain and enhance public access to Soquel Creek within Capitola Village. 🌐

**Policy LU-8.12 Jade Street Park.** Work cooperatively with the School District to ensure that when new school facilities are constructed on the Jade Street Park site, publicly accessible recreational facilities remain on a portion of the site. 🌐

**Policy LU-8.13 Rispin Property.** Utilize the Rispin property (APN 035-371-01 & 02) as a site for park and open space uses that serve both residents and visitors.

**Policy LU-8.14 Monterey Park.** Develop Monterey Park as an active park site with neighborhood-serving recreational facilities and amenities.

#### Actions

**Action LU-8.1 Grant Funding.** Pursue all appropriate grant opportunities, including coastal access and open space grant programs, to fund improvements to existing parks and recreational facilities.

**Action LU-8.2 Safe Routes to Parks.** Conduct a “Safe Routes to Parks” study that evaluates the ability for all residents to safely walk and bicycle to public parks. Identify improvements needed to address any deficiencies and incorporate these improvements into the City’s Capital Improvement Program.

**Action LU-8.3 Rispin Property.** Actively seek grant funding to enhance public access to and enjoyment of parkland and open space on the Rispin property (APN 035-371-01 & 02). 🌐

**Action LU-8.4 Beach Maintenance.** Continue to clean and improve the maintenance of the beach for recreational uses. Develop a program to continue to provide adequate public facilities such as restrooms, showers, and drop-off locations for beach-goers. 🌐



*Capitola Community Center at Jade Street Park*



**Goal LU-9 Support recreational programs and community events that contribute to a high quality-of-life.**

Policies

**Policy LU-9.1 Range of Programs.** Provide a range of recreational programs and services to Capitola residents that cater to people of all ages, backgrounds, and activity levels.

**Policy LU-9.2 Interjurisdictional Partnerships.** Continue to partner with other jurisdictions in the Mid-County area to maximize the diversity of recreational programs and activities available to Capitola residents.

**Policy LU-9.3 Community Interaction.** Support recreational programs that encourage the interaction of different segments of the Capitola population and help to strengthen a sense of community.

**Policy LU-9.4 Connection to Environment.** Encourage recreational programs that enhance the public connection to and appreciation of the natural environment.

**Policy LU-9.5 Community Events.** Continue to support community events such as the Begonia Festival that contribute to Capitola’s unique coastal identity.

**Policy LU-9.6 Year-Round Events.** Encourage community events in the Village during the winter months that contribute to the year-round vitality of the Village.

**Policy LU-9.7 New Brighton Middle School.** Work cooperatively with the School District to maintain New Brighton Middle School as a permanent facility that is a valued amenity for neighbors and the general public.



*Capitola Begonia Festival*

## Actions

- Action LU-9.1 Trails and Pathways.** Maintain existing trails and pathways.
- Action LU-9.2 Coastal Recreation.** Explore opportunities to increase coastal recreational activities in Capitola, particularly activities that support environmental awareness and stewardship of the marine and coastal environment. 🌐

## Special Study Areas

### CAPITOLA VILLAGE

#### Goal LU-10 Strengthen Capitola Village as the heart of the community. 🌐

## Policies

- Policy LU-10.1 Village Character.** Maintain the Village as a vibrant mixed-use district with residences, visitor accommodations, restaurants, shops, and recreational amenities. 🌐
- Policy LU-10.2 Businesses Diversity.** Attract and retain a diverse assortment of small-scale businesses that appeal to local residents, and visitors. Encourage family-friendly businesses and activities that appeal to people of all ages. 🌐
- Policy LU-10.3 Public Spaces.** Provide high quality public spaces available for the use and enjoyment of visitors and residents. Prioritize pedestrian access to these spaces and maintain amenities, such as seating areas, drinking fountains, and landscaping, that invite and encourage pedestrian activity. 🌐



*Pedestrian activity in the Village*

- Policy LU-10.4 Housing Types.** Maintain a diverse supply of housing types for permanent residents and temporary visitors to support the Village as an area enjoyed by residents and visitors. 🌐
- Policy LU-10.5 Vertical Mixed-Use.** Encourage vertical mixed use (i.e. housing above ground floor commercial) as a way to increase the vitality and activity in the Village. 🌐
- Policy LU-10.6 Community Events.** Support and actively encourage community events that attract visitors and residents to the Village. Events should occur during the winter months and in the early evening to attract visitors and increase activity during these times. 🌐
- Policy LU-10.7 Quality of Life.** Continue to maintain a high quality of life in the Village by keeping sidewalks clean and proactively addressing noise, odor, and safety issues. 🌐
- Policy LU-10.8 Capitola Wharf.** Maintain Capitola Wharf as a free access public fishing pier for the use and enjoyment of Capitola residents and visitors. 🌐
- Policy LU-10.9 Soquel Creek.** Maintain Soquel Creek as a public amenity with improved access, visibility, and opportunity for public enjoyment and appreciation. 🌐
- Policy LU-10.10 Village Hotel.** Encourage the establishment of an appropriately designed new hotel in the Village to enhance the vitality of the area. 🌐

Actions

- Action LU-10.1 Entertainment and Recreation.** Pursue opportunities to increase the amount of entertainment and recreation amenities in the Village, particularly those that strengthen a connection to the natural environment and coastal setting. 🌐
- Action LU-10.2 Wharf Improvements.** Pursue grant funding to prepare a master plan for the Capitola Wharf that will address issues relating to access, parking, signage, maintenance, and visitor amenities. 🌐

**Goal LU-11 Ensure a high quality and distinctive design environment in Capitola Village.**

Policies

**Policy LU-11.1 New Development Design.** Require all new development to enhance the unique character of the Village. This should be accomplished through:

- ◆ Appropriate building mass and scale that complements neighboring structures.
- ◆ Design details and architectural styles that complement, but do not necessarily duplicate, the Village's historic character.
- ◆ Finely detailed building façades that contribute visual interest to the streetscape.
- ◆ Pedestrian-oriented building design with active ground floor uses and inviting storefronts facing the sidewalk.
- ◆ Outdoor public and semi-public gathering spaces, such as patios, courtyards, and outdoor dining.
- ◆ Limited parking visible from the street and minimized curb cuts.
- ◆ High quality signage and other accessory structures. 🌐



*Human-scale development pattern in the Village*

**Policy LU-11.2 Public Infrastructure.** Ensure that all improvements to public infrastructure, including roadways, parking, sidewalks, bicycle facilities, public signage, and street trees, support a pedestrian-friendly environment and a distinctive sense of place. 🌐

**Policy LU-11.3 Scenic Resources.** Protect and enhance significant scenic resources that contribute to the unique identity and public enjoyment of the Village. Scenic resources include:

- ◆ The general pedestrian-oriented and coastal village character of existing development in the Village.

- ◆ Public and semi-public gathering places, including Esplanade Park, Lawn Way, and the Capitola Wharf.
- ◆ Landscaping and streetscape amenities.
- ◆ Historic structures, including contributing structures to Capitola’s four National Register Historic Districts and structures listed on the official City of Capitola Historic Structures List.
- ◆ Natural features such as Capitola Beach, Soquel Creek and Lagoon, cliffs and bluffs, and vegetated banks. 🌐

**Policy LU-11.4 Development Intensity.** Provide for additional parking and alternative transportation systems such as a shuttle bus and remote parking to allow additional development and investment that increases vitality and activity in the Village. 🌐

**Policy LU-11.5 Hotel Guiding Principles.** Require any new hotel proposed on the site of the former Capitola Theatre to be consistent with the Village Hotel Guiding Principles (see Appendix A).

Actions

**Action LU-11.1 Village Design Guidelines.** Update the Village Design Guidelines to reflect current conditions and to encourage new development that will enhance the unique qualities of the Village. These guidelines will help to protect scenic resources, support economic development, and enhance the Village as an area for both residents and visitors. Guidelines will also address increased hazards resulting from sea level rise. 🌐

41<sup>ST</sup> AVENUE/CAPITOLA MALL

**Goal LU-12 Support the long-term transformation of Capitola Mall into a more pedestrian-friendly commercial district with high quality architecture and outdoor amenities attractive to shoppers and families.**

## Policies

**Policy LU-12.1 Phased Mall Redevelopment.** Allow for a phased approach to redevelopment of the Mall property. Early phases may include improvements to the Mall façade and front entrance, and new retail pads fronting 41st Avenue. These early improvements shall not conflict with the ultimate vision for the property, as represented in the 41<sup>st</sup> Avenue/Capitola Mall Vision Plan (see Figure LU-7).

**Policy LU-12.2 Parking Lot Redevelopment.** Encourage the development of structures on existing Capitola Mall surface parking lots located adjacent to 41<sup>st</sup> Avenue and Capitola Road. New pad development along 41<sup>st</sup> Avenue should enhance the design character of 41<sup>st</sup> Avenue and support the long-term vision for the Mall as a pedestrian-friendly commercial destination.

**Policy LU-12.3 Metro Center Relocation.** Support the relocation of the Metro Center to an alternative location on the Capitola Mall property that meets the operational requirements of Santa Cruz Metro and advances design goals for the Capitola Mall. Encourage the Metro Center to become a multi-modal facility with amenities for bicycles and integration with a possible future shuttle system in Capitola.



*Metro Center at Capitola Mall*

**Policy LU-12.4 Public Gathering Places.** Encourage the establishment of public gathering places on the Mall property—such as outdoor dining and courtyards—that provide space for people to informally meet and gather.

**Policy LU-12.5 New Interior Street.** As a long-term vision for Capitola Mall, support the addition of a new interior street within the Mall property lined with sidewalk-oriented retail, outdoor dining, and pedestrian amenities. This new street should be connected with the existing street network surrounding the Mall property to enhance mall access for all modes of transportation.

Actions

- Action LU-12.1 Transit Center Relocation Funding.** Work with Capitola Mall owners and Santa Cruz Metro to identify funding for the relocation of the Transit Center.
- Action LU-12.2 Infrastructure Improvement Funding.** Identify funding sources for infrastructure improvements that will stimulate investment and redevelopment of the Capitola Mall property and provide urban amenities attractive to residential and mixed use development.

**Goal LU-13 Encourage high quality development within the 41<sup>st</sup> Avenue corridor that creates an active and inviting public realm.**

Policies

- Policy LU-13.1 Public Amenities.** Encourage new development to provide amenities that enhance the vitality of the corridor, such as outdoor dining and courtyards, publically accessible or semi-public gathering places, and bicycle and pedestrian facilities.
- Policy LU-13.2 Entertainment Uses.** Encourage the establishment of new entertainment and commercial recreation uses, and the expansion of existing entertainment uses, within the corridor.
- Policy LU-13.3 Destination.** Establish 41<sup>st</sup> Avenue as an attractive destination with activities for families and people of all ages that occur throughout the day and night.
- Policy LU-13.4 Neighborhood Impacts.** Minimize negative impacts—particularly parking, noise, and traffic—on residential neighborhoods adjacent to the corridor.
- Policy LU-13.5 Sensitivity to Adjacent Areas.** Require new development to be sensitive to adjacent development, particularly single-family homes.



*Whole Foods Shopping Center on 41<sup>st</sup> Avenue*

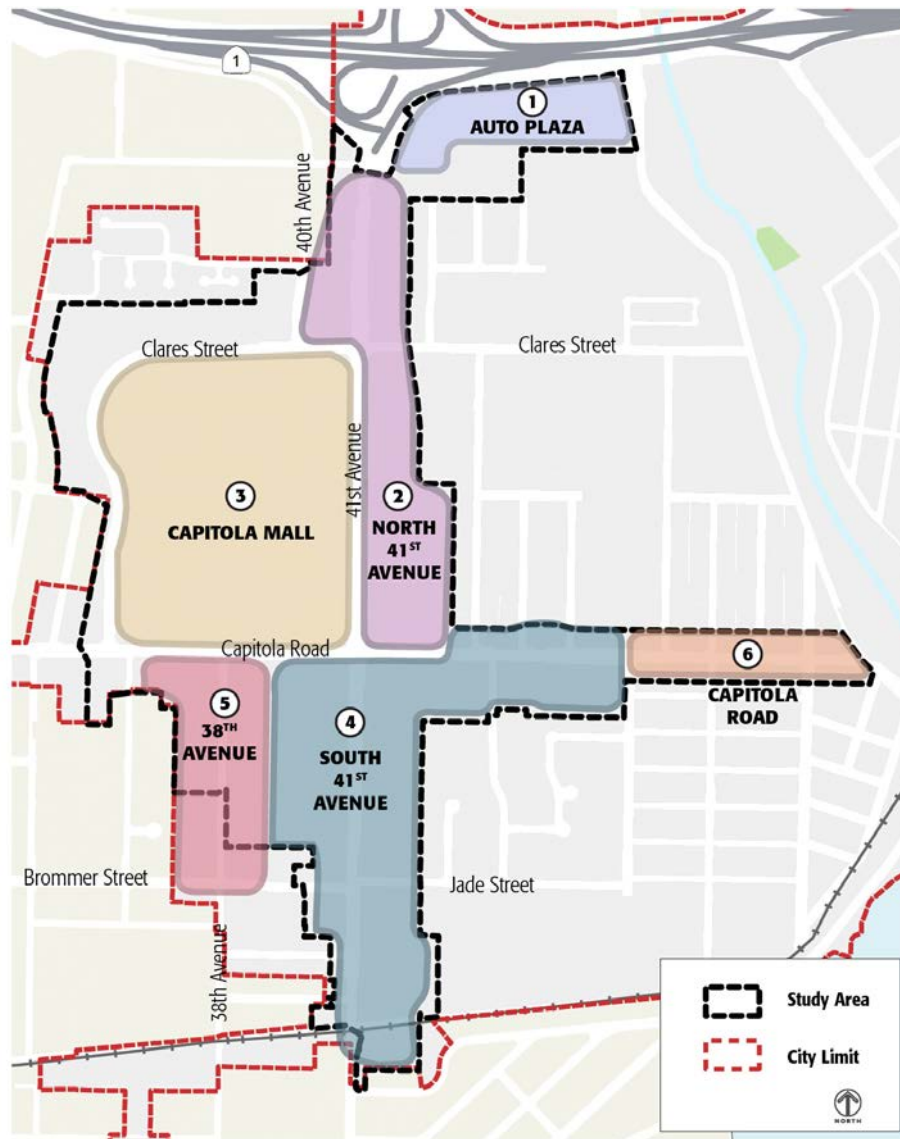
- Policy LU-13.6 General Development Guidelines.** Encourage all development within the 41<sup>st</sup> Avenue corridor to be consistent with the Enhancing Capitola's Commercial Districts design guidelines in this element.
- Policy LU-13.7 Auto Dealers.** Continue to support the long-term presence of auto dealers within the corridor, particularly within the Auto Plaza area adjacent to Highway 1.
- Policy LU-13.8 North of Capitola Road.** Encourage the concentration of regional retail uses along 41<sup>st</sup> Avenue north of Capitola Road. Minimize residential uses north of Capitola road to protect this area as a regional retail destination.
- Policy LU-13.9 South of Capitola Road.** Encourage resident-serving uses to locate south of Capitola Road. Permit residential uses in this area to increase the vitality of the area and support resident-serving businesses
- Policy LU-13.10 Capitola Road.** Encourage new sidewalk-oriented commercial uses on Capitola Road to create a two-sided pedestrian-friendly commercial area visible from 41<sup>st</sup> Avenue.
- Policy LU-13.11 38<sup>th</sup> Avenue.** Encourage 38<sup>th</sup> Avenue as a pedestrian-friendly street with new multiple-family housing, vertical mixed use (housing above commercial), sidewalk-oriented commercial uses, and streetscape and infrastructure improvements
- Policy LU-13.12 Village Connections.** Encourage uses on Capitola Road east of 41<sup>st</sup> Avenue that strengthens connections between 41<sup>st</sup> Avenue and Capitola Village. Desirable types of development in this area include small boutique hotels, restaurants and cafes, and mixed-use development with housing above ground floor commercial.

#### Actions

- Action LU-13.1 Auto Plaza Access.** During the Highway 1 HOV lane project design phase, work with Caltrans to identify ways to enhance visibility of and access to the Auto Plaza. Possible improvements include Highway 1 interchange modifications, intersection improvements at Gross Road, and improved signage.



FIGURE LU-7 41<sup>ST</sup> AVENUE/CAPITOLA MALL VISION



- ① **Auto Plaza.** Support the long-term presence of auto dealers in areas adjacent to Highway 1.
- ② **North 41<sup>st</sup> Avenue.** Encourage new regional retail development along 41st Avenue that enhances the design character of the corridor.
- ③ **Capitola Mall.** Encourage the transformation of the Mall into a pedestrian-friendly commercial destination
- ④ **South 41<sup>st</sup> Avenue.** Encourage residential serving commercial, residential uses, and mixed-use development to increase pedestrian activity and support local businesses.
- ⑤ **38<sup>th</sup> Avenue.** Activate 38th Avenue with new multi-family housing, mixed use development, and pedestrian and streetscape improvements.
- ⑥ **Capitola Road.** Strengthen connections to Capitola Village with an eclectic mixture of residential, commercial, and visitor-serving uses.

## Enhancing Capitola's Commercial Districts

The General Plan envisions the 41<sup>st</sup> Avenue and Bay Avenue areas to be thriving commercial districts that contribute to a high quality of life in Capitola. To achieve this vision, these areas will need to become attractive destinations with a design character that is safe and inviting for pedestrians. New development in these areas, when it occurs, will need to be carefully designed to enhance Capitola's unique identity, minimize impacts to neighboring properties, promote transportation alternatives, and create a safe and welcoming environment for pedestrians. Below are general strategies that can be used in these areas to achieve these goals within the 41<sup>st</sup> Avenue and Bay Avenue areas.

- ◆ **Compatibility.** The height, massing, setbacks, and design character of buildings should be sensitive to impacts on surrounding development.
- ◆ **Plazas and Open Space.** Semi-public outdoor spaces, such as plazas and courtyards, should be integrated into commercial development to help support pedestrian activity and connections to the public realm.
- ◆ **Connections to Adjacent Properties.** Shared facilities such as driveways, parking areas, plazas, and walkways should be used to improve connections and integration of adjacent properties.



*Active ground floor building frontages and parking located to the year create an inviting pedestrian realm*

◆ **Parking Location and Design.** Surface parking areas should not be located adjacent to a public street. If unavoidable, surface parking areas should be visually screened with buildings, landscaping, or low walls and fencing along the edge to the sidewalk. Parking should be designed in clusters that encourages walking between multiple destinations. Parking lots should incorporate safe pedestrian walkways between buildings.

◆ **Vehicle Access.** Points of vehicle access (curb cuts) from the street to the property should be limited to the minimum number necessary to serve the property.

◆ **Pedestrian and Bicycle Access and Circulation.** Clear, safe points of access should be provided to sites for pedestrians and bicyclists, not just vehicles.

◆ **Public Transit Access.** Bus stops should be evaluated for convenience, safety, visibility, and improved covered shelter.

◆ **Sustainable Design.** Sustainable design practices should be incorporated into new development, including climate-appropriate plant materials, green stormwater solutions, and solar orientation.



*Semi-public places such as outdoor dining areas create attractive destinations for residents and visitors*

## BAY AVENUE

**Goal LU-14 Maintain and enhance the Bay Avenue commercial district as a thriving destination with businesses that meet the day-to-day needs of Capitola residents.**

Policies

**Policy LU-14.1 New Development.** Ensure that new development enhances the design character of the district, strengthens existing businesses, and minimizes impacts on adjacent residential neighborhoods. New development should occur in a manner consistent with Figure LU-8.

**Policy LU-14.2 Bay Avenue Streetscape.** Enhance the Bay Avenue streetscape in a way that improves the appearance of Bay Avenue, increases safety for bicyclists and pedestrians, and stimulates private investment within the area.

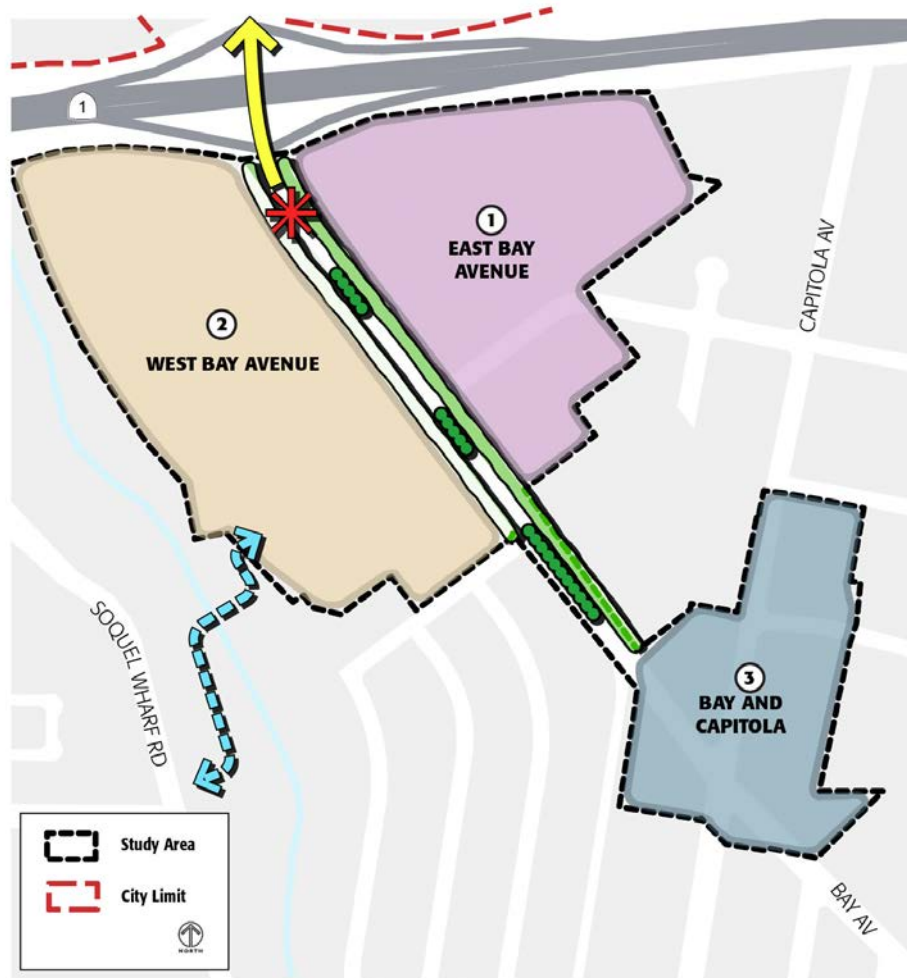
**Policy LU-14.3 Tree-Lined Boulevard.** Encourage a tree-lined boulevard streetscape character along Bay Avenue north of the Capitola Produce property. When properties are redeveloped in this area, encourage property owners to install street trees and landscaping along the Bay Avenue property frontage.

**Policy LU-14.4 Neighborhood Center.** Encourage a more urban character to the streetscape design south of the Bay Avenue Senior Housing property. Create a design environment that is more welcoming to pedestrians in the area adjacent to the Bay Avenue and Capitola Avenue intersection. This could be achieved through enhanced pedestrian amenities such as widened sidewalks and improved crosswalks, as well as new development built at or close to the front property line and sidewalk-oriented commercial uses opening out onto the front sidewalk and street.



*Capitola Produce Market*

FIGURE LU-8 BAY AVENUE VISION



- ① **East Bay Avenue.** New development fronting Bay Avenue should incorporate street trees and landscaping to strengthen a landscaped boulevard streetscape character. Buildings should be oriented towards the street to support an active public realm along Bay Avenue and Hill Street.
- ② **West Bay Avenue.** Ensure that development on the Grimes property is carefully integrated with other uses in the area. Minimize new driveways on Bay Avenue through shared parking arrangements and joint use of existing Bay Avenue access points.
- ③ **Bay and Capitola.** Encourage a more pedestrian-friendly design character with new development that invites pedestrian activity. If the Bay Avenue and Capitola Avenue intersection is reconfigured as a traffic circle, orient new development towards this new neighborhood focal point.

- Policy LU-14.5 Highway 1 Interchange.** Encourage Caltrans to incorporate an attractive landscaped gateway element and improved bicycle and pedestrian facilities as part of any significant renovation to the Bay Avenue/Highway 1 interchange.
- Policy LU-14.6 Recreation Access.** Enhance access to Soquel Creek, Peery Global Park, and the non-vehicular bridge over Soquel Creek, which serves as an important link to the Rispin property, the Capitola Library, and Capitola Mall.
- Policy LU-14.7 General Development Guidelines.** Encourage all development within the Bay Avenue district to be consistent with the Enhancing Capitola's Commercial Districts design guidelines in this element.



#### Actions

- Action LU-14.1 Landscaped Medians.** Explore opportunities to install landscaped medians on Bay Avenue in locations where left turn movements for vehicles would not be restricted.
- Action LU-14.2 Roundabout.** Conduct a robust public outreach process to finalize plans to install a roundabout at the Bay Avenue/Capitola Road intersection.

#### CITY HALL/PACIFIC COVE

**Goal LU-15 Utilize the City Hall/Pacific Cove area for the benefit of the community as shown in Figure LU-9.** 

#### Policies

- Policy LU-15.1 Parking Solution.** Prioritize City efforts to utilize the Pacific Cove/City Hall site as the location for additional parking to serve the Village. 
- Policy LU-15.2 Temporary Parking.** Allow temporary surface parking on the Lower Pacific Cove site until a permanent parking structure is completed in the location of the existing City Hall parking lot. 

**Policy LU-15.3 Parking Structure.** Maximize year-round use of the parking structure by allowing multiple uses in the structure, such as for special events in the off-peak season. 🌐

**Policy LU-15.4 Future Open Space or Public Use.** Convert the temporary surface parking on the Lower Pacific Cove site to open space, park, or other public use as soon as possible following the completion of the parking structure. 🌐

Actions

**Action LU-15.1 Parking Structure.** Design, approve, finance, and construct a new parking structure in the location of the Upper Pacific Cove parking lot to serve visitors to Capitola Village and Beach. The design of this parking structure should minimize impacts on neighboring properties and improve pedestrian connectivity between the parking structure and the central Village. This can be done by:

- ◆ Locating the main pedestrian gateway to the parking structure on Capitola Avenue as close to the central Village as possible, and designing this gateway to have an inviting presence on Capitola Avenue.
- ◆ Providing a secondary pedestrian entrance to the parking structure from Monterey Avenue.
- ◆ Creating a pedestrian and bicycle path along the railroad tracks adjacent to the Pacific Cove/City Hall property.
- ◆ Accommodating the needs of persons with disabilities to access the parking structure and to get to and from the central Village.
- ◆ Making sidewalk, lighting, and other improvements to Capitola Avenue and Monterey Avenue between the parking structure and the Village. 🌐



*Capitola City Hall*

FIGURE LU-9 CITY HALL/PACIFIC COVE VISION




- ① **Capitola Avenue.** Consider renovating the existing City Hall and Police Department building to elevate governmental offices and police facilities out of the flood plain. Also, consider moving City Hall to a new location, either to a higher elevation portion of the property or to an entirely new site within the city.
- ② **Upper Pacific Cove.** Utilize this area for additional parking to serve the Village, preferable in the form of a multi-story parking structure. Providing additional parking in this area should be one of the City's highest priorities.
- ③ **Lower Pacific Cove.** Use this area for temporary parking to serve the Village. When additional parking is provided in the Upper Pacific Cove area, convert the Lower Pacific Cove area to a park/recreational/natural open space area. To the extent possible, daylight the stream that currently flows through a pipe under the site. Maintain the option that a portion of the site, particularly near to Bay Avenue, could be utilized for a public or community facility.
- ④ **Monterey Avenue.** In the short term, maintain this area as undeveloped open space. Maintain the option to allow a public or community facility within some or all of this area.



**Action LU-15.2 Phased Open Space Plan.** Develop a phased plan for the Lower Pacific Cove site to convert the temporary surface parking on the Lower Pacific Cove site to open space, park, or other public use as soon as possible following the completion of the parking structure.



**Action LU-15.3 City Hall.** Continue to study options for relocating the existing City Hall and Police Department facilities to an alternative location. Consider new locations within the existing City Hall site or elsewhere within the city. Explore alternative uses for the current City Hall property as part of this effort. 



# Appendix A: Village Hotel Guiding Principles

Land Use Element Goal LU-10 calls for Capitola to “strengthen Capitola Village as the heart of the community.” One of the ways to achieve this goal is through the establishment of a new hotel in the Village. Land Use Element Policy LU-10.10 calls for the City to “encourage the establishment of an appropriately designed new hotel in the Village to enhance the vitality of the area.”

The site of the former Capitola Theatre on Monterey Avenue is one potential location for a new hotel in the Village (see Figure 1). This site is an attractive location for a new hotel due to its central location, proximity to the beach, and vacant status. The site also presents a number of challenges, including parking, traffic, and height and mass constraints.

To address these opportunities and constraints, the process to prepare this General Plan included a special study of the Village which examined design options for a new hotel on the Capitola Theatre site. The outcome of this study was a set of guiding principles for the design of a new hotel on this site. These guiding principles, presented on the following pages, identify core design principles to ensure that a new hotel would enhance the Village in a manner consistent with community goals and desires.

The Village special study also included the preparation of a conceptual hotel design to “test” the hotel design guiding principles. These designs aren’t intended to reflect a

FIGURE 1 POTENTIAL HOTEL SITE LOCATION



desired hotel project design, but rather to determine if the guiding principle ideas would allow for a viable hotel project consistent with the desires of the community. Hotel test designs were prepared by hotel architect John Hill of HKS Hill Glazier at the Village Community Workshop held on November 12, 2011. These designs are shown in Figure 3 following the guiding principles.

It should be noted that a hotel is not the only use permitted on the Capitola Theatre site. The General Plan designates this site as Mixed Use-Village, which allows for a variety of commercial and visitor-serving land uses. The property owner could propose to develop this site with any of these other permitted land uses. However, the Guiding Principles described in this appendix would apply only to a hotel use. Other uses also would not be eligible for increased building height, reduced parking standards, and other adjusted development standards intended only for a new hotel on this site.

The Village Hotel Guiding Principles reflect community desires and expectations for a new hotel in the Village. If a hotel is officially proposed for the site, the property owner and developer will submit their own design for the hotel. The City will evaluate this project on its own merits, and will evaluate this proposed project for consistency with these guidelines, as well as other applicable City policies and regulations. The review of this project will involve a number of public meetings and hearings with extensive opportunities for resident input on the proposal.



*Hotel site facing Capitola Beach*

# Guiding Principles for the Design of a Hotel on the Site of the Former Capitola Theatre on Monterey Avenue

## 1. Identity

- 1.1 The hotel should appear as an iconic landmark within the Village while respecting the scale and character of neighboring structures and Capitola Village activities.
- 1.2 The hotel should function as a focal point that generates activity and investment within the Village.
- 1.3 The hotel design should be complementary to the existing historic fabric of the Village.
- 1.4 The hotel should be original, authentic, and enhance Capitola’s unique sense of place.

## 2. Height and Mass

- 2.1 The maximum height of the hotel should remain below the elevation of the bluff behind. The bluff behind the hotel should remain legible as a green edge with existing mature trees maintained on site. See Figure 2.
- 2.2 The hotel should terrace up from a two or three story frontage on Monterey Avenue, stepping back as it goes up. See Figure 2.
- 2.3 The hotel design should minimize impacts to public views from Depot Hill of the beach and Village to the greatest extent possible. See Figure 2.
- 2.4 The hotel mass should be broken up in a way that continues the rhythm of adjacent structures on Cliff Avenue and El Camino Medio.

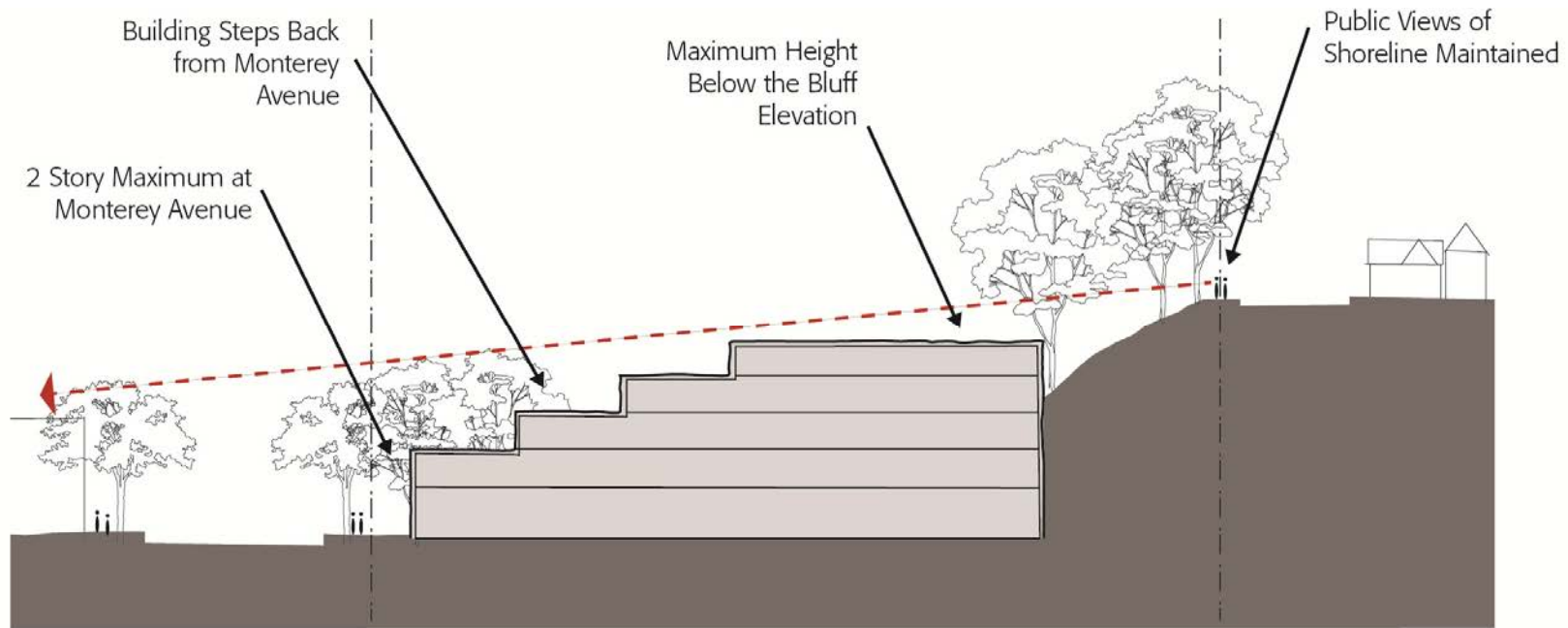
## 3. Parking

- 3.1 The hotel should be served by a combination of on-site and off-site parking.
- 3.2 Parking provided on-site should be no more than the minimum necessary for an economically viable hotel.
- 3.3 On-site parking should be minimized to reduce vehicle traffic in the Village and strengthen the Village as a pedestrian-oriented destination.
- 3.4 The quantity and design of on-site hotel parking should minimize any increase in Village traffic congestion to the greatest extent possible.
- 3.5 Off-site parking to serve the hotel should be located within the planned Upper Pacific Cove parking structure.

## 4. Vehicle Access and Circulation

- 4.1 Service vehicles and guests should access the hotel site in a manner that minimizes disturbances to nearby properties and enhances the Village as a pedestrian-oriented district.

FIGURE 2 HOTEL HEIGHT AND MASS



- 4.2 If service vehicles access the hotel from Monterey Avenue, the service entry must be screened with attractively designed doors.
- 4.3 Private vehicles are encouraged to access the hotel from the northern side of the property to minimize driveway width on Monterey Avenue.
- 4.4 Hotel guests and service vehicles should be prohibited from accessing the hotel from the uphill portion of El Camino Medio.
- 4.5 The City should consider converting Monterey Avenue to a two-way street as part a specific hotel project application.
- 4.6 Any driveway accessing the hotel from Monterey Avenue should be as narrow as possible, preferably less than 24 feet in width.

## 5. Monterey Avenue Frontage

- 5.1 The hotel building frontage along Monterey Avenue should contribute to an active, attractive, and engaging pedestrian environment.
- 5.2 Publically accessible hotel uses should be located on Monterey Avenue to support an active pedestrian environment.

- 5.3 The ground floor hotel lobby should be attractive, transparent, and easily accessible for pedestrians.
- 5.4 The hotel frontage along Monterey should be primarily two stories high with a varied roof line to reflect other Village buildings. The Monterey Avenue façade should be divided into vertical bays, with each bay delineated from its neighboring bay by a change in plane or other method.
- 5.5 Meeting space located in the hotel should be easily accessible from Monterey Avenue. Any meeting space should be available for public uses and events.

## **6. Esplanade Park Frontage**

- 6.1 The hotel should enhance the public's access to and enjoyment of Esplanade Park and Capitola Beach.
- 6.2 The hotel may occupy air space above the bathrooms, storage area and pump station in Esplanade Park if this space is publically accessible and provides a significant public benefit.
- 6.3 The hotel may rebuild or reconfigure the existing bathrooms, storage area and pump station and integrate these functions into an overall project design, provided that public use of these facilities is not in any way diminished.

## **7. Sustainability**

- 7.1 The hotel should be developed to at least a LEED Silver standard or equivalent.
- 7.2 The hotel should encourage alternative modes of transportation by providing a car share parking space, offering free bike rentals, providing discounted transit passes to employees, or other similar methods.
- 7.3 Hotel landscaping should incorporate a combination of drought-tolerant and non-invasive plants as appropriate for a commercial building.
- 7.4 The hotel design should incorporate low-energy cooling, ventilation, and heating techniques to the extent feasible.
- 7.5 If practical, the hotel could include a green or garden roof atop the building.

**FIGURE 3 CONCEPTUAL HOTEL DESIGN**

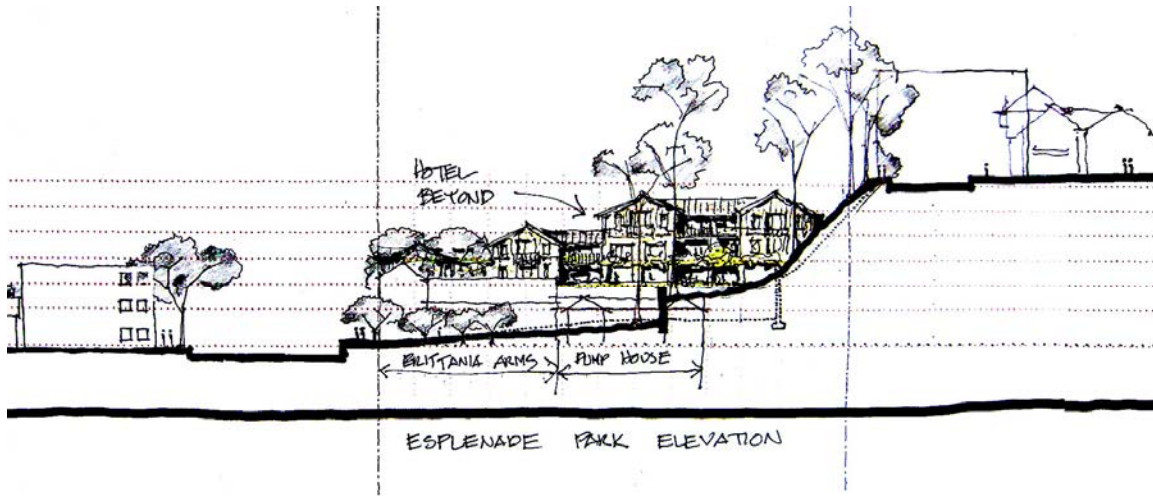
Note: These illustrations represent one possible approach to a new hotel design. They were prepared by hotel architect John Hill of HKS Hill Glazier at the Village Community Workshop held on November 12, 2011. These illustrations are not intended to reflect a specific hotel project design preferred by the City.

*Monterey Avenue Elevation*

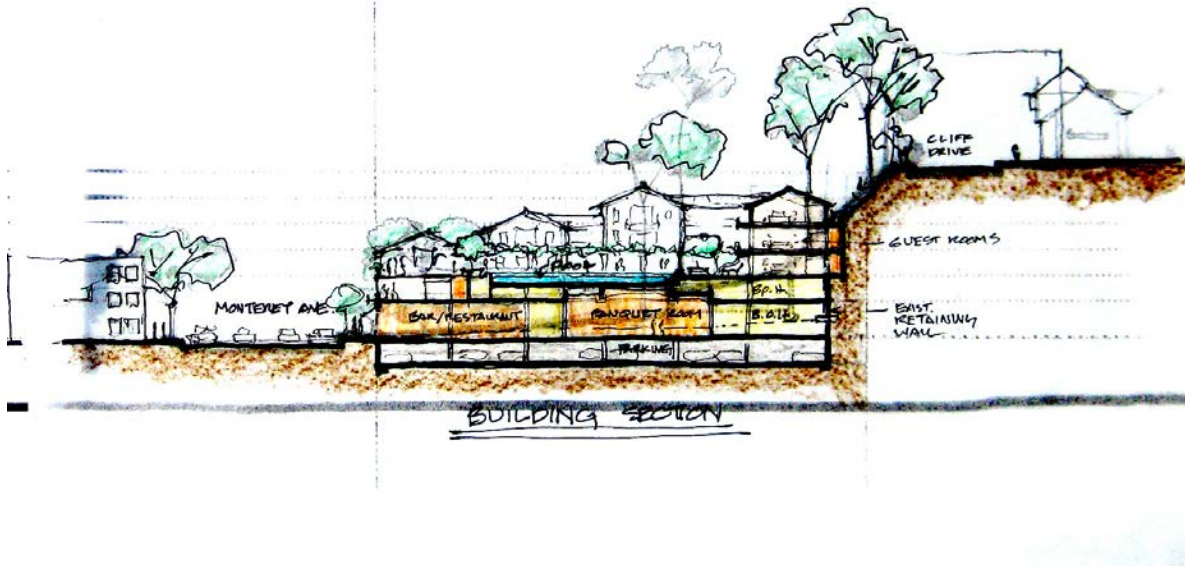




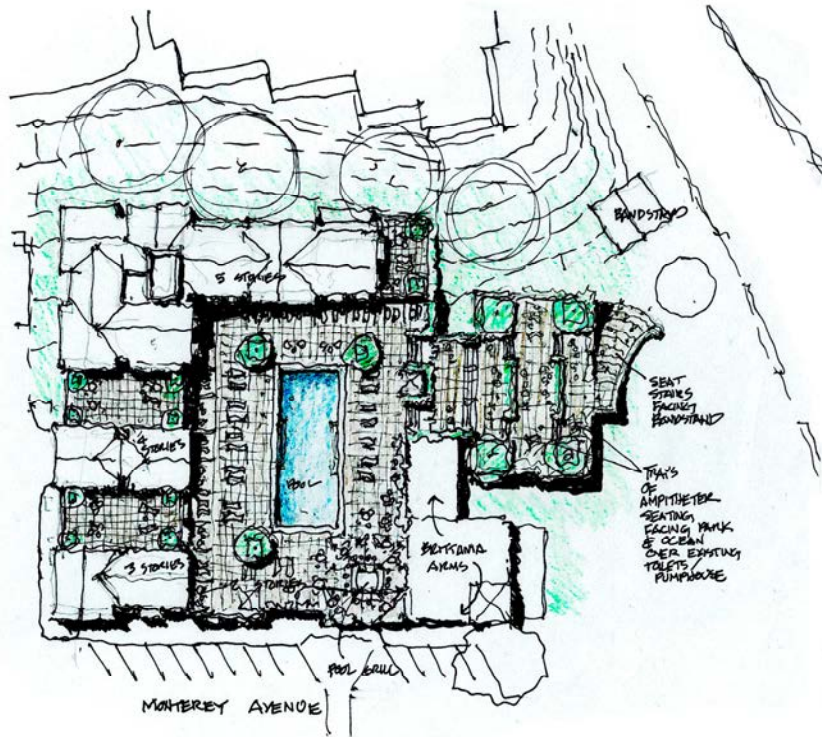
Esplanade Park Elevation



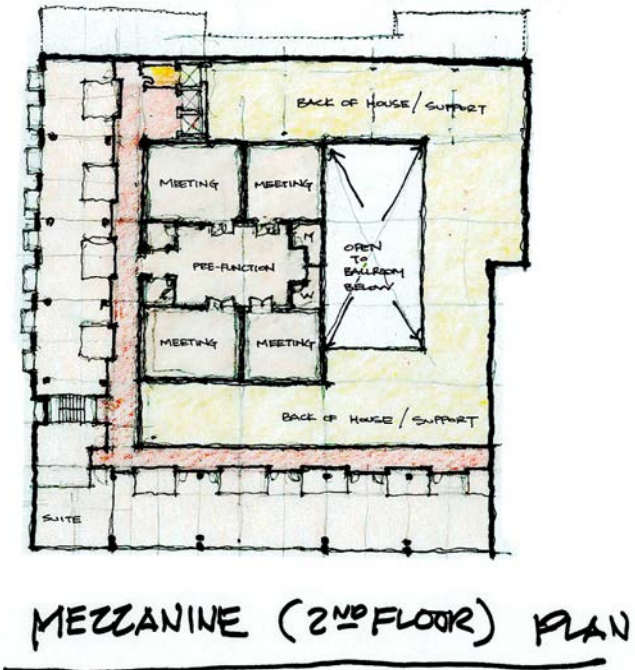
Building Section



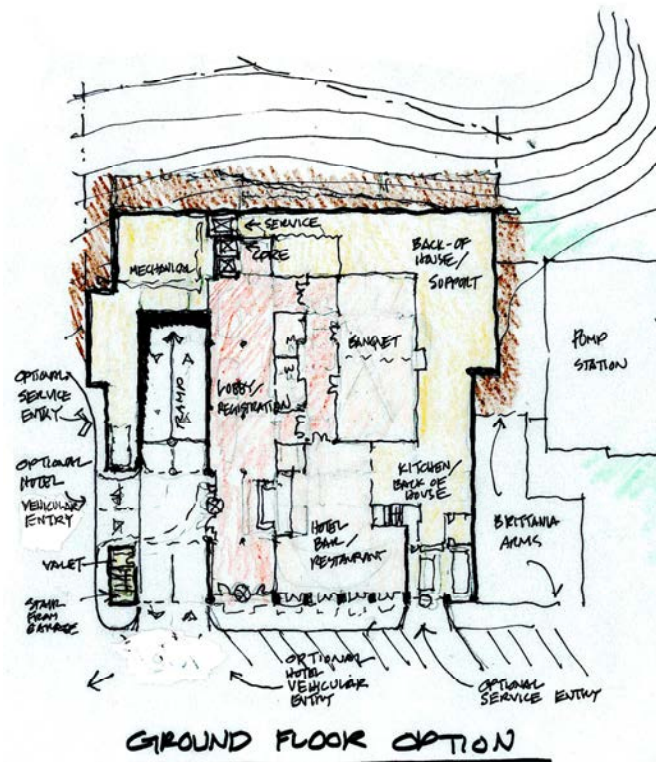
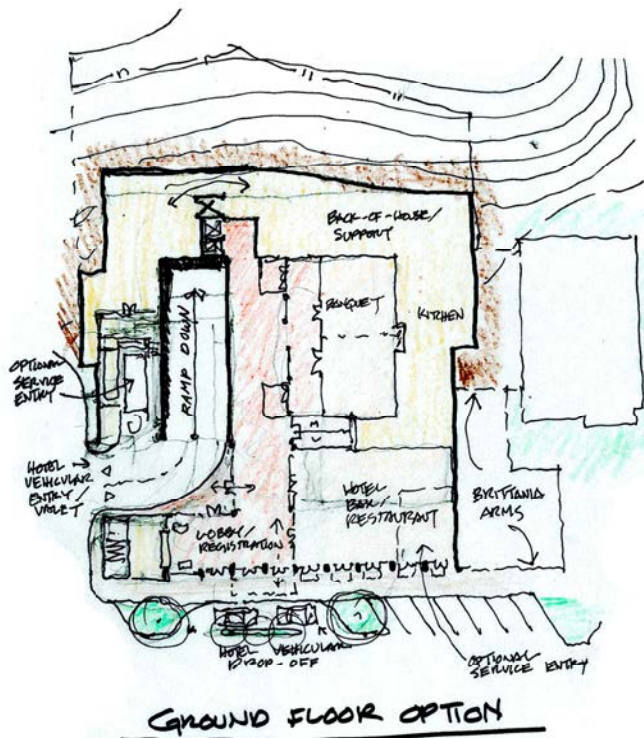
Roof Design



Second Floor Plan



Two Ground Floor Design Options



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# Appendix B: Action Plan

This Action Plan outlines projects that should be completed within the first five years after the City adopts the General Plan and Local Coastal Program. The Action Plan identifies the primary responsible department, additional parties involved, and, when the project or activity will occur. The Action Plan is organized by General Plan element with action description shortened for brevity. The completion of actions is contingent upon the availability of funding resources.

Action Number	Action	Primary Responsible Department	Additional Parties Involved	Implementation Years				
				FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
<b>Land Use Element</b>								
LU-1.1	<b>Design Guidelines.</b> Develop commercial and residential design guidelines.	Community Development			✓	✓		
LU-3.1	<b>Historic Structures List.</b> Continue to maintain and update the City of Capitola Historic Structures List.	Community Development	Historical Museum	✓	✓	✓	✓	✓
LU-3.2	<b>Public Outreach.</b> Continue to work with the school district to educate the public about the history of Capitola and the community's historical and cultural resources.	Community Development	Historical Museum	✓	✓	✓	✓	✓
LU-5.1	<b>Permit Conditions.</b> Include conditions of approval for new development which protects and maintains recognized public prescriptive rights to access the coast over private lands.	Community Development	Public Works; City Attorney	✓	✓	✓	✓	✓
LU-5.2	<b>Grant Funding.</b> Utilize available coastal access and open space grant programs from non-profit and governmental agencies for the acquisition and development of enhanced public coastal access opportunities.	Community Development	Public Works; City Attorney	✓	✓	✓	✓	✓
LU-5.3	<b>Sea Level Rise.</b> Monitor the effects of sea level rise on public access to the shoreline. If the effects of sea level rise (e.g., increased flooding and erosion) have or will likely in the future negatively impact coastal access, develop a plan to mitigate these effects to the greatest extent possible.	Public Works	Community Development	✓	✓	✓	✓	✓
LU-8.1	<b>Grant Funding.</b> Pursue all appropriate grant opportunities, including coastal access and open space grant programs, to fund improvements to existing parks and recreational facilities.	Community Development	Recreation; Public Works	✓	✓	✓	✓	✓
LU-8.2	<b>Safe Routes to Parks.</b> Conduct a "Safe Routes to Parks" study that evaluates the ability for all residents to safely walk and bicycle to public parks.	Public Works	Community Development		✓	✓		
LU-8.3	<b>Rispin Property.</b> Actively seek grant funding to enhance public access to and enjoyment of parkland and open space on the Rispin Property	Community Development	Recreation	✓	✓	✓		

Action Number	Action	Primary Responsible Department	Additional Parties Involved	Implementation Years				
				FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
LU-8.4	<b>Beach Maintenance.</b> Continue to clean and improve the maintenance of the beach for recreational uses. Develop a program to provide adequate public facilities such as restrooms, showers, and drop-off locations for beach-goers.	Community Development	Recreation; Public Works	✓	✓	✓	✓	✓
LU-9.1	<b>Trails and Pathways.</b> Maintain existing trails and pathways.	Public Works		✓	✓	✓	✓	✓
LU-9.2	<b>Coastal Recreation.</b> Explore opportunities to increase coastal recreational activities in Capitola, particularly activities that support environmental awareness and stewardship of the marine and coastal environment.	Community Development	Recreation; Public Works	✓	✓	✓	✓	✓
LU-10.1	<b>Entertainment and Recreation.</b> Pursue opportunities to increase the amount of entertainment and recreation amenities in the Village, particularly those that strengthen a connection to the natural environment and coastal setting.	Recreation	Community Development	✓	✓	✓	✓	✓
LU-10.2	<b>Wharf Improvements.</b> Pursue grant funding to prepare a master plan for the Capitola Wharf that will address issues relating to access, parking, signage, maintenance, and visitor amenities.	Community Development	Public Works				✓	✓
LU-11.1	<b>Village Design Guidelines.</b> Update the Village Design Guidelines to reflect current conditions and to encourage new development that will enhance the unique qualities of the Village.	Community Development			✓	✓		
LU-12.1	<b>Metro Center Relocation Funding.</b> Work with Capitola Mall owners and Santa Cruz Metro to identify funding for the relocation of the Metro Center.	Community Development	Public Works	✓	✓	✓		
LU-12.2	<b>Infrastructure Improvement Funding.</b> Identify funding sources for infrastructure improvements that will stimulate investment and redevelopment of the Capitola Mall property.	Public Works	Community Development	✓	✓	✓		
LU-13.1	<b>Auto Plaza Access.</b> During the Highway 1 HOV lane project design phase, work with Caltrans to identify ways to enhance visibility of and access to the Auto Plaza.	Public Works	Community Development				✓	✓
LU-14.1	<b>Landscaped Medians.</b> Explore opportunities to install landscaped medians on Bay Avenue in locations where left turn movements for vehicles would not be restricted.	Public Works	Community Development				✓	✓
LU-14.2	<b>Roundabout.</b> Conduct a robust public outreach process to finalize plans to install a roundabout at the Bay Avenue/Capitola Road intersection.	Public Works	Community Development				✓	✓
LU-15.1	<b>Parking Structure.</b> Design, approve, finance, and construct a new parking structure in the location of the Upper Pacific Cove parking lot to serve visitors to Capitola Village and Beach.	City Manager	Public Works; Community Development		✓	✓	✓	
LU-15.2	<b>Phased Open Space Plan.</b> Develop a phased plan for the Lower Pacific Cove site to be converted to a park/recreational/natural open space area.	Public Works	Community Development				✓	✓
LU-15.3	<b>City Hall.</b> Continue to study options for relocating the existing City Hall and Police Department facilities to an alternative location.	City Manager	Public Works; Community Development			✓	✓	✓

# Appendix C: Local Coastal Program Policy Matrix

This appendix summarizes consistency between Capitola’s General Plan and Local Coastal Program (LCP) and applicable policies of the California Coastal Act. The matrix identifies all policies from Chapter 3 of the Coastal Act which local jurisdictions should implement through their LCP. For each policy, the matrix identifies specific goals, policies, and actions from Capitola General Plan/LCP that implement these Coastal Act policies. Coastal Act policies that are not relevant to Capitola (e.g. coastal industrial uses) have been excluded from this matrix. [Note: The current draft of this matrix only contains policies from the Land use Element. Policies from other General Plan elements will be added to this matrix as they are completed.]

Coastal Act Policy	Relevant General Plan/LCP Policy or Action
<b>ARTICLE I: GENERAL</b>	
<p><b>Section 30200 Policies as standards; resolution of policy conflicts</b>            (a) Consistent with the coastal zone values cited in Section 30001 and the basic goals set forth in Section 30001.5, and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section 30500), and, the permissibility of proposed developments subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on coastal zone resources in order to assure that these policies are achieved.</p> <p>(b) Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.</p>	
<b>ARTICLE 2: PUBLIC ACCESS</b>	
<p><b>Section 30210 Access; recreational opportunities; posting</b>            In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.</p>	Policy LU-4.6, Goal LU-5, Policy LU-5.2, Policy LU-5.4, Policy LU-5.5, Policy LU-5.6, Policy LU-5.7, Policy LU-5.8, Action LU-5.1, Action LU-5.2, Action LU-5.3, Goal LU-7, Policy LU-10.3, Policy LU-10.8, Policy LU-10.9, Action LU-10.2, Goal LU-15, Policy LU-15.1, Policy LU-15.2, Policy LU-15.3, Action LU-15.1
<p><b>Section 30211 Development not to interfere with access</b>            Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.</p>	Goal LU-5, Policy LU-5.1, Policy LU-5.3, Action LU-5.1

Coastal Act Policy	Relevant General Plan/LCP Policy or Action
<p><b>Section 30212 New development projects</b></p> <p>(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.</p> <p>(b) For purposes of this section, "new development" does not include: (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610; (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure; (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure; (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure; (5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach. As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.</p> <p>(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.</p>	<p>Goal LU-5, Policy LU-5.1</p>
<p><b>Section 30212.5 Public facilities; distribution</b></p> <p>Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.</p>	<p>Goal LU-5</p>
<p><b>Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals</b></p> <p>Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.</p> <p>The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.</p>	<p>Policy LU-1.6, Policy LU-4.6, Goal LU-7, Policy LU-7.1, Policy LU-7.2, Policy LU-7.3, LU-7.4, Policy LU-7.6, Goal LU-8, Policy LU-8.5, Action LU-9.2, Policy LU-10.4, Policy LU-10.10</p>
<p><b>Section 30214 Implementation of public access policies; legislative intent</b></p> <p>(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics; (2) The capacity of the site to sustain use and at what level of intensity; (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses; (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.</p> <p>(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of <b>Article X</b> of the California Constitution.</p> <p>(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.</p>	



Coastal Act Policy	Relevant General Plan/LCP Policy or Action
<b>ARTICLE 3: RECREATION</b>	
<p><b>Section 30220 Protection of certain water-oriented activities</b> Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.</p>	Goal LU-7, Policy LU-7.2, Policy LU-8.5, Policy LU-8.6, Policy LU-8.10, Policy LU-8.11, Action LU-8.4, Action LU-9.2, Action LU-10.1, Action LU-10.2
<p><b>Section 30221 Oceanfront land; protection for recreational use and development</b> Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area. (Amended by Ch. 380, Stats. 1978.)</p>	Goal LU-7, Policy LU-7.2, Policy LU-8.4, Policy LU-8.5
<p><b>Section 30222 Private lands; priority of development purposes</b> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.</p>	Policy LU-1.6, Goal LU-7, Policy LU-7.1, Policy LU-7.2
<p><b>Section 30222.5 Oceanfront lands; aquaculture facilities; priority</b> Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.</p>	
<p><b>Section 30223 Upland areas</b> Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.</p>	Policy LU-7.5, Action LU-8.3, Goal LU-15, Policy LU-15.1, Policy LU-15.2, Policy LU-15.3, Policy LU-15.4, Action LU-15.1
<p><b>Section 30224 Recreational boating use; encouragement; facilities</b> Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.</p>	Goal LU-3, Policy LU-3.2, Policy LU-3.3, Action LU-3.1, Action LU-3.2, Goal LU-7, Action LU-9.2, Policy LU-10.8, Action LU-10.2
<b>ARTICLE 4 MARINE ENVIRONMENT</b>	
<p><b>Section 30230 Marine resources; maintenance</b> Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.</p>	
<p><b>Section 30231 Biological productivity; water quality</b> The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.</p>	
<p><b>Section 30232 Oil and hazardous substance spills</b> Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development</p>	

Coastal Act Policy	Relevant General Plan/LCP Policy or Action
<p>or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.</p>	
<p><b>Section 30233 Diking, filling, or dredging; continued movement of sediment and nutrients</b>            (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities; (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps; (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities; (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines; (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas; (6) Restoration purposes; (7) Nature study, aquaculture, or similar resource dependent activities.            (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable long-shore current systems.            (c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division. For the purposes of this section "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.            (d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.</p>	
<p><b>Section 30234 Commercial fishing and recreational boating facilities</b>            Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.</p>	
<p><b>Section 30234.5 Economic, commercial, and recreational importance of fishing</b>            The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.</p>	
<p><b>Section 30235 Construction altering natural shoreline</b>            Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water</p>	

Coastal Act Policy	Relevant General Plan/LCP Policy or Action
stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.	
<p><b>Section 30236 Water supply and flood control</b>  Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood-plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.</p>	
<p><b>ARTICLE 5 LAND RESOURCES</b></p>	
<p><b>Section 30240 Environmentally sensitive habitat areas; adjacent developments</b>  (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.  (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.</p>	
<p><b>Section 30241 Prime agricultural land; maintenance in agricultural production</b>  The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:  (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.  (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.  (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.  (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.  (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.  (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b) and all development adjacent to prime agricultural lands, shall not diminish the productivity of such prime agricultural lands.</p>	
<p><b>Section 30241.5 Agricultural land; determination of viability of uses; economic feasibility evaluation</b>  (a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements: (1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program; (2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.</p>	

Coastal Act Policy	Relevant General Plan/LCP Policy or Action
<p>(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.</p>	
<p><b>Section 30242 Lands suitable for agricultural use; conversion</b>            All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.</p>	
<p><b>Section 30243 Productivity of soils and timberlands; conversions</b>            The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.</p>	
<p><b>Section 30244 Archaeological or paleontological resources</b>            Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.</p>	
<p><b>ARTICLE 6 DEVELOPMENT</b></p>	
<p><b>Section 30250 Location; existing developed area</b>            (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.            (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.            (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.</p>	
<p><b>Section 30251 Scenic and visual qualities</b>            The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.</p>	<p>Goal LU-1, Policy LU-1.1, Policy LU-1.1, Goal LU-2, Policy LU-2.1, Goal LU-3, Policy LU-3.2, Policy LU-3.3, Action LU-3.1, Action LU-3.2, Goal LU-6, Policy LU-6.1, Policy LU-6.2, Policy LU-6.3, Policy LU-6.4, Policy LU-6.5, Policy LU-6.6, Goal LU-10, Policy LU-10.1, Policy LU-10.2, Policy LU-10.3, Policy LU-10.5, Policy LU-10.6, Policy LU-11.1, Policy LU-11.2, Policy LU-11.3, Policy LU-11.5, Action LU-11.1, Action LU-11.2</p>
<p><b>Section 30252 Maintenance and enhancement of public access</b>            The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use</p>	<p>Policy LU-11.4, Goal LU-15, Policy LU-15.1, Policy LU-15.2, Policy LU-15.3, Action LU-15.1</p>

Coastal Act Policy	Relevant General Plan/LCP Policy or Action
<p>of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and (6) by assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.</p>	
<p><b>Section 30253 Minimization of adverse impacts</b>            New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs; (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development; (4) Minimize energy consumption and vehicle miles traveled; (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.</p>	Goal LU-1, Policy LU-1.1, Policy LU-1.6, Policy LU-1.1, Goal LU-2, Policy LU-2.1, Goal LU-3, Policy LU-3.2, Policy LU-3.3, Action LU-3.1, Action LU-3.2, Goal LU-10, Policy LU-10.1, Policy LU-10.2, Policy LU-10.3, Policy LU-10.5, Policy LU-10.6, Policy LU-11.1, Policy LU-11.2, Policy LU-11.3, Policy LU-11.5, Action LU-11.1, Action LU-11.2
<p><b>Section 30254 Public works facilities</b>            New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.</p>	Policy LU-10.8
<p><b>Section 30254.5 Terms or conditions on sewage treatment plant development; prohibition</b>            Notwithstanding any other provision of law, the commission may not impose any term or condition on the development of any sewage treatment plant which is applicable to any future development that the commission finds can be accommodated by that plant consistent with this division. Nothing in this section modifies the provisions and requirements of Sections 30254 and 30412.</p>	
<p><b>Section 30255 Priority of coastal-dependent developments</b>            Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.</p>	
<p><b>ARTICLE 7: INDUSTRIAL DEVELOPMENT</b></p>	Not applicable to Capitola



1625 Shattuck Avenue, Suite 300 | Berkeley, California 94709 | 510.848.3815 (t) 510.848.4315



## CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 14, 2013

FROM: OFFICE OF THE CITY MANAGER  
SUBJECT: DISCUSSION REGARDING CITY COUNCIL ABSTENTIONS

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**RECOMMENDED ACTION:** Consider directing staff regarding the preparation of either an administrative policy, or an Ordinance regarding when and how Councilmembers may abstain from voting.

**BACKGROUND/DISCUSSION:** At the January 3, 2013, Special City Council Workshop, the Council requested that staff provide information regarding abstentions. If the Council is interested in enacting parameters delineating when abstentions would be permissible and when they would not be permissible. The Council adopted Resolution No. 3611 approving the *Rosenberg Rules or Order: Simple Parliamentary Procedures for the 21<sup>st</sup> Century* as the rules of order governing City meetings (Attachment 1).

The Fair Political Practices Commission has adopted the following guidance regarding when Councilmembers must recuse themselves from the decision making process. When recusal is necessary, Councilmembers should state the reason for their disqualification on a particular matter when the item is introduced, and leave the room. FPPC criteria include the following:

1. Do you have an economic interest in the decision?
2. Is your economic interest directly or indirectly involved in the decision?
3. Are the financial impacts on your economic interests considered important (material) enough to trigger a conflict of interest?
4. Is it reasonably foreseeable (substantially likely) the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?
5. Is the decision's effect on your economic interest different from the effect on the public generally?
6. Even if you have a disqualifying conflict of interest, is your participation legally required?

While the FPPC regulations regarding when Councilmembers must recuse themselves self from a particular item are clear, the City has no specific rules about how and when a Councilmember may abstain from voting on a matter. The Council may want to consider rules regarding when Councilmembers may abstain from voting and direct staff to draft an Ordinance or policy. The following are some possible rules to consider:

- A. It shall be the practice of the Councilmembers to vote on items that are placed on the agenda for consideration if the Councilmember has no conflict of interest. Councilmembers shall not abstain simply to avoid casting a controversial vote.
- B. If a Councilmember has any legitimate basis for not voting on a particular item, the Councilmember may abstain from voting by complying with the following procedures:

## Item #: 9.B. Staff Report.pdf

3-14-13 CITY COUNCIL AGENDA ITEM

AGENDA STAFF REPORT: DISCUSSION REGARDING CITY COUNCIL ABSTENTIONS

1. Prior to the Council meeting, the Councilmember shall notify the City Attorney of the potential abstention as early as possible.
2. During the Council meeting, and prior to the vote on the item being considered, the Councilmember shall announce the intention to abstain from voting on the item, and disclose the basis for abstention in sufficient detail to be understood by the public. Examples of legitimate bases for abstention include:
  - a. The Councilmember does not have sufficient information regarding the item under consideration (for example, the item was previously considered by the Council in the member's absence, and the Councilmember did not have an opportunity to review the record of Council's previous consideration).
  - b. The Councilmember is concerned about the perception of personal or financial conflict even if there is no reasonable good faith belief of a required disqualification (e.g., an effect on the financial interest of a relative [other than a spouse or dependent of the Councilmember]).
- C. It is inappropriate for a Councilmember to participate in a City Council debate, ask questions, express opinions and then abstain from voting.
- D. Any Councilmember who abstains from voting on an item shall be counted as a member of the quorum of the City Council, and the member shall be counted as going along with the vote of the majority of those members voting on the item; provided, however, that Councilmember shall not be entitled to make a motion or make a second on the item, and that Councilmember shall not be entitled to make a motion for reconsideration. (As an example of counting votes of abstention: (a) 2 yes, 2 no, and 1 abstain would fail; (b) 2 yes, 1 no, and 2 abstain would pass; (c) 2 yes, 2 no, and 1 recuse would fail; and (d) 2 yes, 1 no, and 2 recuse would pass.)

The attached document entitled *Deciding When Not to Participate in an Agency Decision: Abstentions and Disqualifications* provided by the Institute for Local Government contains information regarding this subject (Attachment 2).

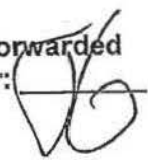
Upon direction by the City Council, staff may draft an administrative policy to be a guide when Councilmembers consider abstaining. Another option is for the Council to direct staff to draft an Ordinance, which if adopted would implement firm enforceable rules regarding abstentions.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

1. Rosenberg Rules of Order: Simple Parliamentary Procedures for the 21<sup>st</sup> Century;
2. Institute for Local Government document entitled "Deciding When Not to Participate in an Agency Decision: Abstentions and Disqualifications".

**Report Prepared By:** Susan Sneddon, CMC  
City Clerk

**Reviewed and Forwarded  
By City Manager:** 



# *Rosenberg's Rules of Order:* Simple Parliamentary Procedures for the 21st Century



## MISSION:

*To restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.*

## VISION:

*To be recognized and respected as the leading advocate for the common interests of California cities.*



### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts educational conferences and research, and publishes *Western City* magazine.

### About *Western City* Magazine

*Western City* is the League of California Cities' monthly magazine. *Western City* provides lively, interdisciplinary analyses of issues affecting local governance. Its goal is to offer immediately practical ideas, information and bigger-picture policy issues and trends. For more information, visit [www.westerncity.com](http://www.westerncity.com).

"Rosenberg's Rules of Order" first appeared in *Western City* magazine in August and September 2003.

### About the Author

Dave Rosenberg is an elected county supervisor representing the 4th District in Yolo County. He also serves as director of community and intergovernmental relations, director of operations, and senior advisor to the governor of California. He has served as a member and chair of numerous state and local boards, both appointed and elected, and also served on the Davis City Council for 12 years, including two terms as mayor. He has taught classes on parliamentary procedure and has served as parliamentarian for large and small governing bodies. In the fall of 2003, Gov. Davis appointed Rosenberg as a judge of the Yolo County Superior Court.

# Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

by Dave Rosenberg

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that hasn't always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules, *Robert's Rules of Order*, which are embodied in a small but complex book. Virtually no one I know has actually read this book cover to cover.

Worse yet, the book was written for another time and purpose. If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook. On the other hand, if you're running a meeting of a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order. Hence, the birth of "Rosenberg's Rules of Order."

This publication covers the rules of parliamentary procedure based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified and slimmed down for 21st century meetings, yet they retain the basic tenets of order to which we are accustomed.

"Rosenberg's Rules of Order" are supported by the following four principles:

- 1. Rules should establish order.** The first purpose of the rules of parliamentary procedure is to establish a

framework for the orderly conduct of meetings.

- 2. Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.
- 3. Rules should be user-friendly.** That is, the rules must be simple enough that citizens feel they have been able to participate in the process.
- 4. Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

## The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those

rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

## The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, published agenda; informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon road map for the meeting. And each agenda item can be handled by the chair in the following basic format.

**First**, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed.

**Second**, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body,

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There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire to move on.

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a staff person, or a committee chair charged with providing information about the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

**Fourth**, the chair should invite public comments or, if appropriate at a formal meeting, open the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of each public speaker. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

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Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

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**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then the “nays” is normally sufficient. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise or unless a super-majority is required (as delineated later in these rules), a simple majority determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days’ notice for all future meetings of this governing body.”

### Motions in General

Motions are the vehicles for decision-making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

Motions are made in a simple two-step process. First, the chair recognizes the member. Second, the member makes a motion by preceding the member’s desired approach with the words: “I move ...” A typical motion might be: “I move that we give 10 days’ notice in the future for all our meetings.”

The chair usually initiates the motion by:

1. Inviting the members to make a motion: “A motion at this time would be in order.”
2. Suggesting a motion to the members: “A motion would be in order that we give 10-days’ notice in the future for all our meetings.”
3. Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

### The Three Basic Motions

Three motions are the most common:

1. **The basic motion.** The basic motion is the one that puts forward a decision for consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”
2. **The motion to amend.** If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

- 3. The substitute motion.** If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would “move a substitute motion.” A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.

A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

### When Multiple Motions Are Before The Governing Body

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the *first* vote should be on the *last* motion made. So, for example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows.

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passes*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) *failed*, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would now move to consider the main motion (the first motion) as *amended*. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

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## The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items.

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Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are *not* debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**A motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

**A motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

### A motion to fix the time to adjourn.

This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**A motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to

be placed on “hold.” The motion may contain a specific time in which the item can come back to the body: “I move we table this item until our regular meeting in October.” Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**A motion to limit debate.** The most common form of this motion is to say: “I move the previous question” or “I move the question” or “I call for the question.” When a member of the body makes such a motion, the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the

the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” “I move the question,” “I call for the question” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

pend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### **The Motion to Reconsider**

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

First is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted *in the majority* on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body may second the motion). If a member who voted *in the minority* seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

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## If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook.

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motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### **Majority and Super-Majority Votes**

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to sus-

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

### Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every

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It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus.

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lege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

**Order.** The proper interruption would be: "Point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

### Special Notes About Public Input

The rules outlined here help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.

Public input is essential to a healthy democracy, and community participation in public meetings is an important element of that input. The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The rules presented here for conducting a meeting are offered as tools for effective leadership and as a means of developing sound public policy. ■

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Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

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speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be: "Point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privi-

lege relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

## Item #: 9.B. Attach 1.pdf

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1400 K Street  
Sacramento, CA 95814  
(916) 658-8200  
Fax (916) 658-8240  
[www.cacities.org](http://www.cacities.org)




*Everyday Ethics for Local Officials*

## Deciding When Not to Participate in an Agency Decision: Abstentions and Disqualifications

December 2002

### QUESTION

*Our governing body is struggling with the issue of abstentions. Here's the situation. We are a small jurisdiction – everyone knows everybody, is related to everyone and has business relationships with everyone. What's more, our elected officials have high ethical standards and want to avoid even the appearance of impropriety, so we abstain often. As a result, sometimes only a few individuals must make important decisions affecting our community – which makes them feel uncomfortable. Can you provide some insight on the law and ethics related to the abstention issue?*

### ANSWER

The issue of when to refrain from participating in an agency decision is indeed a vexing one. As with many ethical issues, it is an area in which the law provides some – but not all – of the answers. What you are struggling with is a tension between your responsibility to participate in your agency's decisions and your desire to promote the public's trust in the integrity of those decisions. Related to the public trust issue may be a concern that you cannot be fair in a given situation. Let's analyze the situation and see what some of your options might be.

#### **Abstention or Disqualification?**

A definition of relevant terms is a useful starting point. When an official abstains from participating in a decision, he or she does so voluntarily. Abstention involves the exercise of some degree of judgment or choice.

In the case of disqualification, the law makes the judgment that an official must not participate in a particular decision. Thus, when an official is disqualified from participating in a decision, there is less element of choice than when abstaining.

It is important to keep in mind that being disqualified from participating in a particular matter does not imply any wrongdoing. It simply means that an official has financial or

other relationships that preclude him or her from participating in the decision. (Of course, having a disqualifying conflict of interest and insisting on participating in the decision is another matter. Such participation is a violation of the law and could subject a decision-maker to civil and criminal penalties. It also could invalidate the action taken.)

## **Examples of Disqualification**

The most common form of disqualification occurs under the state Political Reform Act. Under that law, a public official may not make, participate in or influence a governmental decision that will have a foreseeable and material financial effect on the official's (or his or her immediate family's) economic interests.<sup>1</sup> The Fair Political Practices Commission (FPPC) has adopted a process for determining when an official must disqualify him or herself from participating in a decision.

The last two steps of the process recognize some of the practical considerations referred to in your question: Step seven analyzes whether the decision's effect on the public official is the same for a significant segment of the public (this is known as the "public generally" exception to the disqualification requirement).

Step eight analyzes whether the otherwise disqualified- official's participation in the decision is legally required.

The latter exception applies if an official's disqualification would prevent the agency from acting in a situation in which it legally must act. When analyzing this issue, local agency counsel may ask such questions as: 1) Is the agency unable to convene a quorum? and 2) Are there no alternative means of making the decision?

Other reasons for being disqualified from participating in a decision include receipt of campaign contributions (under very limited circumstances), certain forms of bias based on a personal interest in the outcome of a decision, or strong feelings (positive or negative) about the parties whose interests will be affected by the decision. There also can be issues of common law bias to consider (personal interest in the outcome, party or factual bias); see next section for more on this issue.

By becoming familiar with these rules, public officials will know when to contact their local agency's attorney for help in determining whether there is a legal basis for disqualification. It may also be necessary to consult the FPPC. Remember, only written FPPC advice can immunize local officials from prosecution if you unlawfully participate in a decision.

See "Resources for Further Reading" box below for more information.

## Abstentions

What if your agency attorney or the FPPC says that there is no legal basis for disqualifying yourself from a particular matter, but you continue to have concerns about your ability to make a fair decision? If you're not confident that you can separate your personal loyalties from the interests of the community as a whole, it's best to abstain.

What if you are confident in your ability to make a fair and public-minded decision, but others are questioning your ability to do so? As with many ethical dilemmas, this is an example of conflicting and important values.

One value is fulfilling your responsibility as an officeholder to make decisions – which, of course, is what your constituents elected you to do. Related to this value is the benefit of having as many decision-makers as possible participate in decisions to reflect the full range of community perspectives.

The other value is preserving the public's trust that the agency's actions are based on principles of fairness and what best promotes the public's interests – as opposed to decision-makers' self interests or those of their friends and family.

In these instances, put yourself in the public's shoes. Make an honest assessment of what you would think if you were a member of the public analyzing the situation. If you would question your ability to put personal interests and loyalties aside, you may want to abstain.

This kind of assessment causes some officials to adopt the practice you describe of avoiding even the appearance of impropriety with respect to their conduct as public officials. Such a practice places a high value on maintaining and improving the public's perception of government and those who govern. This value reflects a concern that the loss of public trust in government diminishes the community support necessary to address pressing community challenges.

Adopting this approach may mean not participating in an important decision. Perhaps even more difficult is the fact that those who do participate may make what you consider to be the "wrong" decision, in terms of the long-term interests of the community, and one with which your constituents disagree. Some of your constituents may feel disappointed and angry if you step aside and let others make a decision with which they disagree. They may even tell you they didn't elect you to be ethical or concerned about the public's trust in government: "As long as the law says you don't have to disqualify yourself, don't worry about it."

Ultimately, the issue rests in the value you place on ethics in your service as a public official. Again, it appears that you and your colleagues have already placed a high value on such ethical considerations by deciding to avoid even the appearance of impropriety.

Some agencies have formalized such values in a code of ethics. Such codes can be a useful source of guidance in sticky situations.

If your agency does not have a code, ask yourself how you want to be remembered by the community and your family. If integrity is part of the picture, then braving criticism for voluntarily refraining from participating in an important decision may be worth it to you. Moreover, having such a reputation may help in the future when you believe you can ethically participate in a decision, even when others are questioning your ability to do so. And, if you establish such a reputation, the public will be more likely to be receptive when you indicate that you can ethically participate in a decision, even when others question your ability to do so.

### **The Eight Steps of a Disqualification Analysis**

The process of determining when an official is disqualified from participating in a decision is a very complex one. There are statutes, regulations and interpretive opinions that flesh out each aspect of the basic prohibition. To organize the analysis, the Fair Political Practices Commission has adopted an eight-step procedure for identifying when one must disqualify oneself from participating in a matter. Although it is useful to be aware of the general outlines of the process, the analysis with all its twists and turns is best undertaken by agency attorneys and the Fair Political Practices Commission staff-particularly since the rules are not necessarily logical or intuitive.

- Are you a public official within the meaning of the rules?
- Are you making, participating in making, or influencing a governmental decision?
- Do you have an economic interest in the decision?
- Is your economic interest directly or indirectly involved in the decision?
- Are the financial impacts on your economic interests considered important (material) enough to trigger a conflict of interest?
- Is it reasonably foreseeable (substantially likely) the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?
- Is the decision's effect on your economic interest different from the effect on the public generally?
- Even if you have a disqualifying conflict of interest, is your participation legally required?

## Disqualifications, Abstentions and The Ability To Take Action

What about those feelings of discomfort you describe when your agency takes action with relatively few elected officials participating in the decision? It may be helpful for you to be aware of some minimum thresholds established by law.

The general rule is that a majority of a body must be present for it to conduct business – a concept known as a quorum.<sup>2</sup> Having a quorum ensures that a legally specified minimum number of decision-makers participate in a decision.

Usually, a majority of the quorum is necessary for an item to pass, although there are special rules that apply to certain kinds of actions. For example, resolutions, orders to pay money, and all ordinances require three votes to pass.<sup>3</sup> Laws also require more than a majority of the body in order to take certain actions.<sup>4</sup>

These special rules reflect a judgment that some agency actions are sufficiently important that the body may not act with just a small number of its members participating in the vote.

How do abstentions and disqualifications affect the existence of a quorum? The general rule is that elected officials who abstain are counted for purposes of determining a quorum, but their abstentions are not counted when tallying the votes.

For example, if your agency has a five-member governing board and three members attend a meeting but one abstains, the board can still take action because the two voting members and the abstaining one constitute the requisite quorum of three. However, the two voting members must each vote in support of the matter for it to pass, assuming that the matter is not one that requires three affirmative votes or another special vote threshold.

It's important to note that those who abstain from voting because of a pending question concerning a conflict of interest (for example, a council member who is waiting to receive an advice letter from the FPPC) may be counted toward the quorum. This is because they have not yet been disqualified (typically their agency attorneys recommend that they abstain pending resolution of the conflict issue).<sup>5</sup>

Conversely, those who are disqualified from participating in the decision are not counted toward the quorum.<sup>6</sup> Thus (again assuming a five-member governing board), if three members attend a meeting and one is disqualified, the body lacks a quorum. If four members on a five member board attend, and one abstains and one is disqualified, there is a quorum of three and the matter will pass with two affirmative votes. This scenario again assumes that the matter is not one that requires three affirmative votes or another special vote threshold.

## What to Do If You Abstain or Disqualify Yourself

A consensus exists that, when you disqualify yourself or abstain, you should not participate in any aspect of the decision-making process. The basis for this rationale is as follows: If it's inappropriate for you to vote on a matter, it's also inappropriate for you to participate in the discussion or in any other activity that could influence a colleague's vote. This includes being present for the discussion.

The law codifies this concept regarding disqualifications.<sup>7</sup> Typically one with a disqualifying financial interest in a decision must take the following series of actions:

- Publicly identify the financial interest or potential conflict of interest in sufficient detail to be understood by the public;
- Recuse themselves from discussing or voting on the matter; and
- For certain officials, leave the room until after the discussion, vote and any other disposition of the matter, unless the matter is on the consent calendar.

### **Use Special Caution When a Public Official Has an Interest in an Agency Contract**

Another disqualification and abstention issue arises when a public official has a financial interest in a contract that comes before the agency for approval.

State law prohibits public officials from having a financial interest in any contract made by their agencies.<sup>8</sup> This is a prohibition against self-dealing. The prohibition is absolute and it applies even if the official abstains from voting on the contract and does not participate in any of the preliminary discussions, negotiations, planning or solicitation of bids.

The penalties for violating the contracting conflict-of-interest rules are severe. Violations are a felony, punishable by fines, imprisonment and disqualification from ever holding office again.<sup>9</sup> The contract is also "void," meaning the agency does not have to pay for goods or services received under the contract and may seek repayment of amounts already paid.<sup>10</sup>

There are limited exceptions to the rule, including when the interest is so small that it amounts to "noninterest" or a "remote interest."<sup>11</sup> There is also a limited rule of necessity.<sup>12</sup> Consult your agency attorney the minute you believe you may have an interest in a contract being contemplated by your agency.

The law does allow a public official to speak on the issue at the same time as the public speaks on the issue if the subject of the decision is the official's business or property.<sup>13</sup>

Local elected officials may wish to consider whether, as an ethical matter, they want to also follow these practices when they voluntarily abstain from participating in the decision.

### Resources for Further Reading

The Institute's *A Local Official's Reference on Ethics Laws* explains the disqualification rules in more detail. The guide is available without charge in electronic form from the Institute's website: [www.ca-ilg.org/ethicslaws](http://www.ca-ilg.org/ethicslaws). Hardcopies are available for purchase at [www.ca-ilg.org/ilgpubs](http://www.ca-ilg.org/ilgpubs)).

The Fair Political Practices Commission also publishes a handy guide to the state rules in this area. The guide is called "Can I Vote? An Overview of the Conflicts Laws," and is available in electronic form without charge from the FPPC's website: [www.fppc.ca.gov](http://www.fppc.ca.gov) (click on Publications tab).

### The Duty To Decide, Not Duck

As you point out, in an ideal world, all members of a governing body would be able to participate in any given decision. This underscores how important it is for all members of a governing body to attend every meeting, so decisions can reflect the views of every voting elected official who can participate in the decision.

Responsibility is a key component of ethical behavior. Attending and being prepared for meetings is a major element of an elected official's responsibilities and, hence, ethical behavior. So is voting in general. It may be tempting to abstain because of concerns about making an unpopular decision or simply not knowing which decision is best. As hard as some decisions are, making decisions is what you were elected to do.

It is manifestly unfair – and unethical – to abstain or otherwise put your colleagues in the position of taking the heat for a necessary but unpopular decision.

### Pointing Fingers at Others

What if you have reason to believe that a colleague is disqualified or ought to abstain? The best approach is to discuss your concerns privately with the colleague. If you are still concerned that the colleague is legally disqualified from participating, the next step is to discuss the issue with the agency attorney and relevant law enforcement authorities.

It is not typically ethical to use a public meeting or other public forum to make political hay out of the situation. Such an approach embarrasses your colleagues and generally diminishes the public's view of your decision making process. One seasoned mayor explains that she discourages such conduct by stopping the discussion. She also admonishes the accuser that the issue of whether to disqualify oneself or abstain is one that the accused council member needs to decide, in consultation with the city attorney and relevant law enforcement authorities.

What's more, if you are mistaken about the underlying facts of the accusation, you could also end up embarrassing yourself. Following the Golden Rule is a good rule of thumb: Treat everyone the way you would like to be treated.

### **No Easy Answers**

Regrettably, engaging in the legal and ethical analyses described here does not ensure that you can avoid uncomfortable situations. As Rushworth Kidder observes in his book, *How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living*, "Those who live in close proximity to their basic values are apt to agonize over choices that other people, drifting over the surface of their lives, might never see as problems. Sound values raise tough choices; and tough choices are never easy." Kidder is encouraging us to become more accustomed to the inherent discomfort that comes with striving to be ethical.

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This piece originally ran in *Western City Magazine* and is a service of the Institute for Local Government (ILG) Ethics Project, which offers resources on public service ethics for local officials. For more information, visit [www.ca-ilg.org/trust](http://www.ca-ilg.org/trust).

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### **Endnotes:**

<sup>1</sup> See Cal. Gov't Code §§ 87100 and following.

<sup>2</sup> See Cal. Gov't Code § 36810 (for general law cities). See also Cal. Civ. Proc. Code §§ 12 and 15. Note, however, the rule is different for county boards of supervisors, which require a majority vote of the entire membership of the board to act. See Cal. Gov't. Code § 25005.

<sup>3</sup> See Cal. Gov't Code § 36936.

<sup>4</sup> For example, urgency ordinances (for the immediate preservation of the public peace, health or safety) require a four-fifths vote. See Cal. Gov't Code § 36937(b). Urgency interim zoning ordinances (moratoria) also require a four-fifths vote. See Cal. Gov't Code § 65858. Resolutions initiating eminent domain proceedings require a two-thirds vote (four votes in a general law city). See Cal. Civ. Proc. Code §§ 1245.220, 1245.240.



<sup>5</sup> *Farwell v. Town of Los Gatos*, 222 Cal. App. 3d 711, 271 Cal. Rptr. 828 (6th Dist. 1990) (subsequently ordered not published). See also 62 Cal. Op. Att’y Gen. 698, 700 (1979).

<sup>6</sup> *Id.*

<sup>7</sup> See Cal. Gov’t Code § 87105.

<sup>8</sup> Cal. Gov’t Code § 1090.

<sup>9</sup> See Cal. Gov’t Code § 1097.

<sup>10</sup> *Thomson v. Call*, 38 Cal. 3d 633, 214 Cal. Rptr. 139 (1985); See Cal. Gov’t Code § 1092.

<sup>11</sup> See Cal. Gov’t Code §§ 1091(a) and 1091.5.

<sup>12</sup> See 70 Cal. Op. Att’y Gen. 45 (1987).

<sup>13</sup> See Cal. Gov’t Code § 87105(a); Cal. Code Regs. § 18702.4.

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**From:** Kym DeWitt - Treasurer [treasurer@kymdewitt.com]  
**Sent:** Tuesday, March 12, 2013 9:51 PM  
**To:** City Council  
**Subject:** Item D on the agenda

**MAR 13 2013**  
**CITY OF CAPITOLA**  
**CITY CLERK**

I would like to comment on the following agenda item:

D. Consideration of a project to remove and dispose mobile home coaches and related debris from the Pacific Cove Mobile Home Park; approval of plans, specifications, and estimate of costs; and authorize the Public Works Director to advertise for bids, setting the bid opening date for April 10, 2013.

**RECOMMENDED ACTION:**

Approve the plans, specifications; an estimate of costs of \$99,700; and authorization to advertise for bids.

In my experience, mobile homes -- regardless of condition, have a re-sale value and the purchaser will often pay to relocate. Have we looked into this option as opposed to only considering an option that costs the tax payer?

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**Sneddon, Su**

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**From:** Molly Ording [mollyording@yahoo.com]  
**Sent:** Tuesday, March 12, 2013 8:28 PM  
**To:** City Council  
**Subject:** General Plan Update!

**MAR 13 2013****CITY OF CAPITOLA  
CITY CLERK**

Good Evening Valued City Council Members!

I am writing to state my/our thoughts regarding some of the very general provisions of the LCP/General Plan with regard, specifically, to the village hotel property. I know there will be ample opportunities for public comment on this whole document and the goals and their implementation in the months to come, but I wanted to stand right up, at the onset of this process, and provide you with some input from the many neighbors and residents who are "keeping their ears to the ground" with regard to the future village hotel development!

First and foremost, do not be persuaded into changing the height limit in the village...no matter how many justifications or rationalizations you hear or how many exceptions are pointed out to you. We all love and talk so much about the "Village Scale" and the obvious implications of this upon the village's charm and appeal. The current scale..not even 1 foot higher..let alone 3 or 7 feet higher..will unalterably change the entire character of the village..not only on the hotel site but all over the Central Village! Cottages will be torn down, houses remodeled and the race for the "highest height" will hence begin! Leave it as it is..let the "designer's" or architects "design" to our scale! Be firm in this resolve and we will all be the beneficiaries for years and years to come!

The village hotel site is truly precious and we also count on it to be ferociously protected by the California Coastal Commission, as well, with their stated mission of "protecting view sheds" as well as "public access." But we are also counting on you, too, protect this site ferociously and demand the highest standards from anyone designing a future hotel, i.e. height, mass and access. The site, the view and the location in the midst of a neighborhood and our tiny village and its' access are all challenging and demand the best of design standards to maintain the scale and charm of the village.. Do not make any changes to the General Plan which will compromise the delicacy of this site...for us all now and future generations!!!

Just a few brief observations re the GP: it seems, from the many members of the Update Committee that I have spoken with, this resulting document is more a product of the consultants than it was of the locals who were ostensibly supposed to give valuable input! A widespread observation! It also seems the document is heavily weighted in terms of the income to be gained from future development of "visitor serving" areas...rather than the obvious, 41st Avenue! You are all too well aware of the close proximity of neighborhoods to "visitor serving" sites..I strongly believe your charter is to serve the neighbors, residents and tailor city budgets and future plans with the overall goal of preserving and protecting the neighborhoods and residents! We don't

**Item #: 12.B. 9.A..pdf**

need a new City Hall and cannot afford it! Moving the Police Department, yes, but a new City Hall, no!!!

Also, off-subject..wish I had been here for the public hearing but a big YES to the most stringent land use planning with regard to gun stores and Capitola just does not need gun shows!!! With the prevalence of violence in our larger community, we need to lessen any and all impacts from guns and any ancillary activities. Have no fear of the NRA... but have great fear of the voters!!!

Cheers and thanks to you all..I sincerely hope you will listen with your hearts and minds and your love of our community...land and views and their precious and ever-diminishing attributes and characteristics, if lost, are lost forever. You have all been elected to preserve and protect ours!!

Most sincerely and gratefully,

Molly & Mickey Ording  
218 Monterey  
Capitola, Ca. 95010

**Sneddon, Su**

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**From:** MMkinstler@aol.com  
**Sent:** Wednesday, March 13, 2013 10:09 AM  
**To:** City Council  
**Subject:** General Plan - Land use

MAR 13 2013  
CITY OF CAPITOLA  
CITY CLERK

Dear City Council members,

I'm not sure whether I'll be able to be at the meeting Thursday night, so here's a few comments on the land use document.

1. City Hall - I see no need to move City Hall and spend the money it would require. Neither have I heard any member of the residential community express a need to do so.
2. I am generally opposed to adding more commercial enterprises on Capitola Avenue and Capitola Road. The village has never been a generator of much revenue for the City and I think efforts are better spent on beefing up the 41st Avenue mall (and attracting some better stores) which has been the greatest contributor of sales tax to the City.
3. I am also opposed to expanding commercial enterprises in the Central Village. In my experience, tourists do not come to Capitola in the winter. Over the years I have watched new stores open in the village in the summer and then they can't make it through the winter and close up, only to be followed by another store that ends up having the same experience. Also winter is the only time residents can really enjoy the beach and the Esplanade. We get our village back.
4. Roundabout - I think they are very difficult for pedestrians to navigate and it seems one goal of the General Plan is to make Capitola more pedestrian friendly.
5. Historical houses - I think the idea of making a list of historical houses in the village and then guidelines regarding what can and cannot be done with them is an excellent idea. So many of the old beach cottages have already disappeared. I hope we can preserve the remaining few.
6. Mostly I like Capitola the way it is. Why change something "if it ain't broke"?

Thank you for your attention and I respect these are all difficult decisions that you have to grapple with.

Sincerely,

Margaret Kinstler  
323 Riverview Avenue

**Sneddon, Su**

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**From:** MMkinstler@aol.com  
**Sent:** Wednesday, March 13, 2013 12:05 PM  
**To:** City Council  
**Subject:** Land Use Document

**MAR 13 2013**

**CITY OF CAPITOLA  
CITY CLERK**

Hi,

It's me again. I forgot one comment I wanted to make, actually the most important to me personally. The talk of "increasing access to the creek" makes me very nervous. I live along the creek path, and even in winter now, there is a steady stream of people walking pass my house who all insist on saying "hi" or having a conversation with me. I would like to just sit on my deck and gaze at the creek but it's impossible.

That's all from me. Thank you for your attention.

Margaret Kinstler  
323 Riverview Avenue